

I. Equal Employment Opportunity & Title IX Nondiscrimination Statements and Policies

Blackburn College is an Equal Opportunity Employer. Blackburn College does not discriminate against anyone on the basis of sex, race, age, color, religion, creed, ancestry, national origin, marital status, sexual orientation, physical or mental disability, or military service, including veteran status or discharge from military service (except dishonorable discharges), medical condition, genetic characteristics, pregnancy, or any other basis prohibited by applicable federal, state or local law. This applies to hiring, promotion, renewal of employment, selection for training, tenure or term, and privileges or conditions of employment. The College will reasonably accommodate an individual's physical or mental disability when appropriate, as required by the Americans with Disabilities Act and the Illinois Human Rights Act or any other applicable law or regulation.

Members of the college community, guests and visitors have the right to be free from all forms of discrimination. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The college believes in zero tolerance for discrimination based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and establish a mechanism for determining when those expectations have been violated.

The college's discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom.

The college uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In campus resolution proceedings, criminal legal terms like "guilt," "innocence" and "burdens of proof" are not applicable, but the college never assumes a responding party is in violation of college policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

The College's Title IX Coordinator and Human Resources Designee oversee compliance with all aspects of the nondiscrimination policy. The Title IX Coordinator and Human Resources Designee are accountable to the President of the College. Questions about this policy should be directed to either the Title IX Coordinator or Human Resources Designee. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the college Title IX Coordinator or Human Resources Designee. The Title IX Coordinator and Human Resources Designee contact information is located inside on the bulletin board in the west door of Ludlum Hall, and other buildings around campus.

Title IX

Title IX provides that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Further information about Title IX can be found at

<http://www.justice.gov/crt/about/cor/coord/titleix.php>

It is the responsibility of Blackburn College to take immediate and effective corrective action if the college has notice of a sexually hostile environment or gender-based harassment. Blackburn College has notice if a responsible employee knew, or in the exercise of reasonable care, should have known about the harassment. In these cases, Blackburn College will take the following corrective actions:

- Eliminate the harassment and hostile environment
- Prevent its recurrence
- Address its effects

Responsible Employees

All staff, faculty, and students in the Work Program are considered responsible employees and therefore are required to report violations of Title IX to the Title IX Coordinator or Title IX Deputy Coordinators. A responsible employee or mandated reporter **does not** include students who are not participating in the work program, peer counselors, staff counselors, the college chaplain, or professional staff members employed by Sodexo.

A Responsible Employee includes any employee who: 1. has the authority to take action to redress the harassment; 2. has the duty to report harassment or other types of misconduct to appropriate officials; OR 3. is someone a person could reasonably believe has this authority or responsibility. In essence, almost all members of the college community are considered a responsible employee/mandated reporter.

The only employees that are NOT mandated to report are Director of Counseling Services, Peer Counselors, and College Chaplain. These employees serve as confidential resources for reporting parties and can provide options for off-campus resources.

Additionally, anonymous reports can be made by victims and/or third parties using the Campus Conduct reporting hotline at 866-943-5787. Note that these anonymous reports may prompt a need for the institution to investigate. However, the anonymity of the report may hinder a thorough investigation.

Individuals experiencing harassment or discrimination also always have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)

Chicago Office

U.S. Department of Education Citigroup Center

500 W. Madison Street, Suite 1475

Chicago, IL 60661-4544

Telephone: (321) 730-1560

Facsimile: (321) 730-1576

Email: OCR.Chicago@ed.gov

Web: <http://www.ed.gov/ocr>

In the event that an incident involves alleged misconduct by the Title IX Coordinator or Human Resources Designee, reports should be made directly to the Title IX Coordinator's Direct Supervisor.

A. Harassment Policy

The College prohibits harassment, including sexual harassment, of any kind, and will take appropriate and immediate action in response to complaints or violations of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate, bully or coerce an employee, student, co-worker or any person working for or on behalf of the College. Verbal taunting (including racial and ethnic slurs) that, in the employee's opinion, impairs his or her ability to perform his or her job is included in the definition of harassment.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, body, disability or appearance (i.e. someone wearing a burka or a person with multiple piercings), including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital or other protected status.

B. Sexual Misconduct Offenses Include, But Are Not Limited To:

- **Sexual Harassment**
- **Non-Consensual Sexual Contact (or attempts to commit same)**
- **Non-Consensual Sexual Intercourse (or attempts to commit same)**
- **Sexual Exploitation**

i. Sexual Harassment

Sexual harassment is:

- Unwelcome,
- Sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.

Anyone experiencing sexual harassment in any College program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education and/or training will be provided in response.

Sexual harassment will be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- Sufficiently severe, or
- Persistent or pervasive, and
- Objectively offensive that it:
- Unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the college's educational [and/or employment], social and/or residential program.

Quid Pro Quo Harassment is:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature
- By a person having power or authority over another constitutes sexual harassment when
- Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's education [or employment] progress, development, or performance.
- This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational [or employment] program.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- An employee repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the building in which they both work.
- Explicit sexual pictures are displayed in an employee's office or on the exterior of a residence hall door.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in his/her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. He/she probes for explicit details, and demands that students answer him/her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

ii. Non-Consensual Sexual Contact

Non-Consensual Sexual Contact is:

- Any intentional sexual touching,
- However slight,
- With any object,
- By a person upon another person,
- That is without consent and/or by force.

Sexual contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other intentional bodily contact in a sexual manner.

iii. Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse is:

- Any sexual intercourse
- However slight,
- With any object,
- By a person upon another person,
- That is without consent and/or by force.

Intercourse includes:

- Vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

iv. Sexual Exploitation

Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to the:

- Invasion of sexual privacy;

- Prostituting another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording or nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

C. **Consensual Relations Policy**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships 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. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the college. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-supervisee) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are inappropriate. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor or the Provost, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Resident Advisors (RAs) and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary actions for an employee. Because of the unique nature of the Work Program, student supervisors should refrain from romantic or sexual relationships with student workers who report to them and should not evaluate such student workers.

D. **Additional Applicable Definitions:**

i. **Consent**

Consent is:

- Clear, and
- Knowing, and
- Voluntary [or affirmative, conscious and voluntary],
- Words or actions,
- That give permission for specific sexual activity.
 - Consent is active, not passive.
 - Silence, in and of itself, cannot be interpreted as consent.
 - Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to current or future sexual acts.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
- In order to give consent, one must be of legal age.
- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
 - Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout.
 - The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.
 - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
 - This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs, [Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one these drugs to another student or employee is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>].

ii. **Force**

Force is:

the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent (“Have sex with me or I’ll hit you. Ok, don’t hit me, I’ll do what you want.”)

- Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, 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.
- NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual activity is not by definition forced.

iii. **Hostile Environment**

A hostile environment may arise when unwelcome conduct of a sexual or gender-based nature affects a person’s ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational and/or living environment. A single, isolated incident of sexual or gender-based harassment may, based on the facts and circumstances, create a hostile environment.

This policy is applicable regardless of the sexual orientation and/or gender identity of individuals engaging in sexual activity. For reference to the pertinent state statutes on sex offenses, please visit <http://www.ilga.gov/legislation/ilcs/ilcs.asp>.

Examples

1. 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 11:00pm until 3:00am, Bill uses every line he can think of to

convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Amanda would never have 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. **Bill is responsible for violating the college Non-Consensual Sexual Contact Policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda is unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Sex without consent is sexual misconduct.**

2. Ben is a work supervisor at the college. Beth is a new worker in Ben’s department. For the past couple of months, Beth has been subjected to hugging, fondling, and offensive comments about her “curvaceous figure” several times by Ben. She has repeatedly tried to communicate her discomfort with this behavior by gently pushing him away, talking about how angry her fiancée would be if he knew about it, and leaving the room when possible. The last straw for Beth was when Ben began conducting entire conversations with her while staring at her chest. **This is a violation of the sexual-harassment policy. Although a direct statement to the harasser that the conduct is offensive and unacceptable clearly puts the harasser on notice that the conduct is unwelcome, such a direct statement is NOT required. Ben should have interpreted Beth’s statements and actions as expressing to him that his conduct is unwelcomed and he should cease his actions and comments.**
3. Peyton and Jordan were in the break room of their office building with a group of their co-workers joking around and telling stories. Peyton placed his arms around Jordan’s waist as they continued their conversation. Jordan removed his hands from her body. A few minutes later, Peyton touched Jordan’s butt, stating he did not understand why she was making such a big deal about him touching her. **This is a violation of this policy. After Jordan removed Peyton’s hands from her body, Peyton touched her butt. This behavior constitutes intentional physical contact of a sexual nature.**
4. Professor X is a tenured faculty member and has a reputation for strong opinions and a slim view of major changes to status quo. Professor Y is a non-tenured faculty member but very vocal in meetings and supportive of innovations that appear to benefit students academically. After one very controversial meeting having to do with a major academic change, Professor X takes Professor Y aside and states that if he/she expects to become tenured he/she should be less vocal on such issues. **This is a violation of this policy and is identified as a verbal threat due to the imbalance of social power.**

E. Other Misconduct Offenses (Will Fall Under Title IX When Sex Or Gender-Based)

i. Threatening

or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;

ii. Intimidation

is defined as implied threats or acts that cause an unreasonable fear of harm in another;

iii. Hazing

is defined as acts likely to cause physical or psychological harm or social ostracism to any person within the college community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);

iv. Bullying

is defined as the use of force, threat, or coercion to abuse, intimidate, or aggressively dominate others. The behavior is often repeated and habitual. One essential prerequisite is the perception, by the bully or by others, of an imbalance

of social or physical power, which distinguishes bullying from conflict. Behaviors used to assert such domination can include, but are not limited to the following forms:

- Verbal harassment or threat
- Physical assault or coercion
- Offensive conduct/behaviors (including nonverbal) which are threatening, humiliating or intimidating
- Work interference or a form of sabotage that prevents work from getting accomplished
- And such acts that may be directed repeatedly towards particular targets

Bullying can include chronic teasing, threats and intimidation; aggressive voicemails, phone calls, emails, and/or social media; ignoring/interrupting; abusive and offensive remarks; yelling, screaming and/or cursing; unwarranted threatening of poor performance or class reviews, persistent name-calling, pushing, shoving, and throwing things; or socially or physically excluding or disregarding a person in work-related activities.

v. Intimate Partner Violence

is defined as violence or abuse between those in an intimate relationship to each other;

Examples

1. A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
2. An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
3. Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.

vi. Stalking

a. Stalking 1:

- A course of conduct
- Directed at a specific person
- On the basis of actual or perceived membership in a protected class
- That is unwelcome, AND
- Would cause a reasonable person to feel fear

Example of Stalking 1:

A student repeatedly shows up at another student's on-campus residence, always notifying the residence hall staff that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together.

b. Stalking 2:

- Repetitive and Menacing
- Pursuit, following, harassing and/or interfering with the peace and/or safety of another

Example of Stalking 2:

A professor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently had in class, the professor thanked the student and stated that it was not necessary and would appreciate the gift deliveries to stop. The student then started leaving notes of love and gratitude on the professor'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 necessary to make you have the feelings for me that I have for you." When the professor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together."

Any other College policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

F. For all Harassment and Misconduct

i. Retaliation

Retaliation against anyone involved in a case or report of discrimination or harassment behaviors of any kind is prohibited. Such retaliation shall be considered a serious violation of the policy and shall be independent of whether a charge or informal complaint of discrimination or harassment is substantiated. Encouraging others to retaliate also violates the policy.

Examples include, but are not limited to:

- Unfair assignment, grading or evaluation
- Having information withheld or made difficult to obtain in a timely manner, such as class information, grades or work assignments
- Ridicule (public or private)
- Oral or written threats or bribes
- Refusal to meet with the person even though the person has a right to do so
- Further harassment

ii. False Charges

Due to the serious nature of discrimination and harassment charges, a false charge of discrimination or harassment of any kind shall be considered a serious offense, subject to disciplinary action by the College.

II. Grievance Procedures

This process begins when **notice** is received, then a prompt preliminary inquiry by the Title IX Coordinator or Human Resources Designee is held to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If reasonable cause is found to support this claim, the College will initiate an investigation which will lead to either an informal or formal resolution process. The Title IX Coordinator or Human Resources Designee will coordinate the college's compliance efforts regarding all reports and will promptly implement an effective remedy designed to end the discrimination, prevent its recurrence and address its effects.

Notice: The college has notice of sexual misconduct, harassment, or discrimination based on the protected classes (for list, see paragraph 1 of the Equal Employment Opp. & Title IX Nondiscrimination Policy) if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual violence. The school can receive notice in several ways. Some examples of notice include: a student or employee filing a grievance, an individual (student, parent, employee, or friend) reporting an incident, or a responsible employee witnessing the event. It also can indirectly receive notice from a member of the local community, on a social networking site, or from the media.

Additionally, notice may be imputed onto the school if the pervasiveness of sexual violence is "widespread, openly practiced, or well-known among students." The school is required to take prompt and effective corrective action in these instances.

Public awareness events, such as "Take Back the Night," are not considered notice to the school for the purpose of triggering individual investigation. However, the Department of Education does recommend that schools provide information at these events on how to file a Title IX complaint.

In private lawsuits for monetary damages, the school must have had actual knowledge of the conduct and act with deliberate indifference. Under Title IX and its regulations, as well as under Title IV, once a university has actual or constructive notice of possible sexual harassment of students, it is responsible for determining what occurred and responding appropriately. When a university fails to take adequate steps to address harassment, it is held liable under Title IX and Title IV for its own conduct.

The College aims to bring all allegations to a resolution within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator or Human Resources Designee with notice to the parties. In overview, the timeline for resolution begins with notice to a **mandated reporter** or **responsible employee**, who then should make a report to the Title IX Coordinator or Human Resources Designee.

Responsible Employee/Mandated Reporter: Includes any employee who: 1. has the authority to take action to redress the harassment; 2. has the duty to report harassment or other types of misconduct to appropriate officials; OR 3. is someone a person could reasonably believe has this authority or responsibility. A responsible employee or mandated reporter does not include students who are not participating in the work program, peer counselors, staff counselors, the college chaplain, or professional staff members employed by Sodexo. In essence, almost all members of the college community are considered a responsible employee/mandated reporter.

The Title IX Coordinator or Human Resources Designee then engages in a **preliminary inquiry** that is typically 1-3 days in duration.

Preliminary Inquiry: When a notice is made, the Title IX Coordinator or Human Resources Designee will address inquiries and coordinate the college's response. Often, sex and gender-based complaints and other discrimination complaints, include other potential college policy violations. If the Title IX Coordinator or Human Resources Designee believes that reasonable cause is not found to support the claim, the case will be closed and all parties will be notified. If reasonable cause is found to support the claim, an investigation will be initiated and either an informal resolution or a formal resolution will take place. Prompt filing of a complaint is strongly encouraged. A complaint may be withdrawn at any time after it is filed. However, withdrawal of a complaint will not necessarily result in the termination of the college's inquiry or investigation.

At the end of the preliminary inquiry, the Title IX Coordinator or Human Resources Designee will assign at least two investigators to begin an **investigation** and keep all parties regularly apprised of the status of the investigation as it unfolds. Once an investigation has been launched, the **reporting party** and **responding party** have the right to find an **advocate** to support him/her through this process and it will be determined if either an informal or formal resolution will take place.

Investigation: An investigation can range from days to weeks in length, depending on the nature and complexity of the allegation, with the college commonly aiming for a 10-14 day window to completion of the investigation. The College will conduct a prompt, fair, and impartial investigation. Prompt means that the investigation is completed within reasonably prompt timeframes, generally within sixty days. Fair means that the investigation is conducted in a manner that is consistent with this policy and transparent to the complainant and respondent. Impartial means the investigation is conducted by an individual who does not have a conflict of interest or bias for or against either party, and who is trained on issues related to all forms of discrimination and sexual misconduct and in conducting an investigation. In cases of academic freedom, the investigation must include the appropriate academic officer.

Reporting Party: In this process, the person alleging a violation of policy is referred to as the reporting party.

Responding Party: In this process, the person who is alleged to have violated campus policy is referred to as the responding party.

Advocates: A person, of each party's choosing, who can help guide, support and accompany them throughout the campus resolution process. This person can be, but is not limited to a friend, family member, mentor, or supervisor. An advisor cannot be anyone who is directly involved in the resolution process.

A. Filing a Grievance

Any member of the community can provide notice of discrimination and/or harassment in person, by phone, via email or in writing to the Title IX Coordinator or Human Resources Designee. The college strongly encourages submission of written reports to either the Title IX Coordinator or to Human Resources Designee.

The following are recommended elements of a report:

- Clear and concise description of the alleged incident(s) (e.g.: when and where it occurred);
- Any supporting documentation and evidence including witnesses if any;
- Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor;
 - This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort;
 - If contacting the person involved and/or the supervisor is inappropriate, the reporting party should state the reasons why;
- The desired remedy sought;
- Name and all contact information for the reporting party;
- Signed and dated by the reporting party.

B. Interim Remedies/Actions Prior to an Investigation

The Title IX Coordinator or Human Resources Designee may provide interim remedies intended to address the short-term effects of alleged harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations. The college will keep interim remedies and actions as private as possible.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the campus community
- Altering the housing situation of the responding party or the housing situation of the reporting party, if desired
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Make arrangement to offer adjustments to academic deadlines, course schedules, etc.

The College may in the interim, suspend a student, employee, or organization pending the completion of the investigation. This is particularly important when, in consultation with the Dean of Students or Human Resources Designee who will consult with the President and the Provost, the Title IX Coordinator finds the safety or well-being of any member(s) of the campus community to be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the

Title IX Coordinator, the Dean of Students or the Human Resources Designee prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause of why the suspension should not be implemented. The Title IX Coordinator, the Dean of Students or the Human Resources Designee have discretion to implement or stay an interim suspension under the previous section, the Equal Employment Opportunity & Title IX Nondiscrimination Statements and Policies, and to determine its conditions and duration. Violation of an interim suspension under this policy is grounds for expulsion or termination.

C. Participation of Advocates in the Resolution Process

All parties are entitled to an advocate of their choosing to guide and accompany them throughout the campus resolution process. The advocate may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is eligible and available. People who will be called as witnesses may not serve as advocates. The goal of the college is to maintain a pool of trained (non-attorney) advocates who are available to the parties. The parties may choose advocates from outside the pool, or outside the campus community, but those advocates may not have the same level of insight and training on the campus process as do those trained by the college. Outside advocates are not eligible to be trained by the college.

The parties are entitled to be accompanied by the advocate in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals. Advocates should help their advisees 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 advocate who is an attorney, but the other party does not, or cannot afford an attorney, the college is not obligated to provide one. However, responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]

All advocates are subject to the same campus rules, whether they are attorneys or not. Advocates may not present on behalf of their advisee in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with campus officials. Advocates may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advocates should ask for breaks or step out of meetings to allow for private conversation. Advocates will typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting that interview or meetings. This pre-meeting will allow advocates to clarify any questions they may have, and allows the college an opportunity to clarify the role the advocate is expected to take.

Advocates are expected to refrain from interference with the college investigation and resolution. Any advocate who steps out of his/her role in any meetings under the campus resolution process will be warned once and only once. If the advocate continues to disrupt or otherwise fails to respect the limits of the advocate role, the advocate will be asked to leave the meeting. When an advisor advocate is removed from a meeting, that meeting will typically continue without the advocate present. Subsequently, the Title IX Coordinator or a deputy coordinator will determine whether the advocate may be reinstated, may be replaced by a different advocate, or whether the party will forfeit the right to an advocate for the remainder of the process.

The college expects that the parties will wish the college to share documentation related to the allegations with their advocates. In order for the college to be able to share records with an advocate, the parties must consent to this by signing our authorization form. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advocates are expected to maintain the privacy of the records shared with them by the college. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the college. The college may seek to restrict the role of any advocate who does not respect the sensitive nature of the process or who fails to abide the college's privacy expectations.

The college expects an advocate to adjust his/her schedule to allow him/her to attend college meetings when scheduled. The college does not typically change scheduled meetings to accommodate an advocate's inability to attend. The college will, however, make provisions to allow an advocate who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advocates during the process, and is not locked into using the same advocate throughout.

The parties must advise the investigators of the identity of their advocate before the date of their first meeting with investigators. The parties must provide subsequent timely notice to the investigators if they change advocates at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

D. Investigation Process

An investigation is launched after reasonable cause is determined in the preliminary inquiry by the Title IX Coordinator or the Human Resources Designee. An investigation can range from days to weeks in length, depending on the nature and complexity of the allegation or when initial reports fail to provide direct first-hand information, with the college commonly aiming for a 10-14 day window to completion of the investigation.

Reasonable cause is a standard of proof, it is applied to a set of facts or actions to prove whether a reasonable person would have come to the same conclusion or acted in the same way given the totality of the circumstances. The standard is part of the tests applied by U.S. courts to police action in criminal matters but has also been applied in certain civil contexts.

The college's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the college may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The college will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary. The Title IX Coordinator or Human Resources Designee will typically assign 2 Title IX trained investigators to all investigations, one of which must be the Director of Campus Security and Safety or Designee.

In consultation with the Title IX Coordinator or Human Resources Designee, the investigator(s) will take the following steps (not necessarily in order):

- In coordination with campus partners (e.g.: the campus Title IX Coordinator), request any necessary remedial actions;
- Determine the identity and contact information of the reporting party;

- Identify the exact policies allegedly violated;
- Meet with the reporting party to take and finalize their statement, and
- Prepare the notice of charges on the basis of the initial inquiry;
- Meet with the responding party to take and finalize their statement;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline of 10-14 business days;
- Meet with both parties to discuss and determine the desired outcome (informal or formal resolution);
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation;
- All statements can be read by all involved AFTER all statements have been submitted (reporting party, responding party, witnesses, etc.);
- Prepare and present the findings to the hearing body;
- Share the findings and update the reporting party and the responding party on the status of the investigation.

If the investigators find the claim to be non-violent and both the reporting and the responding parties agree, an informal resolution may take place. If the investigators find the claim to be violent or the reporting and the responding parties do not agree, a formal resolution will take place.

E. Informal and Formal Resolution Processes

This procedure applies to any member of the college community (faculty, student, staff, and administration) who engages in discrimination or harassment. Any person can report alleged harassment or discrimination, including faculty, part-time faculty, students, staff, administration, guests, visitors, etc. All allegations of misconduct not involving harassment or discrimination will be addressed through the procedures elaborated in the respective student Handbook or faculty and staff handbooks.

i. Informal Resolution Process

Before pursuing the Formal Resolution Process, every reasonable effort should be made to constructively resolve conflict with students, faculty, part-time faculty, staff, or administrators. Whenever possible and safe, the problematic behavior, conflict or misconduct should first be discussed by the reporting party and the responding party. The Title IX Coordinator and the Human Resources Designee will facilitate such conversations, upon request, and monitor them for safety. Various conflict resolution mechanisms are available, including but not limited to counseling or **mediation**.

Mediation: The attempt to settle a dispute through active participation of a third party (mediator) who works to find points of agreement and make those in conflict agree on a fair result. Mediation is not used when violent behavior is involved, when the Title IX Coordinator or Human Resources Designee determines a situation is not eligible, or the parties are reluctant to participate in good faith. Mediators are available from the U.S. Office of Labor Relations and cost for these services are generally covered by the institution.

The college will not force an informal resolution or if informal efforts are unsuccessful, the formal resolution process will be initiated and both parties will be notified. Either party has the right to end the informal process and begin the formal process at any time prior to resolution. The reporting party may keep a written log that could aid in later investigation and resolution.

ii. Formal Resolution Process

A formal resolution will be pursued in response to violence being present in the claim, if the reporting and responding parties cannot agree on an informal resolution, or a previously agreed upon informal resolution was not successful.

At the end of an investigation, the assigned investigators will submit their reports to the **Hearing Body** for review. Once the hearing body has reviewed the report, the investigators, along with the Title IX Coordinator or Human Resources Designee, will meet with the hearing body to discuss any further need to investigate or to offer clarification. From there, a hearing will convene to determine if the policy has been violated. The **Conduct Officer** of the hearing body will present the reporting and responding parties with the findings, a decision, and sanctions (if applicable), subject to appeal.

Hearing Body: A hearing body is made up of five members of the campus community. A hearing body will always consist of two staff members, two faculty members, and the conduct officer all of which have been appropriately trained. The college will make every effort to maintain a trained pool of hearing body members that reflects the diversity of faculty and staff. In cases where both parties are students, the V.P. and Dean of Student Affairs will choose the appropriate staff and faculty hearing body members. In cases where both parties are employees, the Provost will choose the appropriate staff and faculty hearing body members. In cases of student and employee parties, the Provost and V.P. and Dean of Student Affairs will collaborate and choose the appropriate staff and faculty hearing body members. The hearing body will be responsible for reading and understanding all aspects of the investigators' reports; asking appropriate and relevant questions of the investigators, both parties, and any one present at the hearing; make a determination based on the preponderance of evidence that a violation of the policy is more likely or not; making a prompt, fair, and reasonable decision on the findings; and determine appropriate sanctions. The goal of the college is to enlarge the pool of trained hearing body members.

Conduct Officer: The conduct officer will be a member of the campus community that is appointed by the President. This person will be trained and will typically serve a three year term. The conduct officer will be responsible for leading the hearing and delivering the appropriate sanctions when deemed. In a case where the conduct officer is directly involved, the President will appoint an interim conduct officer.

The hearing body will take the following steps:

- The Conduct Officer will read the charge(s) along with the name(s) of the person(s) or office bringing them.
- All parties present will be reminded that they are to tell the truth throughout the hearing.
- The Responding Party will state whether or not he/she was responsible for the offense.
- The Investigators will submit evidence related to the alleged offense(s) or to other actions that led up to or support the allegation as well as providing witnesses who can specifically speak to the alleged offense(s).
- The Reporting and Responding Parties may be asked to present his/her statements, provide clarification, or answer questions in regard to the claim.
- Witnesses will generally be asked to attend only that portion of the hearing which is relevant to their testimony, although in some cases witnesses may be asked to be present during the entire hearing.
- All parties present are entitled to make notes and ask questions at any time during the hearing, providing they have been recognized by the conduct officer. The only exception to this is the advocate(s), who must speak through the person they are present to support. Neither the Reporting nor Responding Party may speak directly to one another during the hearing.
- The Hearing Body may recall the reporting party, responding party, any witnesses, or the investigators at any point to clarify or challenge statements made during the hearing. The Hearing Body members are allowed to ask questions at any point throughout the hearing. All questions and clarifications must be directed to the Hearing Body members. Any member of the Hearing Body may request additional information.

- Decisions will be reached by a majority rule on the basis of the evidence presented during the hearing. If evidence of misbehavior outweighs evidence to the contrary, the Responding Party will be considered responsible for the offense.
- The Responding Party will be verbally informed by the Conduct Officer of sanction decisions as soon as they are made. The Conduct Officer will inform both parties of the decision at the same time, but separately so that they do not encounter each other. The Reporting Party will be informed of whether a violation of this policy was found and what sanctions, if any, were imposed on the Responding Party if such sanctions directly relate to the Reporting Party (e.g., the Responding Party is ordered to stay away from the Reporting Party, is prohibited from attending school or work for a period of time, and/or is transferred to a different office space, residence hall, etc.).
- Written verification from the Title IX Coordinator or Human Resources Designee will follow as soon as possible thereafter.
- All hearings are closed to the public and must be held in either a conference room or a classroom. The advocates for the party they are supporting may include members from outside the campus community as both may have reached out to counselors unavailable on our campus; to exclude those individuals' participation in this process could put undue stress and pressure on all. The scope of the witnesses' testimony must be limited to the alleged act of or acts leading up to the policy violation in question. The sexual history of the Reporting Party is not a relevant part of the Hearing Body's proceeding or deliberations. Character witnesses are also not allowed as they cannot substantiate or invalidate any act of misconduct.
- Appropriate sanctions could include no further action; completion of counseling programs; social probations, suspension, or expulsion (for students); letter of reprimand; Probationary status contingent upon completion of professional counseling and/or job training, or termination of employment (for faculty and staff members. If dismissal is recommended for a tenured faculty member, the process would follow the 1958 AAUP Statement of Procedural Standards in Faculty Dismissal Proceedings). Other appropriate sanctions as determined by the hearing board may be applied.

If it is determined that the responding party has not violated the policy, notice will be made to all parties. From here the reporting party may appeal the hearing body's decision, within 48 hours excluding weekends or dates when the entire college is closed, to the Provost. If it is determined that the responding party has violated the policy, sanctions will be given and notice will be made to all parties. From here the responding party may appeal the hearing body's decision, within 48 hours excluding weekends, to the Provost. Only appeals based on the criteria established in section F (Appeals Process) will be heard.

In all cases, regardless of findings, all parties will receive written notification of the findings, any resulting responsive actions, the rationale for the decision, and the appeals options, along with the procedures for appeal and any changes to the results that could occur before the decision is finalized. Once received in person, mailed or emailed, the notice of decision will be deemed presumptively delivered.

F. Appeals Process

An appeal of the final decision of the hearing body must be made within 48 hours, excluding weekends or dates when the entire college is closed. Any appeals submitted after the 48 hour deadline will not be heard. Appeals may only be requested under the outlined criteria below.

i. Criteria for Appeal

The ONLY grounds for appeal are as follows:

1. A procedural [or substantive] error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);

2. To consider new evidence not heard during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3. The sanctions imposed fall outside the range of listed sanctions and the cumulative conduct history of the responding party.

ii. Requesting an Appeal

The decision of the hearing body may be appealed by petitioning the Provost. (The V.P. and Dean of Student Affairs. would hear an appeal if the Provost were involved in, a witness to a case, or recuses him/herself.) Any party who files an appeal request must do so in writing to the Office of the Provost, within 48 hours (excluding weekends) of the delivery of the written decision, for a review of the decision or the sanctions imposed.

The following are recommended elements of an appeal:

- Clear and concise description of the criteria you wish to appeal;
- Any supporting documentation and evidence;
- Name and all contact information for the appealing party;
- Signed and dated by the appealing party.

A request may be made to the Conduct Officer at the end of the hearing to delay implementation of the sanctions until the appeal is decided, but the presumptive stance of the institution is that the sanctions will go into effect immediately. In cases where the appeal results in reinstatement to the college or resumption of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

iii. The Appeal Process

The Provost can take one of three possible actions: dismiss an appeal request as untimely or ineligible; grant an appeal and remand the finding and/or sanction for further investigation or reconsideration at the hearing level; modify a sanction. Based on the written requests/responses or on interviews as necessary, the Office of the Provost will send a letter of outcome for the appeal to all parties.

The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision is final. The party requesting appeal must show clear error as the original finding and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the original hearing.

In cases where a procedural error cannot be remedied by the original hearing body (as in cases of bias), the Provost may order a new hearing with a new hearing body.

The procedures governing the hearing of appeals include the following:

- All parties should be informed of a timely manner of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- Appeals are not intended to be full re-hearings of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the criteria for appeal;
- Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
- An appeal is not an opportunity for appeals officers to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions.

- Sanctions imposed are implemented immediately unless the Conduct Officer stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The Provost will typically render a written decision on the appeal to all parties within five (5) business days from hearing of the appeal. The Provost's decision to deny an appeal request is final.

G. Special Resolution Process Provisions

i. College-initiated proceedings

As necessary, college reserves the right to initiate a report and to initiate resolution proceedings without a formal report or participation by the victim of misconduct.

ii. Alternative Testimony Options

For sexual misconduct reports, and other reports of a sensitive nature, whether the alleged victim is serving as the reporting party or as a witness, alternative testimony options will be given, such as placing a privacy screen in the hearing room, or allowing the alleged victim to testify outside the physical presence of the responding party, such as by Skype or phone.

iii. Past Sexual History/Character

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or hearing unless such information is determined to be highly relevant by the Conduct Officer, [pertaining only to past or subsequent interactions between the parties that offer context]. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be reviewed in advance of the hearing by the Conduct Officer. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the Conduct Officer may supply previous reports of good faith allegations and/or findings to the investigators, the hearing body, and the Provost to consider as evidence of pattern and/or predatory conduct.

iv. Witness participation in an investigation

Witnesses are expected to cooperate with and participate in the college's investigation. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person. Parties who elect not to participate in the investigation will have the opportunity to offer evidence during the hearing and/or appeal stages of the process, though failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence. Any witness scheduled to participate in a hearing must have been interviewed first by investigators (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing.

v. Training for those implementing these procedures

Personnel tasked with implementing these procedures, (e.g.: Title IX Coordinator, investigators, hearing body, advocates, Provost, mediators, etc.) will be trained at least annually. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in references to sexual harassment and discrimination allegations; the college's Sex/Gender-based Discrimination and Sexual Misconduct Policies and Procedures; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance.

vi. Conflicts of Interest and Bias

The college is committed to ensuring that its investigation process is free from actual or perceived bias or conflicts of interest that would materially impact the outcome. Any party who feels that there is actual or perceived bias or conflict of interest that would materially impact the outcome may submit a written petition to the Title IX Coordinator

or Human Resources Designee for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest and why the petitioner believes the bias or conflict could materially impact the investigation. Such petitions may also be made to the college president in the event that the potential conflict or bias involves the Title IX Coordinator or Human Resources Designee.

vii. Recordkeeping

In implementing these procedures, records of all allegations, investigations, and resolutions will be kept by the Title IX Coordinator or Human Resources Designee indefinitely in an electronic database.

Staff Assembly Approved 10-14-2015
Faculty Assembly Approved 10-15-2015
Board of Trustees Approved 10-24-2015