

# Policy on Sexual Misconduct (Title IX)

## Updated August 2017

### I. Policy Statement

The College for Creative Studies subscribes to the principle of equal opportunity in its employment, admissions and educational practices and strives to provide an educational environment and workplace free from unlawful harassment or discrimination. Discrimination, including harassment, because of age, race, color, national origin, religion, sex, sexual orientation, marital status, disability or any other characteristic protected by law is strictly prohibited. This policy specifically addresses the prohibition of sexual misconduct, including sexual assault, sexual harassment, gender-based harassment, sexual exploitation, stalking, domestic violence, and dating violence. Sexual misconduct represents a serious breach of the College's commitment to fostering a positive educational and working environment. An individual who violates this policy may also be subject to criminal prosecution and civil litigation in addition to College disciplinary procedures. As described elsewhere in this annual security report (see "Sexual Assault/Dating Violence Awareness and Prevention Programs"), with the intent of ending sexual misconduct, the College conducts primary prevention and awareness programs for all incoming students and new employees and ongoing prevention and awareness campaigns for students and employees.

### II. Scope

All students, faculty, and staff of the College as well as any visitors, regardless of sexual orientation or gender identity, are subject to this policy. This policy applies on campus property and may apply off campus if the conduct was in connection with a College program or College recognized program or the conduct may have the effect of creating a hostile environment in the College's classrooms, studios, workspaces, offices, or administrative spaces. The College prohibits sexual misconduct by third parties (i.e. persons who are neither students nor employees of the College) towards members of the College community. Although individuals who are not students or employees of the College are not subject to discipline under the College's internal processes, the College will take prompt, corrective action to remove the accused from campus facilities while under investigation. The College may also involve the police in the immediate resolution of the situation.

### III. Definitions

**Consent** - Consent is an affirmative, conscious decision - indicated clearly by words or actions – to engage in mutually accepted sexual contact. Consent can be withdrawn at any time. Consent given for one mutually agreed upon sexual act does not imply consent for additional sexual acts. Consent CANNOT be given if a person's capacity is substantially impaired because of a mental or physical condition, coercion, intimidation, threats, duress, a perceived power differential, or the person is under the age of legal consent.

There is no consent if a person is mentally or physically impaired such that he/she cannot understand the fact, nature, or extent of the sexual situation. This includes impairment due to alcohol consumption, drug consumption, or being asleep or unconscious.

For consent to be effective, it must be:

- freely and actively given,
- manifested by mutually understood words or actions,
- indicative of a willingness to engage in mutually agreed upon sexual activity,
- given while both parties are not under the influence of intoxicants or physically incapacitated,
- given without coercion through force or intimidation

**Complainant/Accuser/Victim**- the party complaining of or the victim of sexual misconduct.

**Preponderance of the Evidence**- the evidence must show that, more likely than not, sexual misconduct did occur and more likely than not, the alleged perpetrator committed the act

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**Respondent/Accused-** the person against whom a complaint of sexual misconduct is brought.

**Sexual Misconduct-** conduct prohibited by this policy, including sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual misconduct includes: sexual assault, sexual harassment, gender-based harassment, sexual exploitation, stalking, and domestic violence, and dating violence.

**Sexual Assault-** any offense that meets the definition of rape, fondling, incest, or statutory rape:

- rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim,
- fondling: the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity,
- incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law,
- statutory rape: sexual intercourse with a person who is under the statutory age of consent.

**Sexual Harassment-** unwelcome gender, sexuality, or sexually based verbal or nonverbal conduct that is sufficiently severe, persistent, or pervasive as judged by a reasonable person in the victim's position, considering all the circumstances.

**Gender-Based Harassment-** acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

**Sexual Exploitation** - taking advantage of the sexuality and attractiveness of a person to make a personal gain or profit. It is the abuse of a position of vulnerability, differential power, or trust for sexual purposes. (i.e.- prostituting another person, recording images of sexual activity without consent)

**Stalking** - a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or to suffer substantial emotional distress. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. A "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Domestic Violence** - a felony or misdemeanor crime 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 in which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from the person's act under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Dating Violence** - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Whether there was such relationship will be gauged by the length, type and frequency of interaction. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For purposes of this definition,

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dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

#### **IV. Rights**

##### ***Rights of the Victim***

When a student or employee reports to the College that the student or employee has been a victim of sexual misconduct, whether the offense occurred on or off campus, the College will provide the student or employee a written explanation of the student's or employee's rights and options under the Clery Act, including:

- The right to interim measures pending completion of an investigation.
- The right to investigation and appropriate resolution to all credible complaints of sexual misconduct.
- The right to request confidentiality and to understand the impact of a request for confidentiality on the investigative process.
- The right to not be discouraged by College officials from reporting sexual misconduct.
- The right to decide to notify proper law enforcement authorities, including Campus Safety and local police; to be assisted by College authorities in notifying law enforcement authorities if the victim so chooses; and to decline to notify such authorities.
- If a student or employee submits a Personal Protection Order (PPO) to Campus Safety, Campus Safety will notify Wayne State or Detroit Police if the PPO is violated.
- The right not to be retaliated against for filing a good faith complaint.
- The right to know the evidentiary standard the College applies during an investigation is the preponderance of the evidence standard, which means that the evidence must show that more likely than not, sexual misconduct did occur and more likely than not, the alleged perpetrator committed the act.
- The right to be informed of the outcome and sanction of any disciplinary hearing involving sexual misconduct within the bounds of what is legally permissible.
- The right to written notification about options for, available assistance in, and how to request changes in academic, living, transportation, and working situations or protective measures after an alleged incident of sexual misconduct. The College will make such accommodations or provide such protective measures if the victim requests them and if they are reasonable available, regardless of whether the victim chooses to report the crime to Campus Security or local law enforcement.\*
- The right to reasonably prompt time frames for completion of the complaint process (generally 60 days), recognizing this is influenced by the facts and circumstances.
- The right to attend any hearing including timely notice of hearing date and adequate time for preparation.
- The right to timely and equal access to any information that will be used during informal and formal disciplinary meetings and hearings.
- The right to not have irrelevant prior sexual history admitted as evidence in a campus hearing.
- The right to appeal the finding and sanction in accordance with this policy.
- The right to have an advisor or advocate of the victim's choice accompany and assist in throughout the process.
- The right to a campus judicial outcome based solely on the preponderance of evidence presented during the College judicial process.
- The right to not have any complaint of sexual assault mediated as opposed to adjudicated.\*
- The right to petition that any member of the judicial body be removed on the basis of demonstrated bias.
- The right to be informed of available resources for counseling, advocacy and support.
- Assurance that the College will take steps to prevent recurrence of any sexual misconduct and when appropriate, remedy the discriminatory effects on the victim and other students.

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#### ***Rights of the Accused***

- The right to investigation or appropriate resolution to all credible complaints of sexual misconduct.
- The right to know the evidentiary standard the College applies during an investigation is the preponderance of the evidence standard, which means that the evidence must show that more likely than not, sexual misconduct did occur and more likely than not, the alleged perpetrator committed the act.
- The right to a hearing including timely notice of hearing date and adequate time for preparation.
- The right to timely and equal access to any information that will be used during informal or formal disciplinary meetings or hearings.
- The right to appeal the finding and sanction in accordance with this policy.
- The right to have an advisor or advocate accompany and assist throughout the process.\*
- The right to a campus judicial outcome based solely on a preponderance of the evidence presented during the College judicial process.
- The right to written notice of the outcome and sanction of the hearing.
- The right to petition that any member of the judicial body be removed on the basis of demonstrated bias.\*
- The right to be informed of counseling, advocacy and support.

\*The indicated rights may not apply or be possible to grant for faculty or staff who are involved in an investigation into a report of sexual violence.

#### **V. Reporting**

All College community members are strongly encouraged to report incidents of sexual misconduct to the Title IX Coordinator or any of the reporting resources listed below, by phone, email, or in person. All College faculty and staff are required to report any accounts or instances of sexual misconduct that they become aware of to the Title IX Coordinator in either the Office of Student Affairs or in Human Resources.

Anyone who has been subject to sexual misconduct may choose to pursue criminal prosecution, civil litigation, and/or College disciplinary processes. The College recognizes that a person who has been subject to sexual misconduct retains the right not to pursue either criminal prosecution, civil litigation, or a College judicial proceeding. Choosing not to pursue these courses of action, however, does not remove the responsibility of the College to investigate and/or take action, including but not limited to offering interim measures.

A communication to the Title IX Coordinator or other reporting resource generally is not confidential, but to the extent possible, the College will only disclose information regarding incidents of sexual misconduct to individuals who are responsible for handling the College's response. When reporting an incident of sexual misconduct, a student/employee may request confidentiality, as described in section V.E of this document. In all cases, to the best of their ability, the Title IX Coordinator will maintain as much confidentiality for both the victim and the accused during the investigation process as possible. Should a breach of confidentiality be required, it will be done following the procedure outlined in section V.G. of this document.

#### **Title IX Coordinator**

Michael Coleman  
Director of Student Life  
Student Ombudsman  
Office of Student Affairs  
313-664-7676  
[mcoleman@collegeforcreativestudies.edu](mailto:mcoleman@collegeforcreativestudies.edu)

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Deputy Title IX Coordinator  
Raquel Diroff  
Assistant Human Resources Director  
Office of Human Resources  
313-664-7651  
[rdiroff@collegeforcreativestudies.edu](mailto:rdiroff@collegeforcreativestudies.edu)

Deputy Title IX Coordinator  
Sharon Procter  
Associate Provost for Faculty Affairs  
Office of Academic Affairs  
313-664-1487  
[sprocter@collegeforcreativestudies.edu](mailto:sprocter@collegeforcreativestudies.edu)

The listed departments are specially trained to help in incidents of sexual misconduct:

### On Campus Resources for Students

Dean of Students	313.664.7675	M-F 8:30 am - 4:30 pm
Campus Safety	313.664.7444	24 Hours
Director of Student Life	313.664.7676	M-F 8:30 am - 4:30 pm
Director of Residence Life	313.664.7678	M-F 8:30 am - 4:30 pm
Director of Academic Advising/Registration	313.664.7673	M-F 8:30 am - 4:30 pm

### On Campus Resources for Faculty/Staff

Director of Human Resources	313.664.7650	M-F 8:30 am - 4:30 pm
Assistant Human Resources Director	313.664.7651	M-F 8:30 am - 4:30 pm
Campus Safety	313.664.7444	24 Hours
Associate Provost for Faculty Affairs	313.664.1487	M-F 8:30 am - 4:30 pm

### Off-Campus Resources for Students and Faculty/Staff

Wayne State Police	313.577.2222	24 Hours
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#### A. Amnesty

When conducting the investigation, the College's primary focus will be on addressing the sexual misconduct and not on other College policy violations that may be discovered or disclosed. Fear of conduct or disciplinary violations should not be a deterrent for a victim to report an incident of sexual misconduct. Persons reporting sexual misconduct will be granted amnesty from College disciplinary processes if College alcohol or other non-violent policy violations are discovered during the course of a sexual misconduct investigation. This same amnesty will be granted to witnesses asked to participate in an investigative process on campus.

#### B. Timely Reporting & Crisis Assistance

The College supports and encourages anyone who has been subject to sexual misconduct to report the incident to the reporting source of their choice. Prompt reporting may preserve options that delayed reporting does not, including the preservation of physical evidence, crisis counseling, immediate police response. However, anyone can report an incident of sexual misconduct at any time.

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Any person who has been sexually assaulted or otherwise subject to sexual violence may go directly to the emergency room of any local hospital for medical attention, evidence collection, and access to follow up care. An individual who has been sexually assaulted is urged to seek medical evaluation as soon as possible. The closest emergency room facilities to campus are:

**Detroit Receiving Hospital, 4201 St. Antoine, Detroit MI 48202**  
**Henry Ford Hospital, 2799 W. Grand Blvd, Detroit, MI 48202**

### **C. Medical-Legal Evidence Collection**

An individual who has been sexually assaulted is encouraged to request collection of medical-legal evidence. Prompt collection of physical evidence is essential should a person later decide to pursue criminal prosecution and/or a civil action, including a protective order.

### **D. Confidential Reporting Resources**

The following resources are available to discuss incidents and issues related to sexual misconduct on a confidential basis. Communications to these resources cannot legally be disclosed without the individual's consent or in limited circumstances such as when there is an imminent threat or danger to self or others. These resources may report general statistics regarding sexual misconduct but will not disclose any identifying information. A report to these resources will not result in an individual report to the College beyond reporting of such general statistics. However, keep in mind, if an individual reports to these sources and does not report to the College, the College cannot investigate or take any disciplinary action against the perpetrator.

#### **On-Campus Resources for Students**

Wellness Center Staff	313.664.7852	M-F 8:30 am - 4:30 pm
Campus Nurse	313.664.7982	M, W, F 8:30 am - 12:30 pm

#### **Off-Campus Resources for Students**

Turning Point	586.463.6990	24 Hours
Haven	248.334.1274	24 Hours
Wayne County SAFE	313.964.9701	24 Hours

#### **Off-Campus Resources for Faculty/Staff**

Employee Assistance Program - Ulliance	888.333.6269	24 Hours
Turning Point	586.463.6990	24 Hours
Haven	248.334.1274	24 Hours
Wayne County SAFE	313.964.9701	24 Hours

### **E. Confidentiality Requests**

When reporting an incident of sexual misconduct, a student/employee may request confidentiality by: (1) having his or her name not revealed to the alleged perpetrator, (2) asking that the College not investigate the incident, or (3) asking the College not to take action against the perpetrator.

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These requests will be handled by the Title IX Coordinator or Deputy Title IX Coordinator, who will strive to conduct an investigation that balances the needs of the victim while attempting to protect the College community. Due to the need for administrative action, absolute confidentiality is not guaranteed. When requesting confidentiality, the individual will be informed of the impact of a request for confidentiality on the investigative process, the College's retaliation policy (see section V.F. Retaliation), and of any need for the College to deny the request.

A request for confidentiality will be denied if:

- There is reason to believe that an ongoing threat to the College community would be allowed to continue by agreeing to hold the victim's identity confidential.
- An investigation would not be possible by holding the victim's identity confidential.
- The reporting individual is not the victim of the alleged sexual misconduct but is reporting a possible sexual misconduct incident. It may be possible to maintain the confidentiality of the reporter's name while still investigating the report.

If a confidentiality request is denied, disclosure of an incident of sexual misconduct will be as limited as possible and will reveal as little information about the individual as possible. The individual will be informed by the College of what information may be disclosed once a confidentiality request is denied prior to information being disclosed.

### **F. Retaliation**

Individuals who report sexual misconduct, or who cooperate in the College's investigation and handling of sexual misconduct shall not be subject to retaliation for reporting and/or cooperating, even if the College finds that no sexual misconduct occurred. If a complainant or witness believes that she or he is being subjected to retaliation, she or he should promptly contact the Assistant Human Resources Director (staff), Associate Provost (faculty), or the Director of Student Life (students). Students or employees accused of retaliation will be subject to appropriate College disciplinary policies.

### **G. Reporting to Law Enforcement**

Individuals who are victims of sexual violence or who allege that they have been a victim of sexual violence will be advised of their right to file a complaint with law enforcement. The police have a responsibility to uphold and enforce the law even if the person assaulted does not want to participate in the process and/or make a complaint. As a result, once a report is made to a police officer and/or once the officer learns of possible criminal activity, the officer has a duty to investigate and a duty to forward any information to the appropriate prosecutor's office for possible criminal prosecution.

When the victim is under the age of 16 (or under 21 and physically or mentally impaired), both the College and any confidential resources may report the incident to social service agencies or police in accordance with applicable law and/or at the discretion of school administration when law does not dictate a report.

A complaint with law enforcement will not preclude the College from conducting its own investigation pursuant to College policies and procedures.

### **H. Parental/Legal Guardian/Partner Notification**

The College is committed to providing support to anyone involved in an incident of sexual misconduct. In some instances when there is a health or safety concern, the College may need to notify the parents, guardian, or partner of the individual involved in the incident. In making this determination, the College will consider the wishes of those involved, as well as their personal safety, and the safety of the campus community.



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### **I. False Complaints**

Any member of the College community who knowingly files a false complaint of sexual misconduct, or who knowingly provides false information to or intentionally misleads College officials who are investigating or reviewing a complaint of alleged sexual misconduct, is subject to disciplinary action, up to and including discharge for employees and dismissal for students.

### **J. Non-Student and Non-Employee Cases**

In cases in which the accused party is a non-student the Title IX Coordinator investigating the case will be tasked with investigating the complaint, preparing a written summary, making findings of fact, determining if College policy has been violated and if so, recommending suitable action to appropriate College officials. Ultimately it is up to the College official to determine if and how to implement the Title IX Coordinator's recommendations.

## **VI. Interim Measures and Other Services Available for Victims**

The College will promptly take all interim measures necessary to protect any complainant of sexual misconduct, if the complainant requests them and if they are reasonable available. Interim measures include but are not limited to academic accommodations, increased monitoring or security, changes to class or housing assignments for students or work assignments for employees. Interim measures may be put into place for either the accuser or accused depending on the nature of the situation.

Interim measures are available regardless of whether a complainant requests confidentiality or chooses to file a formal complaint with the College or local law enforcement. The College will assist complainants in obtaining support including but not limited to: victim advocacy, housing assistance, no-contact orders, academic support, counseling, disability services and health and mental health services. The College will maintain as confidential any accommodations or protective measures provided to the complainant, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodations or protective measures.

In addition to interim measures offered after a report of sexual misconduct has been made, the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community.

## **VII. Clery Act Obligations**

### **A. Campus Notification**

Once a report of sexual misconduct is made, the College will take all necessary steps to protect the campus and the person who has been harassed or assaulted. This may include alerting the campus of crimes that it determines pose a threat to members of the campus community. In making such determinations, the College will consider the safety of students, faculty, and staff as well as the privacy interests of all persons involved in such incidents. Regardless of the action taken by the College, the name of any person involved will not appear on security alerts. To respect the privacy rights and choices of the person reporting sexual misconduct, as well as the rights of a person being accused, the College will consider the wishes of all individuals involved in the incident to determine the level of specific information to include in the campus crime report.

### **B. Campus Crime Reporting**



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In compliance with the Clery Act and the Violence Against Women Reauthorization Act, all members of the College, excluding confidential sources, notified of sexual misconduct are required to inform Campus Safety; and the incident will be included in campus crime statistics. Typically, the following information is included: crime, date, location, and status (i.e. student, faculty, staff, stranger, etc.) of the individuals involved in the crime. The College never includes the names of the accuser or the accused in crime statistics, and the College will not otherwise include personally identifying information about the accuser.

### **VIII. Investigation**

Once the College becomes aware of an incident of sexual misconduct, the College will initiate the investigation process. The College will utilize all relevant internal disciplinary and administrative processes, as well as external criminal and civil reporting mechanisms, deemed appropriate when information pertaining to sexual misconduct is reported. If a request for confidentiality has been made, the decision to maintain confidentiality will be made by the Title IX Coordinator or Deputy Title IX Coordinator in accordance with the standards in section V.G. If the request for confidentiality is able to be granted, the investigation will continue only to the extent possible while maintaining confidentiality.

If a person discloses an incident that meets the definition of sexual misconduct but does not personally define the incident as that, the College still has an obligation to investigate.

Members of the College community are expected to cooperate in the College's investigations of alleged sexual misconduct. Investigations will proceed based on the information that is able to be obtained.

The complainant and the accused shall have the same opportunities to have others present during any institutional proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice.

The investigation and resolution of a report of sexual misconduct will be completed within a reasonably prompt timeframe—generally, within 60 days of receipt of a report. The College may extend this timeframe or any component timeframes for good cause. If the College requires an extension of a timeframe, the College will provide written notice to the complainant and the accused and provide the reason for the delay.

#### **A. Duty to Investigate**

When necessary to meet its commitment to provide an environment free of sexual misconduct, the College will investigate alleged incidents of sexual harassment or assault of which it becomes aware even if no formal complaint has been filed or the individual(s) involved is unwilling to pursue a complaint or cooperate in an investigation. If an employee becomes aware of specific and credible allegations of sexual harassment or assault, whether through a complainant or otherwise, the allegations should be reported promptly to either the Title IX Coordinator or Deputy Title IX Coordinator. The duty to investigate will include addressing any request for confidentiality in accordance with section V.G. If it is deemed necessary by the Title IX Coordinator or Deputy Title IX Coordinator to breach confidentiality in order to maintain the environment free of sexual misconduct, the victim will be informed of the need to violate confidentiality prior to doing so.

#### **B. Investigation Standard**

All incidents of sexual misconduct will be assessed using the preponderance of the evidence standard. The preponderance of the evidence standard means that the evidence must show that, more likely than not, sexual misconduct did occur and more likely than not, the alleged perpetrator committed the act.

#### **C. Investigative Process**

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All complaints of alleged sexual misconduct are investigated under the oversight of the Title IX Coordinator when the accused is a student or off campus 3rd party and the Deputy Title IX Coordinator when the accused is an employee of the College or their designee. The College may engage an external investigator at the discretion of the Title IX Coordinator to manage the investigation process and the preparation of a recommended findings document. The College will process all formal complaints of sexual misconduct it receives, regardless of where the conduct allegedly occurred. The investigation process includes:

1. Upon notification that a report of sexual misconduct has been made, a formal statement from the complainant will be collected. In the event the complainant requests confidentiality and declines to provide a formal statement, notes from either the reporting source or the Title IX Coordinator or Deputy Title IX Coordinator will serve as the source of information for the basis of the investigation.
2. Written notification will be promptly sent to the accused regarding the incident. This notification will also include a meeting date and time for the accused.
3. After meeting with both parties the Title IX Coordinator, or external investigator, will gather and review any additional information and documents it deems relevant including but not limited to student and personnel files, witness statements, law enforcement and investigation documents, additional statements from the complainant and the accused.
4. The Title IX Coordinator or external investigator will create a report of the investigation including recommended findings.
5. A draft of the investigation report will be provided to both the victim and the accused for review. Both parties have Five (5) business days to respond to the draft report with any information that they deem incorrect, incomplete, or if there is additional information that should be included.
6. The investigation report including recommended findings will be forwarded to the Review Board for final determination of the case.
7. Either party involved in the investigation may request a written update at any point from the Title IX Coordinator.

### **IX. Review Board**

#### **A. Standard**

The purpose of a sexual misconduct Review Board is to determine if more likely than not, sexual misconduct occurred and that more likely than not, the accused committed the act. This determination is made by the Review Board as an outcome of the Review Board process outlined in section IX.D.

#### **B. Informal Grievance Procedure**

Mediation is a potential alternative to a hearing if both the accused and accuser consent in the case of a sexual harassment complaint. Mediation cannot be used in cases of sexual assault. The parties have the right to end mediation and demand a formal hearing at any time. Mediation will be done by a trained faculty or administrator, including the Title IX Coordinator.

#### **C. Review Board**

The Review Board will make a final determination on the case based on the report prepared by either the Title IX Coordinator or external investigator. The Review Board will also determine sanctions to be imposed. The Review Board will be comprised of three members. If the accused is a student, the Review Board will be comprised of the Title IX Coordinator or Deputy Title IX Coordinator, Dean of Students, and Vice President for Enrollment and Student Services. If the accused is an employee, the Review Board will be comprised of the Deputy Title IX Coordinator or Title IX Coordinator, Director of Human Resources, and Vice President for Administration and Finance.

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Any party may raise issues of conflicts of interest with regard to the Review Board. The Title IX Coordinator will weigh these issues and resolve them accordingly. No party has a right to disqualify a Review Board member absent a demonstrated bias.

### **D. Review Board Process**

The Review Board will review the final investigation report to determine whether:

1. The investigation was conducted in a fair, impartial, and reliable manner;
2. The information is sufficient and supports the factual findings; and
3. There is a rational basis, applying the preponderance of evidence standard, for the recommended finding(s) of responsibility or no responsibility.

In reaching a determination the Review Board may elect to meet with the investigator, but may not conduct its own investigation.

After the Review Board has concluded its review of the final investigative report and any additional information requested, the Review Board shall either affirm or reject the investigator's finding(s).

### **Review Board Rejection of Investigator's Report, in Whole or in Part:**

The Review Board may:

1. Accept or reject the investigator's finding in whole or in part and modify the investigative report accordingly;
2. Request that further investigation be undertaken by the same or another investigator;
3. Request that a de novo investigation be conducted.

### **Review Board's Acceptance of Investigator's Report:**

1. If the Review Board, in consultation with the Title IX Coordinator, determines that the investigator properly concluded that there is insufficient information to find, by a preponderance of the evidence, that a policy violation occurred, the Review Board will affirm the finding of no responsibility.
2. If the Review Board, in consultation with the Title IX Coordinator, determines that the investigator properly concluded that there is sufficient information to find, by a preponderance of the evidence, that a policy violation occurred, the Review Board will consider the imposition of a sanction designed to eliminate the misconduct, prevent its reoccurrence, and remedy its effects. Sanctions or interventions may also serve to promote safety or deter individuals from similar future behavior.

### **E. Notice of Outcome**

The Notice of Outcome prepared by the Review Board will inform the parties regarding the outcome of an investigation or hearing. The Notice, which shall be provided simultaneously and in writing to both the complainant and the accused, will contain: (1) whether the alleged conduct occurred, (2) individual sanctions against the accused, and (3) other steps the College has taken to eliminate the hostile environment. The Notice of Outcome provided to the complainant will identify any individual remedies offered to the complainant; the accused will not be informed of individual remedies offered to or provided to the complainant.

### **F. Sanctions/Remedies**

The range of sanctions against the perpetrator include but are not limited to institutional probation, no contact orders, removal from class(es), housing, or suspension/dismissal/termination from the institution.

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Remedies offered to the complainant include but are not limited to housing changes, counseling services, medical services, or academic support services.

Remedies for the broader student population include but are not limited to developing materials on sexual violence for all students, increased security, conducting bystander intervention and sexual violence prevention programs, and/or issuing policy statements.

### **X. Appeals**

#### **A. Procedure**

Both the complainant and the accused will be notified simultaneously and in writing of the following procedures for the accused and the victim to appeal the result of the hearing

1. Both the complainant and the accused are entitled to appeal the decision based on the Review Board.
2. An appeal must be filed, in writing, within 5 business days of the written Notification of Outcome. The appeal should be turned in to the Title IX Coordinator.
3. The College leadership team (President, Provost and V.P. of Academic Affairs, V.P. of Enrollment and Student Services, V.P. of Administration and Finance, and V.P. of Institutional Advancement) will serve as the Appeal Body for all sexual misconduct hearings. If either the accused or the victim are employees, the member of the leadership team from that employees division of the College will recuse themselves from the appeal process. A member of the leadership team may also recuse themselves if a relationship with a student involved in the hearing would compromise the impartiality of the appeal. Any party may raise issues of conflicts of interest with regard to the Appeal Body. The Title IX Coordinator will weigh these issues and resolve them accordingly. No party has a right to disqualify Appeal Body member absent a demonstrated bias.
4. The Appeal Body will first determine whether the appeal meets the grounds for appeal outlined in section X.B. If the appeal is not based on a proper ground for appeal, it may be rejected.
5. If the appeal satisfies the grounds for appeal, the Appeal Body will make a finding on the appeal within 15 days of the appeal being filed. The complainant and the accused will be notified simultaneously and in writing of any change to the findings and when such results become final.
6. If the appeal does not satisfy the grounds for appeal, the Appeal Body will notify all parties within 10 days of the appeal filing that the appeal will not be reviewed.
7. All decisions by the Appeal Body are final.

#### **B. Grounds for Appeal**

1. New evidence not available at the time of the investigation.
2. Decision by Review Board was unreasonable. There must be specific reasons shown why the Board's decision was unreasonable, i.e. - the Review Board considered improper evidence, made their decision based on improper criteria or using irrelevant facts.
3. Procedural irregularities that substantially affected the outcome of the investigation or Review Board to the detriment of the complainant or accused.

#### **C. Time Frame**

Written notification of the appeal findings will be provided simultaneously to the accuser and accused within 15 business days of the appeal being filed.