

## **Sexual Harassment and Nondiscrimination (Title IX) Policy**

Connecticut College's Title IX Policy reflects compliance with Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Connecticut state law and other federal laws.

The College's Honor Code and Principles of Community emphasizes that members of our community act in an equitable manner and with respect for the dignity of all human beings. Sexual harassment, dating violence, and other forms of discrimination based on sex or gender (including gender identity, expression, or characteristics) are forms of unwelcome conduct that create an intimidating and offensive work, residential, study or social environment and therefore violate this policy.

Members of the College community and visitors have the right to be free from all types of such misconduct, as defined in this policy. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

Acts of sexual harassment, sexual assault, dating violence, and stalking may be committed by any person upon another person, regardless of sex, gender, gender identity and/or sexual orientation of those involved.

When a report of sexual harassment, sexual assault, dating violence, or other Title IX related violation is brought to the College's attention, the College will take steps to end the misconduct, prevent its recurrence, and address its effects. When accused individuals are determined to have violated this policy, serious sanctions will be imposed, up to and including termination for faculty and staff members. Sanctions for student conduct complaints typically differ based on the circumstances of the complaint. For example, a finding of responsibility for rape typically result in suspension or expulsion; fondling typically results in a range of sanctions from disciplinary probation to expulsion; dating violence typically results in a range of sanctions from disciplinary probation to expulsion.

This policy has been written to affirm the College's goal of maintaining a positive learning, living, and working environment. This policy addresses issues particular to faculty, staff, and students as well as the intersection of these constituencies. It applies in all College settings, including off-campus settings in which individuals are engaged in College-related business or educational programs. The policy may also apply to situations occurring off campus that negatively impact the College community.

Individuals who believe they have, or may have, experienced any of the behaviors covered by this policy, or who have witnessed such behavior, are strongly encouraged to report their experience to the Associate Dean for Equity and Compliance Programs who serves as the College's Title IX Coordinator or one of the deputy Title IX Coordinators. All student-facing staff and officials with authority are mandated to promptly report any potential violations of this policy to the Associate Dean for Equity and Compliance Programs.

The Division of Institutional Equity and Inclusion oversees all Title IX compliance for the institution, oversees compliance for faculty, and may receive complaints by students, faculty and staff. One staff members serve as the Deputy Title IX Coordinator; Eva Kovach, Associate Director of Athletics and Deputy Title IX Coordinator, focuses primarily on issues of Title IX compliance within athletics.

This policy includes a list of relevant definitions; a list of resources for emotional, physical and academic support, a description of the process for reporting incidents; a description of formal procedures for addressing violations of this policy, both for students and members of the faculty and staff. The procedures to be followed are based on whichever process has jurisdiction over the accused and may be found in the, Sexual Harassment and Nondiscrimination (Title IX) policy (students), IFF (faculty), or Human Resources (staff).

## **1. Glossary**

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that Connecticut College investigate the allegation.
- *Confidential Advocates* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when Connecticut College is in normal operation.
- *Directly Related Evidence* is evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- *Education program or activity* means locations, events, or circumstances where Connecticut College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by Connecticut College.
- *Final Determination:* A conclusion by the Preponderance of the Evidence that the alleged conduct occurred and whether it did or did not violate policy.
- *Finding:* A conclusion by the Preponderance of the Evidence that the conduct did or did not occur as alleged.
- *Formal Grievance Process* means "Process A," a method of formal resolution designated by the Connecticut College to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.

- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Decision-maker or Panel* refers to those who have decision-making and sanctioning authority within Connecticut College's Formal Grievance process.
- *Investigator* means the person or persons charged by Connecticut College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Responsible Employee* means all student-facing employees of Connecticut College who are obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator and/or their supervisor.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of Connecticut College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of Connecticut College.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process detailed below and defined above.
- *Process B* means the informal alternative resolution procedures detailed in [Appendix C](#).
- *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Connecticut College's educational program.
- *Respondent* means an individual who has been reported to be the person responsible for violating conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. [See Section 17.b.](#) for greater detail.

- *Title IX Coordinator* is at least one official designated by the College to ensure compliance with Title IX and the College’s Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

## **2. Rationale for Policy**

Connecticut College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Connecticut College has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. Connecticut College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

## **3. Applicable Scope**

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, and stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using the College’s “Process A” or “Process B,” as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the College community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the College community. This community includes, but is not limited to, students,<sup>1</sup> student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, and invitees. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

## **4. Title IX Coordinator**

The Associate Dean for Equity and Compliance Programs serves as the Title IX Coordinator and oversees implementation of the College’s Affirmative Action and Equal Opportunity plan and the College’s policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator has the primary responsibility for coordinating the College’s efforts related to the intake, investigation, resolution, and

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<sup>1</sup> For the purpose of this policy, the College defines “student” as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the College.

implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

### **5. Independence and Conflict-of-Interest**

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Dean of Institutional Equity and Inclusion [Unity House (860) 439-2035] or designee. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the Dean of Institutional Equity and Inclusion [Unity House (860) 439-2035] or designee. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

### **6. Administrative Contact Information**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Name: Ebony Manning  
Associate Dean for Equity and Compliance Programs  
Title IX Coordinator  
Office of Equity and Compliance  
Location/Address: 270 Mohegan Ave  
Crozier Williams, Rm 216  
New London, CT 06320  
(860) 439-2624  
Email: [emanning@conncoll.edu](mailto:emanning@conncoll.edu) or [titleix@conncoll.edu](mailto:titleix@conncoll.edu)  
Web: <https://www.conncoll.edu/title-ix/title-ix-coordinator/>

#### **Title IX Team Members:**

Name: Eva Kovach  
Associate Director of Athletics  
Deputy Title Coordinator for Athletics (focuses primarily on issues of Title IX compliance within athletics)  
Athletics Department  
Location/Address: 270 Mohegan Ave  
New London, CT 06320  
(860) 439-2557  
Email: [titleix@conncoll.edu](mailto:titleix@conncoll.edu)

Name: Sarah Cardwell  
Senior Associate Dean of Student Life  
Hearing Officer  
Office of Student Life  
Location/Address: 270 Mohegan Ave  
Crozier Williams  
New London, CT 06320  
(860) 439-2825  
Email: [scardwel@conncoll.edu](mailto:scardwel@conncoll.edu)

Name: Victor Arcelus  
Dean of Students  
Appeals Officer (Grievance)  
Office of Student Life  
Location/Address: 270 Mohegan Ave  
Crozier Williams  
270 Mohegan Ave  
New London, CT 06320  
(860) 439-2825  
Email: [varcelus@conncoll.edu](mailto:varcelus@conncoll.edu)

Name: TBD  
Dean of Institutional Equity and Compliance  
Appeals Officer (Complaint Dismissals)  
Division of Institutional Equity and Inclusion  
Location/Address: 270 Mohegan Ave  
Unity House, 1<sup>st</sup> floor  
New London, CT 06320  
(860) 439-2035  
Email:

The College has determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Team members listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of the College.

**Officials with Authority:**

- President Katherine Bergeron
- Maureen White, Director of Athletics
- Mary Savage, Director of Campus Safety and Emergency Operations
- Jeffrey Cole, Dean of the Faculty
- Anne Bernhard, Associate Dean of the Faculty
- Liz Eames, Director of Human Resources
- Ebony Manning, Associate Dean for Equity and Compliance Programs
- Dean of Institutional Equity and Inclusion
- Sarah Cardwell, Senior Associate Dean for Student Life
- Victor Arcelus, Dean of Student Life
- Eva Kovach, Associate Director of Athletics

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Local OCR office contact :

Office for Civil Rights,  
Boston Office  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109-3921  
Telephone: (617) 289-0111  
Facsimile: (617) 289-0150  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC) <sup>2</sup>

15 New Sudbury Street, Room 475  
Boston, MA 02203-0506  
United States  
Telephone: 1-800-669-4000  
Facsimile: (617) 565-3196  
TTY: 1-800-669-6820  
ASL Video Phone: 844-234-5122

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<sup>2</sup> EEOC has jurisdiction over Title IX employment claims.

## **7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

1) File a complaint with, or give verbal notice to, the Title IX Coordinator, deputies or Officials with Authority (see contact information above). Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

[2] Report online, using the reporting form posted at [Honor Code Violation Incident Reporting](#). Anonymous reports are accepted, but they can give rise to a need to investigate and a responsibility to provide supportive measures as appropriate and to the extent possible. Anonymous reports can be submitted using the reporting form at [Sexual Misconduct Anonymous Reporting](#). Because reporting carries no obligation to initiate a formal response, and as the College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.

A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## **8. Supportive Measures**

Connecticut College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter harassment, discrimination, and/or retaliation. The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the parties to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.



The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. Connecticut College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of contact limitation orders will be referred to appropriate student or employee conduct processes for enforcement.

## **9. Emergency Removal**

The College can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the CARE Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student, employee, or two (2) representatives from a student organization will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator

determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee (in conjunction with Human Resources), restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

## **10. Promptness**

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in our procedures will be delayed, the Title IX Coordinator will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## **11. Privacy**

Every effort is made by the College to preserve the privacy of reports.<sup>3</sup> The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or

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<sup>3</sup> For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of College's employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the College's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. If a complainant files a formal complaint, the Complainant's name and the nature of the allegations will be disclosed to the Respondent in the College's required notice. **Confidentiality** exists in the

retaliation; any Complainant, any individual who has been reported to be the alleged actor of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures. In the event that a complainant files a formal complaint the College will, in compliance with its Title IX obligations, disclose in its required notice to the Respondent the name of the complainant and the substance of the allegations of the complaint.

The College reserves the right to designate which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Office for Institutional Equity and Inclusion, Division of Student Life, Equity and Compliance Office, Campus Safety, Department of Faculty, Human Resources and the Care Team. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so. Confidentiality and mandated reporting are addressed more specifically [below](#).

## **12. Jurisdiction of the College**

This policy applies to the education program and activities of the College, to conduct that takes place on the campus or on property owned or controlled by Connecticut College, at College-sponsored events, or in buildings owned or controlled by the College's recognized student organizations. The Respondent must be a member of the Connecticut College community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program. Connecticut College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest.

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context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The College has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 23. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

Regardless of where the conduct occurred, the College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. Conduct that occurs outside of a College education program or activity is not subject to the rights, protections, and procedural requirements of Title IX. A substantial College interest includes:

- a. A member of the Connecticut College community is the victim of an alleged violation of the Honor Code and/or Student Code of Conduct;
- b. The alleged violation occurred at a College sponsored or sanctioned event or program;
- c. The accused student used their status as a member of the College community to assist in the commission of an alleged violation;
- d. The misconduct has a direct and distinct adverse impact on the College community, its members, and/or its objectives;
- e. A reasonable belief exists that the alleged or known violation poses a threat to the health or safety of any member of the College community.

If the Respondent is unknown or is not a member of the Connecticut College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of our College community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or the Director of Sexual Violence Prevention and Advocacy, Rachel Stewart (Crozier Williams Rm. 222, (860) 439-2219).

In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events.

All vendors serving Connecticut College through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to Connecticut College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

**Off campus:** The New London and Waterford Police Departments are available if a student would like to report sexual harassment, sexual assault, stalking, dating violence, or domestic violence and, possibly initiate a criminal investigation. The Police Department can also assist the student with obtaining a protective order through the court. The College will honor any court-issued protective order. Connecticut College encourages students to report all crimes to the appropriate district police department and will assist the complainant in making such a report. Again, this option of reporting is not exclusive; a student may seek internal College support and also file a formal complaint with the Associate Dean for Equity and Compliance Programs in addition to reporting to the police.

The Director of Sexual Violence Prevention and Advocacy can initiate contact and arrange a meeting between a student and the police. A representative of the College may accompany the student, upon request. During a police investigation, the College may briefly suspend its own investigation to accommodate the needs of the police. The College has no control over the police investigation and the resulting legal process.

### **13. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator and/or designee. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

### **14. Online Harassment and Misconduct**

The policies of Connecticut College are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities or use Connecticut College networks, technology, or equipment.

While the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

Members of the Connecticut College community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via all forms of social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Connecticut College community.

In evaluation allegations of sexual harassment that involve speech, the College will consider principles of academic freedom to the extent they are applicable.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the College only when such speech is made in an employee's official or work-related capacity.

## **15. Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. Connecticut College's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under College policy.

### **a. Discrimination and Harassment**

Both Discrimination and Harassment are prohibited by College policy.

Discrimination occurs when individuals are treated differently because of their real or perceived membership in one or more of the Protected Categories, and that treatment adversely affects an individual's right to participate in and/or receive the benefits of the College's programs or activities, or adversely affects the terms or conditions of an individual's employment.

Harassment is a form of discrimination based on the real or perceived membership in one or more of the Protected Categories in which behavior or communication creates an intimidating or hostile environment, or has the purpose or effect of interfering with an individual's work or educational performance. Harassing behaviors include, but are not limited to, unwelcome statements, jokes, gestures, pictures, or other conduct that offends, demeans or intimidates others based on their membership in or association with one or more of the Protected Categories. The behavior may involve a single serious and offensive incident or may involve persistent behavior; provided, however, that to be subject to the rights, protections, and procedural requirements of Title IX, sexual harassment must be both severe and pervasive. Persistent behavior may be created when a person fails to stop the behavior that a reasonable person would find hostile or abusive especially after they have been asked to stop the behavior. These behaviors may form the basis of a harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently offensive to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment. Behaviors alleged to be harassment will be evaluated by considering the totality of the particular circumstances, including, without limitation, the nature, frequency, intensity, location, context, and duration of the questioned behavior. Connecticut College does not tolerate harassment of any employee, student, visitor, or guest. The College will address all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.<sup>4</sup> A hostile environment can be created by unwelcome sexual behavior such as, but not limited to, unwelcome persistent requests

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<sup>4</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: [Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational Recipients Investigative Guidance.](#)

for dates, displays of pictures of a sexual nature online or in physical form where they can be viewed by others, or repeated sexual comments or jokes.

When harassment rises to the level of creating a hostile environment, Connecticut College will act to remedy the harassment when reported. The College's actions may include, but are not limited to, imposing sanctions on the Respondent if deemed appropriate through the applicable grievance process. Connecticut College also will address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct may not result in the imposition of formal discipline under the College policy, but may be addressed through respectful conversation, education, effective Alternate Resolution, and/or other informal resolution mechanisms.

For assistance with Alternate Resolution and other informal resolution techniques and approaches, employees should contact the Director of Human Resources, and students should contact the Associate Dean for Equity and Compliance Programs.

## **b. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Connecticut regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful, discriminatory practice.

Connecticut College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment, which is harassment based on a person's sex, may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment that is so severe and pervasive that it effectively deprives someone of equal access to the College's programs and activities, sexual assault, domestic violence, dating violence, and stalking.

Sexual Harassment is defined as conduct on the basis of sex that satisfies the elements of one or more of the following categories:

- 1) Quid Pro Quo:
  - a. an employee of the College who
  - b. conditions the provision of an aid, benefit, or service of the College
  - c. on an individual's participation in unwelcome sexual conduct.
  
- 2) Severe and pervasive sexual harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,

- f. that it effectively denies a person equal access to the College's education program or activity.<sup>5</sup>
- 1) Sexual assault, defined as:
- a) Rape:
    - i) Penetration,
    - ii) no matter how slight,
    - iii) of the vagina or anus with any body part or object, or
    - iv) oral penetration by a sex organ of another person,
    - v) without the consent of the Complainant.
  - b) Sodomy:
    - i) Oral or anal sexual intercourse with another person,
    - ii) without consent, including instances where the Complainant is incapable of giving consent due to age<sup>6</sup> or temporary or permanent mental or physical incapacity.
  - c) Sexual Assault with an Object:
    - i) The use of an object or instrument to penetrate,
    - ii) however slightly,
    - iii) the genital or anal opening of the body of another person,
    - iv) without consent, including instances where the Complainant is incapable of giving consent due to age or temporary or permanent mental or physical incapacity.
  - d) Fondling:
    - i) The touching of the private body parts of another person (such as buttocks, groin, breasts, genitals),
    - ii) for the purpose of sexual gratification,
    - iii) without consent, including instances where the Complainant is incapable of giving consent because of age or temporary or permanent mental or physical incapacity.
  - e) Incest
    - i) Sexual intercourse,
    - ii) between persons who are related to each other,
    - iii) within the degrees wherein marriage is prohibited by Connecticut law.
  - f) Statutory Rape:
    - i) Non-forcible sexual intercourse,
    - ii) with a minor more than three years younger than the actor if the younger person is at least age 13, but under age 16, or
    - iii) with a minor under age 13 if the actor is more than two years older,
- 2) Dating Violence, defined as:
- a. violence,

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<sup>5</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred.

<sup>6</sup> The Age of Consent in Connecticut is 16 years old.



- b. committed by a person,
  - c. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
    - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - iii. Dating violence does not include acts covered under the definition of domestic violence.
- 3) Domestic Violence, defined as:
- a. violence,
  - b. committed by:
    - i. a current or former spouse or intimate partner of the Complainant,
    - ii. a person with whom the Complainant shares a child in common,
    - iii. a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner,<sup>7</sup>
    - iv. a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Connecticut, or
    - v. any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Connecticut.
- 4) Stalking, defined as:
- a. engaging in a course of conduct,
  - b. directed at a specific person, that
    - i. would cause a reasonable person to fear for the person's safety, or
    - ii. the safety of others; or
    - iii. suffer substantial emotional distress.
- For the purposes of this definition—
- (i) 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.
  - (ii) Reasonable person means a reasonable person in the position of the Complainant and under similar circumstances
  - (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

In addition to violating the College's policy, sexual assault and stalking are crimes in Connecticut and may be subject to criminal prosecution.

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<sup>7</sup> A roommate relationship does not fall within this definition unless the roommates are current or former spouses or otherwise engaged in an intimate relationship. The mere fact of cohabitation is insufficient to satisfy this definition.

### **c. Consent, Coercion, Incapacity, and Force**

As used in the offenses above, the following definitions and understandings apply:

#### **Consent is:**

- active
- knowing,
- voluntary, and
- clear permission
- by word or action
- to engage in mutually agreed upon sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has affirmatively consented before engaging in the specific sexual activity and that consent is sustained throughout the activity.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct-

The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred.

A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately. If sexual activity occurs after consent has been withdrawn, there is no longer valid consent.

#### **What is not consent?**

- Silence, passivity or the absence of resistance alone cannot be taken as consent.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).
- A current or previous intimate relationship alone is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred
- A person who is incapacitated (as discussed and defined below) cannot consent.
- Coerced sexual activity is not consensual (as discussed and defined below).
- A verbal “no” (no matter how indecisive) or resistance (no matter how minimal) constitutes a lack of consent. A forced sexual act is considered without consent except that where the act is explicitly consented to, as in the case of BDSM, it will not be considered a forced sexual act.
- A person cannot consent if they are under the age of 16 years. In Connecticut, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual

contact by an adult with a person younger than 16 years old may be a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

### **Effect of Coercion on Consent**

Coerced sexual activity is not consensual. Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

### **Effect of Incapacity on Consent**

A person cannot consent if they are unable to understand what is happening, or are disoriented, helpless, asleep, or unconscious, for any reason, including the influence of alcohol or other drugs, or a temporary or permanent physical or mental health condition. A person will be considered incapacitated if, by reason of the foregoing conditions, they are unable to make rational, reasonable decisions (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction). A person subject to involuntary physical restraint will also be considered incapacitated.

Incapacitation is determined through consideration of all relevant information about an individual’s state and is not synonymous with being intoxicated or drunk.

A Respondent violates this policy if they engage in sexual activity with someone whom they know or should have known is incapacitated and therefore incapable of giving consent.

### **Consensual Sexual Relations Policy**

There are inherent risks in any sexual relationship or any type of non-professional intimate/sexual activity between individuals in unequal positions of power or authority. Concerns about conflicts of interest and unfair treatment of others not involved in the relationship may arise. These relationships or interactions may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome.

To minimize these risks, Connecticut College prohibits sexual or intimate activities and/or relationships between:

- Any faculty member (anyone with instructional responsibilities, including some athletic coaches, guest artists, postdocs) and a student
- Any staff member (including graduate interns and AmeriCorps VISTAS) and a student
- Any supervisor and a subordinate

All reported violations of this policy will be investigated, and if it is determined that a violation occurred, the faculty and/or staff member(s), and in certain situations the student(s), will be subject to disciplinary proceedings.

If sexual activity or a relationship occurs between a supervisor and a subordinate, the supervisor will ordinarily bear the primary burden of accountability, but both employees may be subject to disciplinary action up to and including termination of employment. Occasionally student workers are in a

supervisory role - one in which they hire, evaluate, direct the work and approve time sheets of another student worker. This policy applies to sexual activity and relationships between such students and their subordinates, but does not apply to sexual activity and relationships between Residential Education and Living student-staff and their residents.

Even when there is no supervision or evaluative authority, sexual activity or relationships between co-workers may lead to workplace difficulties. If such a relationship negatively impacts the workplace, the matter may be referred to the appropriate office (Human Resources, Dean of the Faculty, or Student Life) for resolution. The person in the position of greater authority or power will ordinarily bear the primary burden of accountability.

Connecticut College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

#### d. Other Offenses

In addition to the forms of sexual harassment described above, the College additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's actual or perceived membership in protected class protected by law or College policy. Whether or not these forms of sexual harassment are covered by the College's T. IX policies, these acts violate the non-discrimination policies in the College's Code of Conduct and are subject to the conduct process-

- Sexual Harassment is defined as: an unwelcome sexual, sex-based or gender-based conduct that is verbal, written, or physical, or occurs online.<sup>8</sup>
  - Sexual harassment creates a hostile environment, and may be disciplined when it is sufficiently severe or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's educational program and/or activities or to perform one's job. This interference is based on power differentials (*quid pro quo*); the creation of an intimidating, hostile or offensive environment<sup>9</sup>; or retaliation.
  - *Quid Pro Quo* Harassment. When a member of the community uses his or her position of authority to pressure or cause a student, staff member, or faculty member to submit to unwelcome attention, the College's ability to carry out its mission is undermined. In such situations, sexual harassment exploits unfairly the power inherent in a community member's position. Through grades, wage increases, recommendations for graduate study, promotion and the like, a member of the community with more authority can have a decisive influence on a student's or subordinate's career at the College and beyond.

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<sup>8</sup> Some examples of possible sexual harassment include the following:

- A professor insists that a student have sex with him/her/they in exchange for a good grade (*quid pro quo*).
- A student repeatedly sends sexually oriented jokes around on an emails lists/he/they created, even when asked to stop, causing one to avoid the sender on campus and in the residence hall in which they both live.
- Explicit pictures are displayed in a professor's office, on the exterior of a residence hall door or on a computer monitor in a public place.
- A professor engages students in discussion in class about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. S/he/they probes for explicit details, and demands that students answer them, though they are clearly uncomfortable and hesitant.

<sup>9</sup> Not all workplace or educational conduct that may be described as "harassment" affects the terms, conditions or privileges of employment or education. For example, a mere utterance of an ethnic, gender-based or racial epithet which may be offensive to an employee or student would not normally affect the terms and conditions of their employment or education.

- *Hostile Environment Harassment*. While sexual harassment can take place in situations in which there is a power differential between the persons involved, the College also recognizes that sexual harassment may occur between persons of like status. A hostile environment can be created by unwelcome sexual behavior such as, but not limited to, unwelcome persistent requests for dates, displays of pictures of a sexual nature online or in a physical form where they can be viewed by others, or repeated sexual comments or jokes.
- *Considerations*. Conduct alleged to be sexual harassment will be evaluated by considering the totality of the circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual harassment, a serious incident, even isolated, can be sufficient.

If verbal or physical conduct of a sexual nature takes place in the teaching/learning context, it must also be persistent, pervasive and not germane to the subject matter of a course, research or other academic endeavor to constitute sexual harassment. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the pedagogically appropriate content and presentation of academic and artistic material.<sup>10</sup>

This policy covers intentional conduct. It also covers conduct that results in negative effects even if such negative effects were unintended. Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently offensive to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment.

- Sexual Exploitation is defined as: taking non-consensual or abusive sexual advantage of another for the actor's own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
  - Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)
  - Invasion of sexual privacy
  - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
  - Prostituting another person
  - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
  - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
  - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections

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<sup>10</sup> The two sentences in this paragraph are adapted from the AAUP standard.

- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
  - Knowingly soliciting a minor for sexual activity
  - Engaging in sex trafficking
  - Creation, possession, or dissemination of child pornography
- Threatening, defined as written, physical, or verbal conduct that causes a reasonable expectation of fear of harm to any person or damage to any property;
  - Discrimination occurs when individuals are treated differently because of their real or perceived membership in one or more of the Protected Categories, and that treatment adversely affects an individual's right to participate in and/or receive the benefits of the College's programs or activities, or adversely affects the terms or conditions of an individual's employment;
  - Assault, defined as any unwanted physical contact with harmful intent or result by a Connecticut College student against another individual is construed as physical assault.

Violation of any other College policies may constitute an Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Offenses range from letter of warning through expulsion/termination.

If violations described above implicate College policies on freedom of speech and academic freedom, those policies will be taken into account.

## **16. Retaliation**

It is prohibited for the College or any member of the College's community to intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Protected activity under this policy includes retaliation against someone for reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Making charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation. A determination regarding responsibility alone is not sufficient to conclude that any party has made a materially false

statement in bad faith.

Any student, employee, or any other person in the College who is found to have engaged in retaliation is subject to discipline up to and including terminations of employment or expulsion

### **17. Responsible Employees**

All Connecticut College employees who have direct contact with students (faculty, staff, and administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Responsible Employee can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at Connecticut College for a Complainant or third-party (including parents/guardians when appropriate):

#### **a. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- Student Counseling Services Staff (860-439-4587)
- Student Health Services Staff (860.-439-2275)
- Confidential Advocates
  - Rachel Stewart, Director of Sexual Violence Prevention and Advocacy (860-439-2219)
- Chaplains & Office of Religious and Spiritual Programs (860-439-2450)
- Athletic trainers (if licensed and privileged under state statute, and/or working under the supervision of a health professional)
- Off-campus (non-employees):
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains
  - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/individual with a disability, or when required to disclose by law or court order.

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Connecticut College employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

### **b. Responsible Employees and Formal Notice/Complaints**

All student-facing employees of Connecticut College (e.g., Residential Education and Living (REAL) Professional Staff; Professional Student Life Staff On Call; REAL Student Staff; Class Deans; Supervisors; Department Chairs; Human Resources Staff, Senior Administration, Faculty and Coaches), with the exception of those who are designated as Confidential Resources, are Responsible Employees and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Responsible Employees, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night”, Women’s Empowerment Initiative Show, marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College.

Supportive measures may be offered as the result of such disclosures without formal action from the College.

Failure of a Responsible Employee, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Responsible Employee is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the College is technically not on notice when a harasser is also a Responsible Employee unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Responsible Employee who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

### **18. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and



to comply with state or federal law. If the Complainant refuses to participate in the process, and in particular declines to be cross-examined at the grievance hearing, the decision-maker may not consider any statement made by the Complainant. The Complainant's advisor is not permitted to testify or offer evidence on the Complainant's behalf.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures.

## **19. Federal Timely Warning Obligations**

Individuals who have experienced sexual harassment, dating violence, or stalking need to be aware that the College must issue timely warnings for incidents reported that pose a substantial threat of bodily harm or danger to the members of the campus community. The College will ensure that a complainant's name and other identifying information are not disclosed while still providing enough information for community members to make safety decisions in light of the danger (see Campus Safety Communications in Student Handbook).

## **20. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under College policy.

## **21. Amnesty for Complainants and Witnesses**

The health and safety of students is a primary concern at Connecticut College. At the discretion of the Senior Associate Dean of Student Life or the Dean of Students, the college may extend amnesty to students for minor violations when the student chooses to bring related serious violations (such as hazing, sexual harassment, and drug distribution) to the dean's attention. Educational options may be implemented by the Senior Associate Dean of Student Life or the Dean of Students but no conduct proceedings will be initiated. Please refer to the Medical Amnesty Policy for alcohol and other drugs in the Student Handbook.

## **22. Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA<sup>11</sup>-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to campus safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log. (See The Clery Act and Campus Security Authorities in Student Handbook).

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<sup>11</sup> VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

## **23. Preservation of Evidence**

To assist in the decision-making process, the following information is important for individuals who have experienced sexual violence misconduct and friends assisting friends:

### *Medical Attention:*

When students experience any kind of sexual assault, dating violence or stalking and feels medical services are needed, students may seek medical care at Student Health Services or Yale New Haven Hospital Lawrence and Memorial (L & M) Emergency Room (365 Montauk Avenue, New London).

When students experience criminal sexual assault, they may first go to Health Services. Staff there can provide support and can arrange for transportation and an escort to the Yale New Haven Health Lawrence and Memorial (L & M) Emergency Room. If Health Services is closed, students may go directly to L&M Hospital.

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and is particularly time-sensitive. The College will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at the Yale New Haven Hospital Lawrence and Memorial (L & M) Emergency Room (365 Montauk Avenue, New London), ideally within 120 hours of the incident (sooner is better). However, students are also strongly encouraged to seek medical attention after that time period.
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container.
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.
7. The Sexual Assault Nurse Examiner (a specially trained nurse) at L&M is on call 24 hours a day, 7 days a week.
8. A Rape Crisis Counselor from the Sexual Assault Crisis Center of Eastern CT can also meet the student at L & M Hospital- call the 24-hour State Hotline at 888-999-5545.
9. A campus advocate is generally available 24 hours/7 days a week (during the academic year) through the college on-call system (860-460-9194).

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

## **RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE SEXUAL HARASSMENT AND NONDISCRIMINATION (TITLE IX) POLICY (KNOWN AS PROCESS "A")**

### **1. Overview**

The College will act on any formal or informal notice/complaint of violation of the policy on Sexual Harassment and Nondiscrimination ("the Policy") that is received by the Title IX Coordinator<sup>12</sup> or any

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<sup>12</sup> Anywhere this procedure indicates "Title IX Coordinator," the College may substitute a trained designee.

other Official with Authority by applying these procedures, known as “**Process A.**”

The procedures below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members.

If other policies are invoked, such as policies on protected class harassment or discrimination above, please see [Appendix C](#) for a description of the procedures applicable to the resolution of such offenses, known as “Process B.”

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

Unionized/other categorized employees are subject to the terms of their agreements/employees’ rights to the extent those agreements do not conflict with federal or state compliance obligations.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures elaborated in the student, faculty, and staff handbooks.

## **2. Notice/Complaint**

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the College initiates a prompt initial assessment to determine the next steps the College needs to take.

The College will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to proceed formally; and/or
- 2) An informal resolution; and/or
- 3) A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

## **3. Initial Assessment**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator<sup>1013</sup> engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

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<sup>13</sup> If circumstances require, the Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

- Once notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.
    - If alleged misconduct does not fall within the scope of Title IX, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly, including referring that matter for resolution under Process B if applicable. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX which does not limit the College’s authority to address a complaint with an appropriate process and remedies.

### **a. Violence Risk Assessment**

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer College/University about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE team members. A VRA authorized by the Title IX Coordinator should occur in collaboration with the CARE or threat assessment team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida, 72-hour Hold in Connecticut), nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about the College's process for VRA can be found below in [Appendix B](#).

b. **Dismissal (Mandatory and Discretionary)**<sup>14</sup>

The College **must** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy hereinabove, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the College, and/or the College does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the college.

The College **may** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the college; or
- 3) Specific circumstances prevent the college from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

#### **4. Cross-Complaints**

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of cross-complaints but uses an initial assessment, described above, to assess whether the allegations in the cross-complaint are made in good faith. Cross-complaints by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Cross-complaints made with retaliatory intent will not be permitted.

Once a complaint has been initiated, the Respondent will have the opportunity to respond to the complaint and/or file a non-retaliatory cross-complaint. Cross-complaints determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

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<sup>14</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.

Cross-complaints may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. Any complaint or cross-complaint that is deemed by the Associate Dean for Equity and Compliance Programs and/or the investigator(s) to have filed in bad faith or frivolously will be considered retaliation against the Complainant who filed the original complaint, will become a separate violation of the Connecticut College Policy, and will subject the respondent to potential sanctions. (Please see the Retaliation Policy).

## **5. Right to an Advisor**

The parties may each have an Advisor<sup>15</sup> of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>16</sup>

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

Each party will be permitted to have one Advisor present during the hearing. A party can request to have an Advisor during Intake; however, the College is only obligated to provide an Advisor for the Hearing Process.

### **a. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the College community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the College, the Advisor will be trained by the College and be familiar with the College's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the College, the Advisor may not have been trained by the College and may not be familiar with College policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

### **b. Advisors in Hearings/College-Appointed Advisor**

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to

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<sup>15</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally), but some Colleges do permit more than one. If the College allows more than one Advisor for one party, they should do so for all parties.

<sup>16</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.



directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

### **c. Advisor's Role**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

### **d. Pre-Interview Meetings**

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and the College's policies and procedures.

### **e. Advisor Violations of College Policy**

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address College officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

#### **f. Sharing Information with the Advisor**

The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The College also provides a consent form that authorizes the College to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.

The College expects respondents and complainants to be active participants in the process. If a party requests that all communication be made through their attorney Advisor, the College will not comply with that request. If there are special circumstances, the College will comply with the request at the discretion of the Title IX Coordinator.

#### **g. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

#### **h. Expectations of an Advisor**

The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### **i. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

#### **j. Support in Investigation Process**

The student (complainant or respondent) may be accompanied by one support person for all meetings and interviews but not during the hearing process, unless the support person is serving in the role of Advisor (see above).

- The complainant and respondent typically can choose a person from the College community; however, they may select a support person from outside the campus community (including an attorney).
- Witnesses or individuals with direct knowledge of the incident may not serve as support persons as they may be required to provide information in the process.

The following staff members have been trained in the Complaint Investigation Process. Students are encouraged to seek support from these individuals:

- Caitlin Kay, Assistant Director for REAL
- Jeannette Williams, Associate Director of Student Engagement & New Student Programs

### **6. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy.

Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose as part of an Informal Resolution, discussed below. The College encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is the College's primary resolution approach, unless Informal Resolution is elected by all parties and the College. Three options for Informal Resolution are detailed in this section, and the Formal Grievance Process is detailed in the next section.

#### **a. Informal Resolution**

Informal Resolution can include two different approaches:

- Supportive Resolution. When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- Accepted Responsibility. When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process

To initiate Informal Resolution, a Complainant must submit a formal complaint, as defined above. If

either the Complainant or the Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

The College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution. Informal resolution will not proceed absent consent of both parties.

#### **b. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the College's policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **7. Formal Grievance Process**

The Formal Grievance Process relies on a pool of individuals ("the Pool") to carry out the process. Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees. They are also listed in the Annual Title IX Report published by the Title IX Office.

#### **a. Pool Member Roles**

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the

Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

#### **b. Pool Member Appointment**

The Title IX Coordinator appoints the Pool, which acts with independence and impartiality. While members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

#### **c. Pool Member Training**

The Pool members receive annual training. This training includes, but is not limited to:

- The scope of the College's Discrimination and Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the college with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudice of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence

- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are College employees), and Chairs. All Pool members are required to attend these trainings annually.

### **8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the College’s policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the College’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A copy of College’s VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address (es) of the parties as indicated in official College records, or emailed to the parties’ College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## **9. Resolution Timeline**

The College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## **10. Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator will appoint an investigator to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

## **11. Ensuring Impartiality**

Any individual materially involved in the administration of the resolution process (including the Title IX Coordinator, Investigator(s), and Decision-maker(s)) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Dean of Institutional Equity and Inclusion.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

## **12. Investigation Timeline**

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

### **13. Delays in the Investigation Process and Interactions with Law Enforcement**

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### **14. Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Work with the Title IX Coordinator, if necessary, to prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings



- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a **ten (10) business day** review and comment period so that each party may meaningfully respond to the evidence. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, and Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least **ten (10) business days** prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

### **15. Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of the College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study

abroad, summer break, remote learning) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

#### **16. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

#### **17. Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

#### **18. Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing will take place ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker.

The Title IX Coordinator will select an appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees will be directed to the appropriate Decision-maker depending on the context of the alleged misconduct.

#### **19. Hearing Decision-maker Composition**

The College will designate a three-member panel from the Pool, at the discretion of the Title IX Coordinator. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

## **20. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

## **21. Notice of Hearing**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of

the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.

- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party **must** have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.<sup>17</sup>
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Parties cannot bring mobile phones/Wi-Fi connected devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

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<sup>17</sup> The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

## **22. Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

## **23. Pre-Hearing Preparation**

The Chair or hearing facilitator, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day, unless the day falls on Friday then at least two days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

## **24. Pre-Hearing Meetings**

The Chair may convene a pre-hearing meeting(s) with the parties and their Advisors to invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator<sup>18</sup>, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

## **25. Hearing Procedures**

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Sexual Harassment and Nondiscrimination (Title IX) Policy.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent<sup>19</sup>), Advisors to the parties, any called witnesses, the Title IX Coordinator]and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and will then be excused.

## **26. Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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<sup>18</sup> The Title IX Coordinator does not have a substantive decision-making role at the hearing. The Title IX Coordinator may be able to have some role in answering questions about the College's processes.

<sup>19</sup> Subject to the College's Code of Organizational Conduct.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

### **27. The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Chair AND/OR hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

At the request of either party, the Chair will arrange for the live hearing to occur with the parties located in separate rooms with technology enabling the Chair and the parties to simultaneously see and hear the party or witnesses answering questions.

### **28. Investigator Presents the Final Investigation Report**

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

### **29. Testimony and Questioning**

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will

determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance, subject to any appeal. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

### **30. Refusal to Submit to Cross-Examination and Inferences**

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) may consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-maker(s), as distinguished from questions posed by Advisors through cross-examination.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a College-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.



### **31. Recording Hearings**

Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording.

### **32. Deliberation, Decision-making, and Standard of Proof**

The Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party (ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by the Senior Associate Dean of Student Life and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **33. Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 3 business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties'

College-issued email or otherwise approved account (e.g., Maxient). Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy (ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanctions issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

#### **34. Statement of the Rights of the Parties [\(see Appendix D\)](#)**

#### **35. Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

##### **a. Student Sanctions**

The following are the usual sanctions<sup>20</sup> that may be imposed upon students or organizations singly or in combination<sup>21</sup>:

- **Disciplinary Warning** – A letter indicating that a student has been found responsible for a violation of the Honor Code and/or the Student Code of Conduct. This sanction indicates that if the student is again found in violation of the Honor Code and/or Student Code of Conduct, a sanction will likely be imposed that reflects a repeated violation.
- **Disciplinary Probation Level 1** – A status indicating that a student has been found responsible for a violation of the Honor Code and/or the Student Code of Conduct that reflects a more serious violation. This sanction will be in effect for a specified period of time and indicates that if the student is again found in violation of the Honor Code and/or Student Code of Conduct during the period of this status, a sanction of Disciplinary Probation Level 2 or greater will likely be necessitated.
- **Disciplinary Probation Level 2** – Formal notice that a student’s status at the College is in jeopardy as a result of one or more violations of the Honor Code and/or Student Code of Conduct. This sanction will be in effect for a specified period of time and indicates that if the student is found in violation of the Honor Code and/or Student Code of Conduct during the period of this status, the imposed sanction may include Loss of Housing, Suspension from the College, or Expulsion from the College. While on probation, a student will not be permitted to serve as a member of Student Government Association, an executive Board member of a student organization, or on any standing College committee. A student’s ability to participate in other college programs may also be limited by this status as determined by those offices (i.e. Study Away programs, CELS internships). When placed on this status, the Office of the Dean of the College and the student’s parent/guardian may be notified.
- **Loss of Housing** – Dismissal from College owned housing for a specified period of time. Financial reimbursement is made according to the refund schedule in the College Catalog. During this period, a student is not eligible for summer housing. After this period is concluded, the student may request the Dean of Students or their designee to re-evaluate the student’s ability to return to the residence hall. Loss of housing may result in notification of the student’s faculty and staff adviser, class dean, and parent/guardian.
- **Organizational Sanctions**: Deactivation, loss of recognition, loss of some or all privileges (including College registration) for a specified period of time.
- **Suspension from the College** – Suspension from the College is a temporary dismissal from the College for a specified period of time. After this period is concluded, the student may resume his or her studies following an interview with the Dean of Students or their designee. A suspended student may not engage in College activities, use any College facilities, or be on College property without expressed permission from the Dean of Students or their designee. Financial reimbursement is made according to the refund schedule in the College Catalog. When suspended from the College, the student’s class dean, athletic coach, and parent/guardian may be notified. A suspended student does not have the opportunity to earn

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<sup>20</sup> College policies on transcript notation will apply to these proceedings.

<sup>21</sup> Subject to College’s Organizational Code of Conduct.

academic credit towards a Connecticut College degree unless granted permission by the Dean of Students.

- **Expulsion from the College** – Permanent dismissal from the College without the right to return. An expelled student no longer has the privileges of matriculated students and may not engage in College activities, use any College facilities, or be on College property. Financial reimbursement is made according to the refund schedule listed in the College Catalog. When expelled from the College, the student’s parent/guardian may be notified as permitted by FERPA.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions in the Student Handbook as deemed appropriate.

#### **b. Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation may include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

### **36. Withdrawal or Resignation While Charges Pending**

Students: If a student has an allegation pending for violation of the Sexual Harassment and Nondiscrimination Policy, the College may place a hold on a student’s ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student.

However, the College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the College. A hold will be placed on their ability to be readmitted. They may also be barred from College property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to

return to the College unless and until all sanctions have been satisfied. Students may not go on a leave or withdraw from the college before the resolution of a student conduct violation unless they are granted permission by the Dean of Students. In such circumstances, the student's return to the College may be contingent upon the completion of student conduct proceedings.

During the resolution process, the College may put a hold on a responding student's transcript or place a notation on a responding student's dean's disciplinary certification that a disciplinary matter is pending.

Employees: Should an employee Respondent resign or their contract ends with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee.

However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the College, and the records retained by the Title IX Coordinator will reflect that status.

### **37. Appeals (A Review for Standing)**

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within 3 days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. No appeal Decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Dean of Student Life and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Dean of Student Life will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party (ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given 3 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Dean of Student Life to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Dean of Student Life and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in 3 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Dean of Student Life will collect any additional information needed and all documentation regarding the approved grounds and will render a decision in no more than 3 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' College-issued email or otherwise approved account (e.g., Maxient). Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

The College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

### **c. Appeal Considerations**

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed; provided, however, that the Title IX Coordinator may not participate in any substantive aspect of the appeals process . Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- The results of a remand to a Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **38. Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.

The College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

### **39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **40. Recordkeeping**

The College will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on the College's website.
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to the College education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will also maintain any and all records in accordance with state and federal laws.



#### **41. Disabilities Accommodations in the Resolution Process**

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process.

Anyone needing such accommodations or support should contact the Director of Student Accessibility Services or appropriate HR individual if employee, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

#### **42. Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020.

## **APPENDIX A: A FRAMEWORK FOR INFORMAL RESOLUTION (IR)**

1. A response based on supportive measures; and/or
2. A response based on a Respondent accepting responsibility.

Here are the principles to be considered for supporting various approaches to informal resolution:

- IR can be applied in any sex/gender-based interpersonal conflict but should be only be cautiously considered for violent incidents (sexual violence, stalking, domestic and dating violence, severe sexual harassment, sexual exploitation, etc.)
- Situations involving dangerous patterns or significant ongoing threat to the community should not be resolved by IR.
- The determination of whether to permit an IR-based resolution is entirely at the discretion of the Title IX Coordinator (TIXC) and in line with the requirements for IR laid out in the Title IX regulations.
- Any party can end IR early-, mid-, or late-process for any reason or no reason.
- IR can be attempted before and in lieu of formal resolution as a diversion-based resolution (although a formal complaint must be filed if you are within Section 106.30, per OCR).
- IR could be deployed after formal resolution, as an adjunct healing/catharsis opportunity (that could potentially mitigate sanctions or be a form of sanction).
- Technology-facilitated IR can be made available, should the parties not be able or willing to meet in person.
- If IR fails, a formal resolution can take place thereafter. No evidence elicited within the “safe space” of the IR facilitation is later admissible in the formal resolution unless all parties consent.
- With cases involving violence, the preferred alternative approach typically involves a minimal number of essential parties and is not a wide restorative circle approach in order to ensure confidentiality.
- Some approaches require a reasonable gesture toward accountability (this could be more than an acknowledgement of harm) and some acceptance, or at least recognition, by the Respondent that catharsis is of value and likely the primary goal of the Complainant. A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the TIXC before determining that an incident is amenable/appropriate for resolution by IR.
- IR can result in an accord or agreement between the parties (Complainant, Respondent, and the College) which is summarized in writing by and enforced by the College. This can be a primary goal of the process.
- IR can result in the voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions by the parties that are enforceable by the College. These can be part of the accord/agreement.
- As a secondary goal, IR can result in the voluntary acceptance of “sanctions,” meaning that a Respondent could agree to withdraw, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the safety/educational access of the Complainant, in lieu of formal sanctions that would create a formal record for the Respondent. These are enforceable by the College as part of the accord/agreement, as may be terms of mutual release, non-disparagement, and/or non-disclosure.
- While a non-disclosure agreement (NDA) could result from IR, it would have to be mutually agreed-upon by the parties in an environment of non-coercion verified by the TIXC.

- Institutions must develop clear rules for managing/facilitating the conference/meeting, to ensure they are civil, age-appropriate, culturally-competent, reflective of power imbalances, and maximize the potential for the resolution process to result in catharsis, restoration, remedy, etc., for the harmed party(ies).
- If a formal complaint has been filed, Informal Resolution will be allowed to proceed only with the written consent of both parties and the College.

## **APPENDIX B: VIOLENCE RISK ASSESSMENT (VRA)**

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other CARE team members.

A VRA occurs in collaboration with the CARE team, and or threat assessment team and must be understood as an on-going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida or 72-hour hold in Connecticut), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of **risk factors** that escalate the potential for violence;
2. a determination of **stabilizing influences** that reduce the risk of violence;
3. a contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of **intervention and management** approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the Care team. The Care team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor will follow the process for conducting a violence risk assessment as outlined in the Care team manual and will rely on a consistent, research-based, reliable system that allows the for the operationalization of the risk levels.

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric,<sup>22</sup> The Structured Interview for Violence Risk Assessment (SIVRA-35),<sup>23</sup> The Extremist Risk Intervention Scale (ERIS),<sup>24</sup> Looking Glass,<sup>25</sup> Workplace Assessment of Violence Risk (WAVR-21),<sup>26</sup> Historical Clinical Risk

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<sup>22</sup> [www.nabita.org/tools](http://www.nabita.org/tools)

<sup>23</sup> [www.nabita.org/resources/assessment-tools/sivra-35/](http://www.nabita.org/resources/assessment-tools/sivra-35/)

<sup>24</sup> [www.nabita.org/resources/assessment-tools/eris/](http://www.nabita.org/resources/assessment-tools/eris/)

<sup>25</sup> [www.nabita.org/looking-glass](http://www.nabita.org/looking-glass)

<sup>26</sup> [www.wavr21.com](http://www.wavr21.com)

Management (HCR-20),<sup>27</sup> and MOSAIC.<sup>28</sup>

The VRA is conducted independently from the Title IX process, free from outcome pressure, but is informed by it. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE or threat team's member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

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<sup>27</sup> [hcr-20.com](http://hcr-20.com)

<sup>28</sup> [www.mosaicmethod.com](http://www.mosaicmethod.com)

## **APPENDIX C: PROCESS B**

- Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.
- VAWA Section 304 requirements apply to Process B or any alternative process for reports that fall under VAWA.
- Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, the 2001 Revised Guidance, etc.) may also be applicable to Process B.

### **RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE SEXUAL HARASSMENT AND NONDISCRIMINATION (TITLE IX) POLICY**

The College will act on any formal or informal allegation or notice of violation of the Sexual Harassment and Nondiscrimination policy that is received by the Title IX Coordinator<sup>29</sup> or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, faculty members, or third parties (with the exception of at-will employees. Unionized or other categorized employees will be subject to the terms of their respective collective bargaining agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations).

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

#### **1. Initial Assessment**

Following intake, receipt of notice, or a complaint of an alleged violation of the College's sexual harassment policy, the Title IX Coordinator<sup>30</sup> engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive response or an Administrative Resolution.

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<sup>29</sup> All references herein to a Title IX Coordinator also include a designee of the Title IX Coordinator.

<sup>30</sup> If circumstances require, the Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

- If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. The Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
- If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
- If Administrative Resolution is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
  - Incident, and/or
  - A potential pattern of misconduct, and/or
  - A culture/climate issue.
- In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Care team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:
  - Interim suspension of a Respondent who is a threat to health/safety;
  - Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant;
  - Whether to put the investigation on the footing of incident and/or pattern and/or climate;
  - To help identify potentially predatory conduct;
  - To help assess/identify grooming behaviors;
  - Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful;
  - Whether to permit a voluntary withdrawal by the Respondent;
  - Whether to impose transcript notation or communicate with a transfer College/University about a Respondent;
  - Assessment of appropriate sanctions/remedies;
  - Whether a Clery Act Timely Warning/Persona-non-grata is needed.

More about the College's process for VRA can be found in [Appendix B](#).

Based on the initial assessment, the College will initiate one of two responses:

- Informal Resolution – typically used for less serious offenses and only when all parties agree to Alternate Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.
- Administrative Resolution – investigation of policy violation(s) and recommended finding, subject to a determination by the Title IX Coordinator or Decision-maker and the opportunity to appeal to an Appeal Decision-maker.

The investigation and the subsequent Administrative Resolution determine whether the nondiscrimination policy has been violated. If so, the College will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. At any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

## **2. Resolution Process Pool**

The resolution processes rely on a pool of officials (“Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students and their parents/guardians, employees, prospective students, and prospective employees.

Members of the Pool are trained annually in all aspects of the resolution process and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advice pertaining to the allegations
- To act as optional process Advisors to the parties
- To facilitate Informal Resolution
- To investigate allegations
- To serve as a Decision-maker
- To serve on as Appeal Decision-maker

The Title IX Coordinator, in consultation with the Dean of Institutional Equity and Inclusion and the Senior Associate Dean for Student Life, carefully vets Pool members for potential conflicts of interest or disqualifying biases and appoints the Pool, which acts with independence and impartiality.

Pool members receive annual training organized by the Title IX Coordinator, including a review of the College policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.

The Pool members receive annual training specific to their role. This training includes, but is not limited to:

- The scope of the College’s Discrimination and Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence



- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the college with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially, by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be use
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- ow to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

Specific training is also provided for Appeal Decision-makers, intake personnel, and Advisors. All Pool members are required to attend this annual training.

### **3. Cross-Complaints**

Cross-complaints by the Respondent may be made in good faith but are also sometimes made for purposes of retaliation. The College is obligated to ensure that any process is not abused for retaliatory purposes.

The College permits the filing of cross-complaints, but uses the initial assessment, described above in the Policy section, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation.

A delay in the processing of cross-complaints is permitted, accordingly. Occasionally, allegations and cross-complaints can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

### **4. Advisors**

#### **a. Expectations of an Advisor**

The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned, but the College may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Parties whose Advisors are disruptive or who do not abide by College policies and procedures may face the loss of that Advisor and/or possible Policy violations.

Advisors are expected to consult with their advisees without disrupting the meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

#### **b. Expectations of the Parties with Respect to Advisors**

Each party may choose an Advisor<sup>31</sup> who is eligible and available<sup>32</sup> to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The parties are expected to inform the Investigators of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Investigator(s) and/or the Title IX Coordinator if they change Advisors at any time.

Upon written request of a party, the College will copy the Advisor on all communications between the College and the party. The Advisor may be asked to sign a confidentiality agreement regarding private, sensitive records.

For parties who are entitled to union representation, the College will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are/are not permitted to have union representation or Advisors in grievance process interviews or meetings.

### **5. Resolution Options**

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with College Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss with their Advisors first before doing so.

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<sup>31</sup> This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally. If the College allows more than one Advisor for one party, they should do so for all parties.

<sup>32</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

### **a. Informal Resolution**

Informal Resolution is applicable when the Respondent accepts responsibility for violating Policy or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the fact, Administrative Resolution may be pursued.

#### **i. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent accepts responsibility, the Title IX Coordinator makes a determination that the individual is in violation of the College Policy.

The Title IX Coordinator then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Title IX Coordinator or designee has determined appropriate sanction(s) or responsive actions, which are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The Complainant will be informed of this outcome. The parties are still able to seek Alternate Resolution on the remaining allegations, subject to the stipulations above.

### **b. Administrative Resolution**

Administrative Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the Sexual Harassment and Nondiscrimination Policy at any time during the process. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title IX Coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 48 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued or designated email account.

Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification should include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

The College aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, with notice to the parties as appropriate.

Once the decision is made to commence an investigation, the Title IX Coordinator appoints Pool members to conduct the investigation, usually within two (2) days of determining that an investigation should proceed.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Title IX Coordinator, concerns should be raised with the Dean of Institutional Equity and Inclusion.

Investigations are completed expeditiously, normally within 10-20 business days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

The College may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the College's resolution process are being investigated by law enforcement. The College will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

The College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

## **6. Investigation**

The Investigator(s) will typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Title IX Coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of a Pool member as a process Advisor appointed by the College or other Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)

- Provide each party with a full and fair opportunity to respond to the report in writing within 3 days and incorporate that response into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop.
- Provide the final report to the Title IX Coordinator. Recommend to the Title IX Coordinator a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not).

## **7. Determination**

Within two to three days of receiving the Investigator’s recommendation, the Title IX Coordinator or a trained, designated Decision-maker from the Pool<sup>33</sup> reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence.

If the record is incomplete, the Title IX Coordinator may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The recommendation of the investigation should be strongly considered but is not binding on the Title IX Coordinator. The Title IX Coordinator may invite and consider impact statements from the parties if and when determining appropriate sanction(s), if any.

The Title IX Coordinator then timely provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties

## **8. Additional Details of the Investigation Process**

### **a. Witness responsibilities**

Witnesses (as distinguished from the parties) who are faculty or staff of the College are expected to cooperate with and participate in the College’s investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may be subject to discipline.

### **b. Remote processes**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) or Decision-maker determine that timeliness or efficiency dictates a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. Where remote technologies are used, the College makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject them to unfairness.

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<sup>33</sup> When the Title IX Coordinator is the Investigator or has been heavily involved in the process prior to determination, a Decision-maker should be designated from the Pool to ensure there is no conflict of interest.

### **c. Recording**

No unauthorized audio or video recording of any kind is permitted during the resolution process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to<sup>34</sup> audio and/or video recording.

### **d. Evidence**

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

### **e. Sexual history/patterns**

Unless the Title IX Coordinator determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) the sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) the character of the parties.

### **f. Previous allegations/violations**

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Coordinator with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s), if the College uses a progressive discipline system.

### **g. Character witnesses**

Neither the Title IX Coordinator nor the Investigator(s) meet with character witnesses, but the Investigator(s) may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the Investigator(s) prior to the report being finalized; otherwise, the parties have waived their right to provide such letters.

### **h. Notification of outcome**

If the Respondent admits to the violation(s), or is found in violation, the Title IX Coordinator, in consultation with other administrators as appropriate, determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Title IX Coordinator informs the parties of the determination within two to three business days of

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<sup>34</sup> Consent of the interviewer and interviewee is required in "dual-party recording" states.

the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties' College-issued or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the College is permitted to share pursuant to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

The notice will detail when the determination is considered final and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found in section [11](#) below.

## **9. Sanctions**

Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Title IX Coordinator

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

### **a. Student Sanctions**

The following are the usual sanctions<sup>35</sup> that may be imposed upon students or organizations singly or in combination<sup>36</sup>:

- ***Disciplinary Warning*** – A letter indicating that a student has been found responsible for a

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<sup>35</sup> College policies on transcript notation will apply to these proceedings.

<sup>36</sup> Subject to College's Organizational Code of Conduct.



violation of the Honor Code and/or the Student Code of Conduct. This sanction indicates that if the student is again found in violation of the Honor Code and/or Student Code of Conduct, a sanction will likely be imposed that reflects a repeated violation.

- ***Disciplinary Probation Level 1*** – A status indicating that a student has been found responsible for a violation of the Honor Code and/or the Student Code of Conduct that reflects a more serious violation. This sanction will be in effect for a specified period of time and indicates that if the student is again found in violation of the Honor Code and/or Student Code of Conduct during the period of this status, a sanction of Disciplinary Probation Level 2 or greater will likely be necessitated.
- ***Disciplinary Probation Level 2***– Formal notice that a student’s status at the College is in jeopardy as a result of one or more violations of the Honor Code and/or Student Code of Conduct. This sanction will be in effect for a specified period of time and indicates that if the student is found in violation of the Honor Code and/or Student Code of Conduct during the period of this status, the imposed sanction may include Loss of Housing, Suspension from the College, or Expulsion from the College. While on probation, a student will not be permitted to serve as a member of Student Government Association, an executive Board member of a student organization, or on any standing College committee. A student’s ability to participate in other college programs may also be limited by this status as determined by those offices (i.e. Study Away programs, CELS internships). When placed on this status, the Office of the Dean of the College and the student’s parent/guardian may be notified.
- ***Loss of Housing*** – Dismissal from College owned housing for a specified period of time. Financial reimbursement is made according to the refund schedule in the College Catalog. During this period, a student is not eligible for summer housing. After this period is concluded, the student may request the Dean of Students or their designee to re-evaluate the student’s ability to return to the residence hall. Loss of housing may result in notification of the student’s faculty and staff adviser, class dean, and parent/guardian.
- ***Organizational Sanctions***: Deactivation, loss of recognition, loss of some or all privileges (including College registration) for a specified period of time.
- ***Suspension from the College*** – Suspension from the College is a temporary dismissal from the College for a specified period of time. After this period is concluded, the student may resume his or her studies following an interview with the Dean of Students or their designee. A suspended student may not engage in College activities, use any College facilities, or be on College property without expressed permission from the Dean of Students or their designee. Financial reimbursement is made according to the refund schedule in the College Catalog. When suspended from the College, the student’s class dean, athletic coach, and parent/guardian may be notified. A suspended student does not have the opportunity to earn academic credit towards a Connecticut College degree unless granted permission by the Dean of Students.
- ***Expulsion from the College*** – Permanent dismissal from the College without the right to return. An expelled student no longer has the privileges of matriculated students and may not engage in College activities, use any College facilities, or be on College property. Financial reimbursement is made according to the refund schedule listed in the College Catalog. When expelled from the College, the student’s parent/guardian may be notified as permitted by FERPA.

- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions in the Student Handbook as deemed appropriate.

## **b. Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

## **10. Withdrawal or Resignation While Charges are Pending**

Students: The College does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Sexual Harassment and Nondiscrimination. The College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the resolution process to be completed.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status.

## **11. Appeals (request for Review)**

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within 3 business days of the delivery of the written finding of the Title IX Coordinator. Any party may appeal the findings only under the grounds described below.

An Appeal Decision-maker chosen from the Pool will be designated by the Title IX Coordinator from those who have not been involved in the process previously. [One member of the Appeal Panel will be designated as the Chair.] Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, failure to correctly apply the evidentiary standard).
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

- The sanctions imposed fall outside the range of sanctions the College has designated for this offense and the cumulative record of the Respondent.

When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies) or other appropriate persons such as the Investigator(s), who may file a response within three (3) business days. The other party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within 3 business days. These responses or appeal requests will be shared with each party. The Appeal Chair will review the appeal request(s) within 3 business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the appeal Chair/Panel dismisses the appeal.

When the appeal Chair finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Chair are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Chair to substitute their judgment for that of the original Investigator(s) or Title IX Coordinator merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appeal Chair.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- All parties will be informed in writing within 3 business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand. When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- In rare cases when a procedural or substantive error cannot be cured by the original Investigator(s) and/or Title IX Coordinator (as in cases of bias), the Appeal Chair may recommend a new investigation and/or Administrative Resolution process, including a new resolution administrator.
- The results of a new Administrative Resolution process can be appealed once, on any of the three applicable grounds for appeals.

- In cases in which the appeal results in Respondent’s reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **12. Long-Term Remedies/Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedial requirements owed by the College to the Respondent.

## **13. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/responsive/corrective action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student’s official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

## **14. Recordkeeping**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be

kept indefinitely, or as required by state or federal law or institutional policy, by the Title IX Coordinator in the Title IX case database.

#### **15. Statement of the Rights of the Parties (see Appendix D)**

#### **16. Disabilities Accommodation in the Resolution Process**

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at the College. Anyone needing such accommodations or support should contact the Director of Student Accessibility Services, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

#### **17. Revision**

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator may also vary procedures materially with notice (on the College website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy.

If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This policy and procedure was implemented in August 2021.

#### **APPENDIX D: STATEMENT OF RIGHTS OF THE PARTIES**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by College officials.
- The right to have College policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by College authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by College officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a College-implemented contact-limitation order when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes

are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
  - Assistance from College staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options.
- The right to have the College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the College's ability to provide the supportive measures.
  - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
  - The right, in a formal Title IX Grievance Procedure, to cross-examination.
  - The right, in a formal Title IX Grievance Procedure, to an Advisor.
  - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
  - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
  - The right not to have irrelevant prior sexual history or character admitted as evidence.
  - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
  - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.

- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received at least eight hours of relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefore (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the College is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.
- The right to a fundamentally fair resolution as defined in these procedures.



## APPENDIX E: POLICY EXAMPLES

Some examples of possible sexual harassment include:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends graphic, sexually-oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo at the bar. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

### Examples of Stalking

- Students A and B were friends with benefits. Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus contact-limitation no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their

account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.

- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor's car, both on-campus and at home. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."

#### Examples of Sexual Assault:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being "a prude." He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to "jerk him off" (hand to genital contact). Amanda would have never done it but for Bill's incessant advances. He feels that he successfully seduced her and that she wanted to do it all along but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have

even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

Examples of Retaliation:

- Student-athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes his approval for her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

## Frequently Asked Questions

The following are some of the most commonly asked questions regarding Connecticut College's Sexual Harassment and Nondiscrimination policies and related procedures.

### **1. How can the College help to remedy the effects of discrimination?**

Accommodations available to you may include:

- Room changes
- Arranging to dissolve a housing contract and pro-rating a refund
- Exam, paper, or assignment rescheduling;
- Taking an incomplete in a class;
- Transferring class sections when available;
- Temporary withdrawal;
- Alternative course completion options;
- A no-contact order;
- Counseling assistance;
- Escorts or other campus safety protections

The Director of Sexual Violence Prevention and Advocacy and campus advocates, or the Associate Dean for Equity and Compliance Program may assist you in pursuing these options.

### **2. How does privacy apply?**

The privacy of all parties to a complaint of sexual misconduct will be maintained, except insofar as it interferes with the College's obligation to fully investigate allegations of sexual misconduct.

All participants in the hearing are bound under FERPA not to release information learned in the hearing process. The Complainant may be informed of any outcome, sanction, and rationale relating directly to the complainant.

In some instances, the Dean of Students, or their designee, may also choose to make a brief announcement of the nature of the violation and the action taken, using no names. Certain College administrators are informed privately (e.g. the President of the College, Dean of Students, Director of Campus Safety). If a student reports an act of alleged sexual misconduct to the Director of Sexual Violence Prevention and Advocacy or campus advocates, Student Counseling Services, Student Health Services, or a College chaplain or to the Division of Institutional Equity and Inclusion, the student will be encouraged to report that incident to the local police. The College is required by federal law to include in a statistical report the occurrence on campus of any major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

### **3. Will my parents be told?**

Whether you are the Complainant or the Respondent, Connecticut College's primary relationship is to the student and not to the parent/guardian. In the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. However, College officials may directly inform parents when a student receives a sanction of disciplinary probation 2, loss of housing, suspension, or expulsion. The College may also contact a parent/guardian in emergency situations, when it is deemed necessary to protect the health or safety of the student or others, pursuant to federal law.

### **4. Will I have to confront the accused?**

Yes. The outcome of a Formal Complaint must be decided at a live hearing, during which both parties have the legal right to cross-examine each other via an advisor. These hearings can be held via video-conferencing to avoid being in the same room as the other party.

### **5. Do I have to name the accused?**

Yes, if you want formal action, including a contact-limitation order, to be taken against the accused. No, if you choose not to file a formal complaint.

### **6. What do I do if I am accused of sexual harassment, dating violence, or stalking?**

First, do not contact the reporting person. You may immediately want to contact someone whom you trust and who can provide information and support. The college has identified support persons trained in the college's process as well as outlined the role of the support person on p.36. The Associate Dean for Equity and Compliance Programs can explain the College's procedures for dealing with these kinds of complaints. You may also want to consider seeking support from Student Counseling Services.

### **7. Will I have to pay for counseling or medical care?**

No fee is charged for care that is provided through the Student Health Center or Counseling Services. Hospital and off-campus fees are covered according to your own insurance policy; however, any person who decides to pursue criminal charges will not have to pay to have the Physical Evidence Recovery Kit (PERK) procedure performed at the hospital in the case of a sexual assault. Emergency money may be available through the Office of the Dean of Students.

### **8. What do I do about legal advice?**

The role of any legal advisor would be limited to giving you advice about your situation. Connecticut College's procedures are internal and are only designed to determine whether College policies have been violated. Both the complainant and the respondent may also use an attorney as their support person during the investigation and panel process.

If you are pressing charges of criminal sexual assault, you need not retain a private attorney because legal issues will be handled through a representative from the State's Attorney's office.

You may want to retain an attorney if you are accused or if you are considering filing a civil action against the accused. The College's legal counsel represents and advises the College and does not represent individual students.

**9. What about changing residence hall rooms and accessing the dining halls?**

If you want to move, you may request a room change. Room changes under these circumstances are considered emergencies. It is the College's policy that in emergency room changes, the student is moved to the first available room. If the accused student is moved, the permanence of this action may be based upon the outcome of the investigation process. Pending the outcome, the Associate Dean for Equity and Compliance Program may also designate/restrict dining hall access. Again, the Director of Sexual Violence Prevention and Advocacy or campus advocates can help you with these arrangements.

**10. What do I do if I share a class/activity/athletic team with the accused individual?**

You will need to tell the Dean of Institutional Equity and Inclusion so that they may work with you and the appropriate person (i.e. academic dean or coach) to determine the most feasible solution. It is not necessary to disclose the nature of the incident to other offices to receive assistance.

**11. What do I do about preserving evidence of sexual assault?**

Physical evidence of a criminal sexual assault must be collected within 120 hours. However, students are also encouraged to seek medical attention after that time period. If you believe you have been a victim of criminal sexual assault, you may first go to Health Services. Staff there can provide support and can arrange for transportation and an escort to the Lawrence and Memorial (L & M) Emergency Room (365 Montauk Avenue, New London). If Health Services is closed, you may go directly to the hospital. It is important that you not wash yourself or your clothing before an examination. The Sexual Assault Forensic Examiner (a specially trained nurse) at L & M is on call 24 hours a day, 7 days a week (call the Emergency Room at 442-0711 if you want to speak to the nurse; ER will refer you). A Rape Crisis Counselor from the Sexual Assault Crisis Center of Eastern Connecticut (call their 24-hour Hotline at 888-999-5545) may also meet you at L & M Hospital.

**12. Will a student be punished when reporting a sexual misconduct policy violation if they have illegally used drugs or alcohol?**

No, the college offers amnesty in such situations. The seriousness of sexual misconduct and other forms of discrimination are a major concern, and the College does not want any of the circumstances, e.g. drug or alcohol use, to inhibit the reporting of sexual misconduct or other Title IX complaints.

**13. Will either party's prior use of drugs and/or alcohol be a factor during a sexual misconduct investigation?**

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present case.

**14. What should I do if I am uncertain about what happened?**

If you believe that you have experienced sexual harassment, sexual assault, dating violence, or stalking, but are unsure of whether it was a violation of the College's policies, you should contact the staff who can maintain confidentiality (Director of Sexual Violence Prevention and Advocacy, Campus Advocates, Student Health Services, Student Counseling Services, and the College chaplains). These individuals serve as advisors who can help you to define and clarify the event(s) and advise you of your options.

**15. What should I do if I am a student and I believe I have been the victim of sexual harassment, sexual assault, stalking, or dating violence by a member of the faculty or staff?**

The Director of Sexual Violence Prevention and Advocacy, Student Counseling Services, Student Health Services, and/or the College Chaplains are available regardless of the status of the accused. The Director of Sexual Violence Prevention and Advocacy or the Associate Dean for Equity and Compliance Program can assist a student in reporting a violation by either a faculty or staff member. An individual may file charges with the police department as well.

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