

## **TITLE IX SEXUAL HARASSMENT POLICY AND PROCEDURES**

### **STATEMENT OF NONDISCRIMINATION POLICY**

Blackburn College is committed to maintaining an environment that is free of discrimination on the basis of sex within its educational programs and activities. Blackburn College cannot and will not tolerate discrimination against or harassment of any individual or group based upon sex, race, age, color, religion, creed, ancestry, national origin, marital status, sexual orientation, gender identity or expression, 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. The prohibition on sex discrimination, also prohibits Sexual Harassment, as defined in this policy.

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>.

This Policy applies to registered or enrolled students, College employees, contractors, vendors, visitors, guests, or other third parties.

### **SCOPE OF TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCESS**

The Sexual Harassment Grievance Process pertains to Sexual Harassment under Title IX, as defined by this policy, committed by or against students and/or employees, when: (1) the conduct occurs on campus or other property owned or controlled by the College; or (2) the conduct occurs in the context of a College employment or education program or activity within the United States. The College’s education program and activities includes locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which harassment occurs, and includes any building owned or controlled by a student organization that is officially recognized by the College.

All members of the Blackburn community have the right to submit a complaint or raise concerns regarding Sexual Harassment under Title IX pursuant to this Policy without fear of retaliation.

A complete copy of Blackburn College’s Title IX Sexual Harassment Policy and Procedures can be accessed via the following link: [www.blackburn.edu/titleix](http://www.blackburn.edu/titleix). Hard copies are available at the Title IX Coordinator Office - Ludlum Hall 110.

For complaints that do not fall under the scope of this process, complaints will be handled under the Equal Employment Opportunity & Nondiscrimination Statements, Policies, and Procedures, or other applicable student or employment policy, which can also be accessed here: [www.blackburn.edu/titleix](http://www.blackburn.edu/titleix), or is available at the Office of Human Resources - Ludlum Hall 215.

## DEFINITIONS

Sexual Harassment – Sexual Harassment is conduct based on sex that may be one or more of following:

- 1) Employee conditioning provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (*i.e.*, a *quid pro quo*), or
  - 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or
  - 3) Sexual assault, stalking, dating/domestic violence, as defined herein.
- Sexual Assault – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
    - Sexual Assault includes, but is not limited to, the following acts when they occur without consent of the victim:
      - Any penetration, however slight, of the genitals or anus of one person with the genitals of another person,
      - Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person,
      - Any sexual act involving penetration, however slight, of the genitals or anus of one person by a finger, instrument, or object,
      - Touching of another person's genitals or breasts under or over the clothing,
      - Touching of one person with the genitals of another person under or over the clothing,
  - Domestic Violence - Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
  - Stalking – Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress. A course of conduct is two or more incidents. Stalking includes “cyber-stalking,” a particular form of stalking in which a person uses electronic media.
  - Dating Violence – Violence by a person who has been in a romantic or intimate relationship with the individual to whom the violence is directed. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.
  - For reference to the pertinent state statutes on sex offenses, please visit <http://www.ilga.gov/legislation/ilcs/ilcs.asp>.

Complainant – A Complainant is any individual who is alleged to be the victim of conduct that could constitute Sexual Harassment under this Policy, in connection with his or her participation in or attempt to participate in an educational program or activity of the College. A Complainant may be a student, an employee, or a third party. This role is referred to as the “Reporting Party” Equal Employment Opportunity & Nondiscrimination Statements, Policies, and Procedures.

Respondent – A Respondent is an individual who is purported to be the perpetrator of conduct that could constitute Sexual Harassment. A Respondent need not be affiliated with the College in any respect.

Consent – Consent is the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter with a specific individual. Consent is a freely given agreement to sexual activity. Consent must be informed and mutual. Consent is clear, mutually understandable words or actions communicating an agreement to engage in specific sexual or intimate conduct. It is the responsibility of the person initiating sexual activity to obtain the other party’s consent before proceeding with the sexual activity.

A current or past dating or sexual relationship, by itself, does not create consent. Consent to sexual activity in the past does not create consent to future sexual activity. Consent to sexual activity with one person does not create consent to sexual activity with another person. Consent to one sexual activity does not create consent to another sexual activity. A person’s manner of dress does not constitute consent. Consent can be withdrawn at any time during a sexual encounter.

Consent cannot be given as the result of force, coercion, intimidation, or threats. A person's lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent.

Consent cannot be given by one who is unable to understand the nature of the sexual activity and give knowing consent due to the circumstances. This includes when one is incapacitated, voluntarily or involuntarily, due to a physical condition, including, but not limited to, the use or influence of drugs or alcohol, or being in a state of unconsciousness, sleep, or other state in which the person is unaware that sexual activity is occurring. If there is any doubt as to another person’s capacity to give consent, community members should assume that the other person does not have the capacity to give consent.

A person also cannot consent if he or she is under the age of consent or if the person is incapacitated due to a mental disability.

### **TITLE IX Coordinator, Deputy Coordinators, & HR Designees**

The Title IX Coordinator, Deputy Coordinators, and HR Designees are charged with monitoring Blackburn College’s compliance with Title IX, ensuring appropriate education and training, coordinating investigations, responses, and resolution of all reports pursuant to this Policy. In his or her discretion, the Title IX Coordinator may also designate Deputy Title IX Coordinators to assist in the discharge of these duties.

Any questions or concerns regarding the College’s application of this policy may be addressed to the Title IX Coordinator, Deputy Coordinators, or HR Designees.

The Title IX Coordinator, Deputy Coordinators, and HR Designees may be reached in person during regular office hours, or by telephone, written correspondence, email, or other electronic communication at any other time.

Title IX Coordinator

**Logan Elliott** (interim) – Demuzio Campus Center 133

700 College Ave., Carlinville, IL 62626

[titleix@blackburn.edu](mailto:titleix@blackburn.edu)

217-854-5618

<https://blackburn.edu/titleix>

Deputy Coordinator (Work Program) -- **OPEN**

Deputy Coordinator (Athletics) -- **Kim Camara-Harvey** – Woodward 107, 217-854-5719

Deputy Coordinator (Human Resources) -- **Marshall Petty** -- Ludlum 110. 217-854-5514.

[hr@blackburn.edu](mailto:hr@blackburn.edu)

**HOW TO REPORT POTENTIAL VIOLATIONS OF THIS POLICY**

**1. Reporting Options**

*a. Report to the Title IX Coordinator or Responsible Employee*

Individuals who believe they have been subjected to, or are aware that another individual has been subjected to, Sexual Harassment in connection with a College education program or activity, and who wish to report a potential violation of this Policy should notify the Title IX Coordinator, Deputy Coordinators, and HR Designees.

Reports can be made through email, phone, in person, mail, or through the online form located at: <https://blackburn.edu/titleixreports/>.

In the event that a report involves allegations regarding the Title IX Coordinator or the Human Resources Designee, then reports should be made directly to the President of the College.

Upon receipt of any report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and explain the process for filing a formal complaint. The Title IX Coordinator will contact the Complainant within 12 hours of receiving an electronic report, and will provide the following information to the Complainant in writing:

- Information about the importance of preserving physical evidence in cases of sexual violence and the availability of a no-cost medical forensic exam;
- Information about the Complainant's Rights and Options related to reporting and support that may be available from the College as well as his/her options regarding the involvement of law enforcement, including personally notifying law enforcement, receiving assistance from the College in notifying law enforcement, or declining to notify law enforcement;
- Information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims both within the College and in the community;
- Options for supportive measures;
- A copy of this policy.

Reporting Sexual Harassment to the Title IX Coordinator does not automatically start the grievance process – the Title IX Coordinator will explain to the Complainant how to start the grievance process by filing a Formal Complaint. An individual can make a report of Sexual Harassment in order to obtain supporting measures and resources – an individual making a report of Sexual Harassment is not required to file a Formal Complaint.

#### *b. Responsible Employees*

All staff, faculty, and students in the Work Program are considered Responsible Employees and therefore are required to report violations of this policy to the Title IX Coordinator. Responsible employees cannot maintain confidentiality because they are required to report Sexual Harassment to the Title IX Coordinator. A Responsible Employee **does not** include students who are not participating in the Work Program, staff counselors, or professional staff members employed by Fresh Ideas.

In essence, almost all members of the College community are considered Responsible Employees. The Title IX Coordinator are also considered Responsible Employees and cannot ensure confidentiality.

#### *c. Confidential Reporting*

The only employees who are NOT mandated to report violations of this policy are the Director of Counseling Services and other College Counselors. These employees serve as confidential resources for Complainants and can provide options for off-campus resources.

Confidential Reporting options may be contacted as follows:

- Director of Counseling Services - Tim Morenz  
Lumpkin 121  
[tim.morenz@blackburn.edu](mailto:tim.morenz@blackburn.edu)  
217-854-5759
- Counseling Staff  
Lumpkin 121  
217-854-5759

Additionally, anonymous reports can be made by victims and/or third parties using the Campus Conduct reporting hotline at 866-943-5787, or the online form available at: <https://blackburn.edu/titleixreports/>. However, the anonymity of the report may hinder the College's ability to respond by providing supportive measures or undertaking the grievance process.

The College will keep confidential the identity of Complainants, Respondents, and witnesses involved in Title IX hearings, except when disclosure is required by law or as necessary to carry out the purposes of this Policy.

*d. Other Reporting Options and Resources*

Individuals may also report incidents of Sexual Assault, Domestic Violence, Dating Violence, or Stalking to the College's Department of Safety at 217-854-5550.

Individuals also have the option of contacting local law enforcement if they believe they have been the victim of a crime, such as Sexual Assault, Domestic Violence, Dating Violence, or Stalking. In an emergency, individuals should call 9-1-1. Individuals may also contact the Carlinville Police Department by calling 217-854-3221.

Students experiencing harassment or discrimination may also 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](mailto:OCR.Chicago@ed.gov)  
Web: <http://www.ed.gov/ocr>

*e. Amnesty*

The College's amnesty provision provides immunity to any student or employee who reports, in good faith, an alleged violation of the higher education institution's comprehensive policy to a Responsible Employee, as defined by federal law (and in this handbook), so that the Complainant will not receive a disciplinary sanction by the institution for a student or employee conduct violation, such as underage drinking, that is revealed in the course of such a report, unless the College determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk.

## **2. Offer and Provision of Supportive Measures**

Upon receipt of a report, the Title IX Coordinator will promptly and confidentially reach out to the Complainant to discuss the availability of a variety of supportive measures. Supportive measures should also be offered to the Respondent as necessary and appropriate.

Supportive measures are designed to restore or preserve equal access to the College's education programs and activities, protect the safety of all parties and the educational environment, or deter Sexual Harassment. These supportive measures should be non-disciplinary, non-punitive, individualized, and provided free of charge. They must be offered regardless of whether a Formal Complaint is filed, and must be kept confidential to the extent that such confidentiality would not interfere with providing the supportive measures.

Examples of supportive measures include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the campus community
- Altering housing arrangements
- 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.

## **3. Emergency Removal and Administrative Leave**

The College reserves the right to remove a student Respondent from its educational program or activity on an emergency basis. The College may also suspend a student organization pending completion of the grievance process. Likewise, a non-student employee Respondent may be placed administrative leave during the pendency of the grievance process described in this Policy. Such a removal may only occur if, after an individualized safety and risk analysis, the College determines an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. The Title IX Coordinator will make this determination in consultation with the Dean of Students. In the event a decision is made to remove Respondent, he or she will be provided with notice by the

Title IX Coordinator, and given the opportunity to challenge that decision immediately following the removal by submitting a request in writing to the Title IX Coordinator.

In all cases in which an emergency removal is imposed, the student or 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 of the Equal Employment Opportunity & Nondiscrimination Statements, Policies, and Procedures and to determine its conditions and duration.

Violation of an interim suspension or other remedy provided under this policy is grounds for discipline, up to and including expulsion or termination. The Title IX Coordinator may refer violations to the Dean of Students to be pursued under the Student Conduct policy or Employee Conduct Handbook.

### **FILING A FORMAL COMPLAINT OF SEXUAL HARASSMENT**

In the event that a Complainant wishes for the College to proceed with an investigation and hearing into the allegations of Sexual Harassment pursuant to the grievance process procedures in this Policy, he or she must file a Formal Complaint. A Formal Complaint is a document alleging Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Sexual Harassment. The Complainant must be participating in or attempting to access a College education program or activity at the time the Formal Complaint is submitted.

A Formal Complaint must be in written form, but it may be submitted in person, by mail, by email, or via the College's online form: <https://blackburn.edu/titleixreports/>. It must be signed by the Complainant but the required signature may be physical or digital. The College recommends including as much information as possible in the Formal Complaint, including a description of the alleged conduct, the identity of the Respondent, the identities of any witnesses, and any supporting documentation or evidence.

A Title IX Coordinator may also initiate a Formal Complaint by signing it. The Title IX Coordinator may consider the specific facts and circumstances and whether there is a pattern of misconduct involving a particular Respondent. A Title IX Coordinator may only sign a Formal Complaint after he or she has contacted the Complainant and discussed supportive measures and the Formal Complaint process with the Complainant. The Title IX Coordinator must consider the Complainant's wishes for how the College responds to the report of Sexual Harassment. The Title IX Coordinator should balance campus safety concerns with respect for survivor autonomy.

The Title IX Coordinator may consolidate Formal Complaints where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where a Formal Complaint includes more than one Complainant or more than one Respondent, any references in this policy to a



single Complainant and/or Respondent will also refer to multiple Complainants and/or Respondents.

### **INFORMAL RESOLUTION**

After a Formal Complaint has been filed, if both Complainant and Respondent give voluntary, informed, written consent, the College will assist the parties in reaching an informal resolution to the allegations of Sexual Harassment in the Formal Complaint. An informal resolution cannot be used for Formal Complaints that contain allegations that an employee sexually harassed a student. Various conflict resolution mechanisms are available, including but not limited to counseling or mediation.

### **PROHIBITION OF RETALIATION**

The College expressly prohibits retaliation against any individual for exercising their Title IX rights under this Policy. No individual may be discriminated against, intimidated, threatened, or coerced for the purpose of interfering with his or her Title IX rights, or because the individual has made a report pursuant to this Policy, testified, assisted, participated, or refused to participate in a Title IX investigation, proceeding, or hearing. Encouraging others to retaliate also violates the policy.

Examples of retaliation 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
- Oral or written threats or bribes
- Refusal to meet with the person even though the person has a right to do so
- Further harassment

Such retaliation shall be considered a serious violation of College policy and shall be independent of whether a Formal Complaint of Sexual Harassment is filed or a Respondent found responsible. Encouraging others to retaliate also violates the policy. Any incidents of retaliation should be immediately reported to the Title IX Coordinator.

### **SEXUAL HARASSMENT GRIEVANCE PROCESS PROCEDURES**

#### **1. General provisions**

The College is committed to ensuring that its Sexual Harassment Grievance 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 request to the Title IX Coordinator 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. The Title IX Coordinator will determine whether a conflict of interest or bias exists and will appoint an alternative official if appropriate. Such petitions may also be

made to the College president in the event that the potential conflict or bias involves the Title IX Coordinator. In that case, the College president will determine whether a conflict of interest or bias exists and will appoint an alternative official if appropriate.

The Respondent will be presumed not responsible for the policy violation that is alleged in the Formal Complaint unless and until the Respondent is found responsible by the Hearing Body at the conclusion of the grievance process.

The grievance process generally will be completed within 90-100 days. However, extensions to this time frame may be granted at the request of either party, or at the discretion of the Title IX Coordinator when good cause exists for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. The Title IX Coordinator will notify all parties in writing of the delay, the length of the extension granted and the reason for the extension.

## **2. Preliminary Inquiry**

Upon receipt of a Formal Complaint, the Title IX Coordinator will conduct a preliminary inquiry that consists of reviewing the allegations set forth in the Formal Complaint to ensure they fall within the scope of this policy as set forth above. Formal Complaints of Sexual Harassment brought pursuant to this policy must be dismissed if:

1. The conduct alleged would not constitute Sexual Harassment as defined in this Policy;
2. The conduct did not occur in connection with a College education program or activity;
3. The conduct did not occur against a person in the United States.

Furthermore, the Title IX Coordinator may, in his or her discretion, determine that even though it meets the basic threshold requirements to proceed, a particular Formal Complaint should be dismissed. Specifically, a Formal Complaint may be dismissed if:

1. Complainant notified Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations within;
2. Respondent is no longer enrolled or employed by the College;
3. Specific circumstances prevent the College from gathering evidence to reach a determination.

If the Title IX Coordinator determines that the allegations in the Formal Complaint falls within the scope of this policy and it does not fall into the mandatory dismissal categories, then the Title IX Sexual Harassment grievance process will proceed. If allegations in a Formal Complaint are dismissed, they may be still be investigated and resolved pursuant to the College's Equal Employment Opportunity & Nondiscrimination Statements, Policies, and Procedures or another applicable College policy. The Title IX Coordinator has the discretion to refer the allegations to the appropriate College official.

Following any dismissal of a Formal Complaint, the Title IX Coordinator will simultaneously send a written notice to the parties of the dismissal and the reasons for the dismissal.

To the extent the behavior alleged in the Formal Complaint could constitute a violation of another College policy, it may be pursued under that policy.

### **3. Notice**

Within 3 days of receipt of a Formal Complaint, the Title IX Coordinator will issue a written notice to the parties. The written notice should include, if known, the identity of the parties, the conduct alleged to be Sexual Harassment, and the date(s) and location(s) of the incident(s). The notice will also include a statement that the Respondent is presumed to be not responsible for any policy violations. The notice must also inform the parties that they have the right to an advisor of their choice during the grievance process, that they may inspect and review evidence gathered during the investigation, that the Student Conduct Code prohibits making false statements or submitting false information during the grievance procedure, available at: <https://blackburn.edu/student-handbook-pdf/>.

If during the course of the investigation, additional allegations are going to be investigated that were not included in the original notice, the Title IX Coordinator will issue a supplemental written notice to the parties.

Parties will also be provided with notice of all meetings, interviews, or hearings with sufficient time to prepare. Such notice will include the date, time, location, participants, and purpose of the meeting, interview, or hearing.

### **4. Advisors**

Each party has the right to select an advisor of their choice, and for that advisor to accompany the party to any part of the grievance process, including all meetings, interviews, and/or hearings. An advisor can be a friend, family member, faculty member, mentor, attorney, or any other person of the party's choice who is available and agrees to serve as advisor.

It is the goal of the College maintain a pool of trained (non-attorney) advisors who are employees of the College who are available to the parties. A party may select an advisor from a list of individuals maintained by the Title IX Coordinator who have been trained and agreed to serve as advisors during the grievance process. A party's choice of advisor is not limited to those individuals on such a list. The parties may choose advisors from outside the pool, or outside the campus community, but those advisors may not have the same level of insight and training on the campus process as do those trained by the College. Outside advisors are not eligible to be trained by the College. 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 one. If a party does not have an advisor for the grievance process hearing, then the College will assign an advisor to conduct cross examination

on behalf of that party. This assigned advisor may be a College employee, or may be an outside individual retained to provide advisor services.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may offer advice to and confer with the party during any meeting, interview, and/or hearing, but generally may not speak on behalf of the party. The only time an advisor may speak on behalf of the party is to conduct cross examination questioning during a grievance hearing. Advisors are expected to comply with the Rules of Procedure and Decorum for hearings and remain respectful throughout the entire grievance process. Advisors should request or wait for a break in the proceeding if they wish to interact with campus officials. Advisors 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 advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors 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 advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the College investigation and resolution. Any advisor who steps out of his/her role in any meetings under the Sexual Harassment grievance process will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically end. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated or may be replaced by a different advisor.

The College expects that the parties will wish the College to share documentation related to the allegations with their advisors. In order for the College to be able to share records with an advisor, 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. Advisors are expected to maintain the privacy of the records shared with them by the College. 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 the College's privacy expectations.

The College expects an advisor 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 advisor's inability to attend. The College will, however, make provisions to allow an advisor 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 advisors during the process, and is not locked into using the same advisor throughout. The parties must advise the Investigators of the identity of their advisor before the date of their first meeting with Investigators. The parties must provide subsequent timely notice to the Investigators if they change advisors 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.

## **5. Investigation**

The Title IX Coordinator will designate two Investigators to conduct a fair, thorough, impartial investigation of the allegations in the Formal Complaint and to keep all parties regularly appraised of the status of the investigation as it unfolds. The Investigator will have received training as outlined in this policy. The College may designate outside investigators as Investigators.

The Investigator will provide written notice of any meetings or interviews to the parties and/or witnesses at least 3 days in advance of the meeting or interview, unless the party or witness requests to meet sooner. This notice will include the date, time, and location for the meeting, as well as who will be participating in the meeting and the purpose for the meeting.

The burden will be on the Investigators to fully and fairly investigate the allegation in the Formal Complaint. All parties will have an equal opportunity to present witnesses and evidence to the Investigators.

At the conclusion of the investigation, the Investigators will send a copy of the evidence that is directly related to the allegations in the Formal Complaint to the parties and their advisors for inspection and review. The parties will then have 10 days in order to submit a written response to the evidence, if they choose to do so. The Investigators will consider any written response to the evidence before the completion of the investigative report. The Investigators will make all evidence that is directly related to the allegations available at the grievance hearing.

The Investigators will prepare an investigative report that fairly summarizes all the relevant evidence. The investigative report should include a description of all steps taken in the investigation as well as summaries of all interviews with parties and/or witnesses and all relevant evidence reviewed by the Investigators.

The Investigators will send a copy of the report to the parties and their advisors at least 10 days prior to any hearing for the parties' review and written response.

### **1. Hearing**

After the conclusion of the investigation, a live hearing before a Hearing Body will be held. 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 whom have received training as set out in this policy. 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 Conduct Officer will generally 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. When deemed necessary by the Title IX Coordinator, an individual outside the College community may be retained to serve as the Conduct Officer for a specific grievance process. An outside individual will also be trained as outlined in this policy. The Conduct Officer will be responsible for leading the hearing and delivering the appropriate sanctions when a policy violation is found.

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; making a determination based on the preponderance of evidence standard as to whether a violation of the policy more likely or not occurred; making a prompt, fair, and reasonable decision on the findings; and determining appropriate sanctions. The goal of the College is to enlarge the pool of trained Hearing Body members.

The Conduct Officer will issue notice of the hearing to the parties, including the date, time, and location of the hearing. This notice will be provided at least 3 days before the hearing. The hearing will be held pursuant to the Rules of Procedure and Decorum. All hearings are closed to the public (aside from party advisors and witnesses) and must be held in either a conference room or a classroom. At the request of either party, the hearing will be held with the parties in separate rooms or locations, with the parties and decision maker able to simultaneously see and hear each other through technology. Whether the hearing is conducted virtually or in person, it will be recorded.

The Hearing Body will take the following steps during a hearing:

- 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 Respondent will state whether or not he/she was responsible for the alleged offense(s).
- 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 Investigators will make all evidence that is directly related to the allegations available at the grievance hearing. All parties may refer to such evidence and may use it in cross examination. The Investigators will provide a copy of the investigative report and all evidence that is relevant to the allegations in the Formal Complaint to the Hearing Body. However, the Hearing Body may not defer to the investigative report, and must objectively evaluate all relevant evidence and independently reach a determination regarding responsibility.
- The Complainant and Respondent may be asked to present their statements, provide clarification, or answer questions in regard to the allegations in the Formal Complaint.
- The Complainant and Respondent all have the ability to testify and call witnesses at the hearing, and to provide evidence to the Hearing Body.
- 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.
- The Hearing Body may recall the Complainant, Respondent, 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. Any member of the Hearing Body may request additional information.

- After the Hearing Body asks their questions, each party's advisor will have the opportunity to ask all relevant and follow up questions of the other party and all witnesses during cross examination. No party shall be questioned directly by the other party. Advisors must abide by this policy and the Rules of Procedure and Decorum in questioning parties and witnesses. Any advisor who does not abide by this policy and the Rules of Procedure and Decorum will be warned or dismissed from the hearing at the discretion of the Conduct Officer.
- The Hearing Body cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions during the hearing, including cross examination.
- The Conduct Officer will state whether each question is relevant before the questions is answered by the party or witness to whom it is directed, and explain any decision to exclude a question as not relevant. Questions or evidence that are deemed irrelevant by the Conduct Officer will be excluded from the hearing. Formal rules of evidence shall not apply.
- The following types of evidence must be considered irrelevant by the Conduct Officer:
  - Evidence that is not pertinent to proving whether a fact material to the allegation is more or less likely to be true;
  - Information that is protected by privilege (e.g. attorney-client privilege);
  - Any party's medical, psychiatric, psychological, or counseling records without that party's voluntary, written consent;
  - Any information about the Complainant's sexual predisposition or prior sexual behavior, unless it is offered to prove that someone other than the Respondent committed the behavior alleged in the formal complaint 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.
- The Hearing Body may evaluate and consider all relevant evidence, including, but not limited to, statements by parties and witnesses during the hearing, information presented by parties or witnesses at the hearing, information contained in the investigation report, and information gathered during the investigation. This could include statements in the investigation report, police reports, medical reports, text messages, social media posts or messages, or other documents.
- When making the determination on responsibility, the Hearing Body has the discretion to determine the weight to give statements and evidence, based on the reliability and/or credibility of the statements and evidence. When determining the reliability and/or credibility of statements and evidence, the Hearing Body should consider the totality of the evidence and context, including, but not limited to:
  - The reasonableness and inherent plausibility of the statement or evidence in light of all the evidence;
  - The witness or party's opportunity or ability to see or hear the things described in the statement;
  - Whether there is any other statement or evidence to corroborate the statement or evidence;
  - Whether there are inconsistencies in the statement or evidence;
  - Whether other evidence or statements contradict or dispute the witness's statement or evidence;
  - The witness or party's interest in the outcome and/or motive to provide a false statement or evidence, if any;

- The witness or party's demeanor and behavior while making the statement;
- The witness or party's memory of the information in the statement;
- The witness or party's bias or prejudice, if any.

## **2. Determination of Responsibility**

Decisions will be reached by a majority rule of the Hearing Body on the basis of the evidence presented during the hearing. The Hearing Body must determine the weight of the evidence and credibility of the parties in reaching a determination. The standard of proof will be "preponderance of the evidence," which means whether the evidence shows it is more likely than not that a policy violation occurred.

The Hearing Body will issue a written determination whether the Respondent is responsible for the policy violations alleged in the Formal Complaint within 7 working days of the conclusion of the hearing.

The written determination shall include:

- An identification of the allegations in the Formal Complaint;
- A description of procedural steps taken from the receipt of the Formal Complaint through the determination, including any notices, interviews, investigations, and hearings;
- Findings of fact that support the determination,
- Conclusions regarding the application of the policy to the facts;
- A statement and rationale for the result for each allegation including the determination of responsibility, any sanctions that will be imposed on the Respondent, and whether any remedies designed to restore and preserve equal access to the College's educational program will be provided to the Complainant; and
- The procedures and acceptable bases for appeal of this determination.

The written determination will be provided simultaneously to all parties. Once the notice of decision is received in person, mailed or emailed, it will be deemed presumptively delivered. The determination will become final and any sanctions will take effect after the resolution of any appeal, or if no appeal is filed, in 3 days (excluding weekends) after the issuance of the written determination.

## **3. Sanctions and Remedies**

If the Respondent is found responsible for any violations of policy, then the Hearing Body will determine what disciplinary sanctions will be imposed on the Respondent and what remedies designed to restore and preserve equal access to the College's educational programs will be offered to the Complainant.

The possible sanctions that can be imposed on a student Respondent found responsible include:

- No further action
- Completion of counseling programs
- Social probations,
- Suspension
- Expulsion



The possible sanctions that can be imposed on an employee Respondent found responsible include:

- Letter of reprimand
- Probationary status contingent upon completion of professional counseling and/or job training
- Termination of employment

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 Body may be applied.

In addition to sanctions imposed on the Respondent, remedies can be offered to the Complainant in order to restore and preserve equal access to the College's educational program and activities.

Remedies may be, but are not limited to, a continuation of previously offered supportive measures. Additionally, remedies may burden the Respondent or be punitive/disciplinary in nature.

#### **4. Appeals**

Either the Complainant or Respondent may appeal the Hearing Body's decision. The decision of the Hearing Body may be appealed by petitioning the Provost. (The V.P. and Dean of Student Affairs will hear an appeal if the Provost were involved in the allegations in the Formal Complaint, a witness during the hearing process, 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 of the Hearing Body, for a review of the decision or the sanctions imposed. Only appeals based on the criteria established in this policy will be heard.

Appeals are limited to the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonable available at the time of the determination of responsibility or the dismissal of the Formal Complaint that would affect the outcome of the matter; or
- The Title IX Coordinator, Investigator, or hearing decision maker had a conflict of interest or bias for or against complainants or Respondents generally that affected the outcome of the matter.
- The sanctions imposed fall outside the range of listed sanctions and the cumulative conduct history of the Responding Party.

The request should include a short statement outlining the basis for appeal. The following are recommended elements of an appeal:

- Clear and concise description of the basis for the appeal and the facts supporting that basis;
- Any supporting documentation and evidence;
- Name and all contact information for the appealing party;
- Signed and dated by the appealing party.

The Provost will conduct an initial review of the appeal request – if the appeal request is not timely or does not meet the required bases for appeal, then the original finding and sanction, if any, will stand. The Provost will notify the parties in writing that an appeal has been filed. Each party will

then have 5 days to submit a written statement in support of, or challenging the outcome of the hearing. 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. 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.

Appeals are not intended to be full re-hearings of the allegation. In most cases, the Provost will determine the appeal based on a review of the written documentation, record of the original hearing, and written appeal statements of the parties. If necessary, the Provost may request additional interviews with parties or witnesses in reviewing the appeal.

The Provost may alter the hearing decision with regard to responsibility, implement or modify remedies, and/or implement or modify sanctions. The Provost will issue a written determination of the outcome of the appeal, describing the result of the appeal and the rationale in support of that decision within 7 days of the deadline for parties to submit their written statements. The Provost's written determination will be provided simultaneously to all parties. The Provost's decision to deny an appeal request or modify a sanction is final.

### **TRAINING**

Personnel tasked with implementing these procedures and in providing services to survivors, (e.g.: Title IX Coordinator, investigators, Hearing Body, advisors, Provost, mediators, etc.) will receive a minimum of 8 to 10 hours of training annually. This training will include:

1. The College's Title IX Sexual Harassment Policy and Procedures and the Equal Employment and Nondiscrimination Statement, Policy, and Procedures;
2. Relevant state and federal laws;
3. The roles of the College, medical providers, law enforcement, and community agencies in providing coordinated response;
4. Effects of trauma on a survivor;
5. Types of conduct that constitute sexual violence, domestic violence, dating violence, and stalking (including same sex violence); and
6. Consent and the role drugs and alcohol can have on the ability to consent.

Training shall also seek to improve trainees ability to:

1. Respond with cultural sensitivity;
2. Provide services or assist in locating services for survivors; and
3. Communicate sensitively and compassionately with survivor.

The College will ensure that the Title IX Coordinator, Investigator, Hearing Body, appeals officers and any person who facilitates an informal resolution has received training on:

- The definition of Sexual Harassment as set out in this policy;
- The definition of Consent under this policy and how to apply the definition of Consent consistently and impartially;
- The scope of the College's education program or activity;
- How to conduct the grievance process, including investigations, hearings, appeals, and informal resolutions (as applicable); and

- How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, or bias.

The Hearing Body will also receive training on:

- How to operate any technology used in conducting a hearing; and
- How to determine relevance of questions and evidence, including the provisions of this policy pertaining to the exclusion of evidence of a Complainant's previous sexual behavior

Investigators will also receive training on:

- How to determine if evidence is relevant to an investigation; and
- How to create an investigative report that fairly summarizes relevant evidence.

All training materials used by the College must not rely on sex stereotypes and must promote the impartial investigation and adjudication of Formal Complaints. All training materials used to train the Title IX Coordinator, Investigator, Hearing Body, appeals officer, and any individual who facilitates an informal resolution must be made publicly available. These materials will be published at: [www.blackburn.edu/titleix](http://www.blackburn.edu/titleix).

The College will also provide annual training to all students on sexual violence primary prevention and awareness, which will include: the definition of consent, inability to consent and retaliation; reporting to the institution, campus law enforcement and local law enforcement; reporting to the confidential advisor or other confidential resources; available survivor services; strategies for bystander intervention and risk reduction.

## **RECORDKEEPING**

The Title IX Coordinator must create and maintain for a period of at least seven years records of any actions, including any supportive measures taken in response to a report or formal complaint of Sexual Harassment. For each instance, the Title IX Coordinator must document: 1) the basis for the conclusion that the College's response was not deliberately indifferent, and 2) that the College has taken measures designed to restore or preserve equal access to the College's educational program or activity. If the Title IX Coordinator does not provide the Complainant with supportive measures, then the Title IX Coordinator must document why it was not clearly unreasonable to not provide supportive measures.

The Title IX Coordinator will also maintain the following records for a period of at least seven years:

- Records related to each Sexual Harassment investigation, including any determination regarding responsibility;
- Any audio or audiovisual recording or transcript from a grievance hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal from a grievance process and the result of the appeal;
- Records related to any informal resolution and the result of the informal resolution;
- All materials used to train the Title IX Coordinators, Investigator, decision maker, and any individual who facilitates an informal resolution.

## **RESOURCES AND INFORMATION FOR VICTIMS OF SEXUAL HARASSMENT**

The College encourages members of the campus community who are victims of Sexual Harassment to take the following steps:

- Get to a safe place as soon as possible.
- Contact local law enforcement.
- Do not blame yourself. Sexual Harassment is never the victim/survivor's fault.
- Seek immediate medical attention at an area hospital or medical clinic.
- If possible, do not change clothes, shower, bathe, douche, or urinate. Emergency room personnel are trained to check for injuries, as well as to collect physical evidence. It is important to preserve evidence as it may be necessary should you decide to pursue criminal charges. Costs for providing and administering the "rape kit" are incurred by the Illinois Department of Public Health.
- Report the Sexual Harassment to the College, and utilize the College's resources to seek support. Incidents of Sexual Harassment are notoriously underreported on college campuses, often because the victims/survivors do not recognize their experience as a criminal offense and/or a college violation or their lack of knowledge of and/or discomfort with campus and community resources.
- By seeking assistance and reporting Sexual Harassment, you can begin your own healing process and promote standards of community and respect.

Please be aware that hospital personnel may be obligated to contact proper authorities regarding a sexual assault or other criminal behavior. Although you are not obligated to do so, victim/survivors of Sexual Harassment are highly encouraged to take advantage of the resources listed below, which can help you understand your options for off-campus proceedings, as well as make you aware of services such as counseling that are specific to your needs. Other options may be available to victim/survivors, such as obtaining an order of protection, no contact order, or restraining order from the court system.

**Off-Campus Crisis Hotlines (available 24/7)**

- 800-656-HOPE (Rape, Abuse and Incest National Network)
- 217-753-8081 (Prairie Center Against Sexual Assault)
- 800-799-7233 (Domestic Violence Hotline)
- 800-227-8922 (Sexually Transmitted Disease Hotline 8 a.m.—8 p.m. Monday—Friday)

**Individual and Group Counseling**

- 217-854-3166 (Locust Street Resource Center)
- 217-839-1526 (Maple Street Clinic)
- 217-854-4511 (Catholic Charities)
- 217-753-8081 (Prairie Center Against Sexual Assault) Other Help Lines
- 800-552-6843 (U.S. Attorney General for Hate Crime Reports)
- 800-552-7096 (Child Abuse Hotline)

**Medical Issues**

- 217-839-1526 (Maple Street Clinic)

**Hospitals**

- 217-788-3030 (Memorial Hospital Emergency Room—Rape Exams)
- 217-854-3141 (Carlinville Area Hospital—Internal Medicine—Will Not Do Rape Exams)

**Legal Assistance**

- 217-753-4117 (IL Coalition Against Sexual Assault—Springfield)
- 888-259-6364 (Macoupin County Safe Families)
- 217-854-3221 (Police Non-Emergency)

**In the case of an off-campus emergency situation, dial 911.**