

## **PROCEDURES IMPLEMENTING THE COLLEGE'S POLICY PROHIBITING SEX-BASED MISCONDUCT**

### **I. Purpose**

The College is committed to maintaining a safe and healthy educational and employment environment that is free from harassment and other forms of discrimination based on sex, sexual orientation, gender-related identity and expression, pregnancy, and other protected characteristics related to sex under federal, state, or local law. The purpose of these Procedures is to implement the College's Policy Prohibiting Sex-Based Misconduct and Board Policy 2.13.14 Harassment/Discrimination, Board Policy Board Policy 2.13.14.01 Sexual Harassment Policy, and Board Policy 3.18 Student Harassment/Discrimination ensure a safe and healthy educational and employment environment, and meet legal requirements in accordance with: Title IX of the *Education Amendments of 1972* ("Title IX"), which prohibits discrimination on the basis of sex in the College's education programs or activities; relevant sections of the *Violence Against Women Reauthorization Act* ("VAWA"); Title VII of the *Civil Rights Act of 1964* ("Title VII"), which prohibits discrimination on the basis of sex in employment; relevant sections of the *Illinois Human Rights Act*, which prohibits discrimination on the basis of sex, sexual orientation, and gender-related identity; the *Jeanne Clery Campus Safety Act* ("Clery Act"), which requires timely warning to the community of certain immediate threats; the *Preventing Sexual Violence in Higher Education Act*; and other applicable law and local ordinances.

The College has an affirmative duty to act promptly and effectively once it has knowledge of an act of sex-based discrimination, sexual harassment or other sex-based misconduct in any of its educational or employment programs or activities. The College will promptly and equitably investigate any complaints of sex-based discrimination, harassment and/or other misconduct in accordance with the procedures set forth below.

### **II. Application and Scope**

The College's Policy Prohibiting Sex-Based Misconduct and these implementing Procedures apply to everyone in the College's education programs and activities, including students, faculty and staff, applicants for admission or employment, and third parties, whenever the alleged sex-based misconduct occurs:

- A. On College property; or
- B. Off College property if:
  - 1. The conduct was in connection with a College or College-recognized program or activity; or
  - 2. The conduct may have the effect of creating a hostile environment for a member of the College community.

These Procedures govern sex-based misconduct in various forms, many of which may trigger legal obligations under one or more state and federal laws. In no case does the inapplicability of a particular legal framework prevent the College from addressing an act of misconduct that falls within the scope of these Procedures or other applicable College policies and procedures.

Sections I-VI and VIII-IX include provisions relevant to sex-based misconduct in all its forms.

Section VII, which describes a grievance process with a required live hearing, applies only to formal Title IX complaints and complaints alleging sexual violence, domestic violence, dating violence or stalking.

Appendix A provides definitions for these Procedures.

### **III. Administration and Enforcement**

#### **A. Title IX Coordinator**

The College has designated the Executive Director Human Resources and Vice President Student Services as the Title IX Coordinator(s). Contact information for the Title IX Coordinator(s) is as follows:

Santina Swiger  
Executive Director Human Resources  
Kishwaukee College  
21193 Malta Road  
Malta, IL 60150  
Telephone: (815) 825-9732  
Email: [sswiger@kish.edu](mailto:sswiger@kish.edu)

Michelle Rothmeyer  
Vice President Student Services  
Kishwaukee College  
21193 Malta Road  
Malta, IL 60150  
Telephone: (815) 825-9807  
Email: [mrothmeyer@kish.edu](mailto:mrothmeyer@kish.edu)

Responsibilities of the Title IX Coordinator(s) include, but are not limited to:

- Overseeing the College's response to all Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports or complaints.
- Being informed of all reports and complaints raising Title IX issues, including those initially filed with another individual or office or if the investigation will be conducted by another individual or office.
- Conducting and/or assigning Title IX investigations, including the investigation of facts relative to a complaint.
  - With respect to Title IX complaints that relate to a College employee as the complainant or as the respondent, the Title IX Coordinator(s) will partner with the Department of Human Resources to manage the investigation into the allegations and recommend any appropriate sanctions against an employee.
  - The Title IX Coordinator must not be the decision-maker for a determination of responsibility in response to a formal Title IX complaint of sexual harassment.

- Coordinating any appropriate supportive measures and ensuring the effective implementation of any remedies.
- Ensuring that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local victim advocacy organizations and services providers, including rape crisis centers.
- Ensuring that adequate training is provided to students, faculty and staff on Title IX issues.
- Monitoring students' participation in athletics and across academic fields to ensure that sex discrimination is not causing any disproportionate enrollment based on sex or otherwise negatively affecting a student's access to equal educational opportunities.
- Developing a method to survey the school climate and coordinating the collection and analysis of information from that survey.
- Promoting an educational and employment environment which is free of sex discrimination and gender bias.

Questions regarding these Procedures or the College's compliance with Title IX and related laws may be directed to the Title IX Coordinator. References in these Procedures to the Title IX Coordinator include any individual designee that the Title IX Coordinator may delegate to perform specific duties.

#### **B. Kishwaukee College Department of Human Resources**

The Department of Human Resources will partner with the Title IX Coordinator with respect to any complaints of sex-based misconduct that involve a College employee as the complainant or as the respondent. For any such complaints that involve a College employee as the respondent and fall outside the scope of Title IX, the Department of Human Resources will manage the investigation into the allegations and issue a decision and any appropriate sanction(s).

For complaints of sex-based misconduct that involve a College employee as the respondent, investigatory and disciplinary procedures required by any applicable collective bargaining agreement will apply in addition to these Procedures.

#### **C. External Agencies**

Inquiries concerning the application of Title IX may be referred to the Assistant Secretary for Civil Rights at the United States Department of Education:

Office for Civil Rights, Chicago Office  
 U.S. Department of Education  
 John C. Kluczynski Federal Building  
 230 S. Dearborn Street, 37<sup>th</sup> Floor  
 Chicago, IL 60604  
 Telephone: (312) 730-1560  
 Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

Additionally, the Illinois Department of Human Rights has established a helpline for individuals to obtain information about their reporting options and referrals to other resources. The helpline is available Monday through Friday, from 8:30 a.m. to 5:00 p.m., at (877) 236-7703.

**IV. Options for Assistance Following an Incident of Sex-Based Discrimination, Harassment or Misconduct**

**A. Emergency Services**

Anyone who experiences or observes an emergency situation should immediately call 911 and/or one of the phone numbers listed below:

DeKalb County Sheriff's Office  
Kishwaukee College  
815-825-9529  
Office: C2177

Director Campus Safety & Security  
Kishwaukee College  
815-825-9465  
Office: C2126

**B. Crisis Response Services**

The following on- and off-campus resources can provide an immediate confidential\* response in a crisis situation, as well as ongoing assistance and support:

\*Talkspace  
<https://www.talkspace.com/kish>

\*Safe Passage  
815-756-5228  
<https://www.safepassagedv.org/>

\*HOPE of Ogle County Domestic Violence Services  
815-562-8890  
<https://hopedv.org/>

Sexual Assault and Abuse: Sexual Assault Hotline  
815-758-7922

Rockford Sexual Assault  
800-564-8441  
<http://www.rockfordsexualassaultcounseling.org/>

\*Indicates Confidential Advisors, as defined in Appendix A.

Note: While the above-listed individuals may maintain a reporting of a person's confidentiality vis-à-vis the College, they may have reporting or other obligations under State law.

### **C. Medical Services**

Individuals may seek treatment for injuries, preventative treatment for sexually transmitted disease, and/or other health services by contacting one of the following health care providers:

Northwestern Medicine Kishwaukee Hospital	815-756-1521
Northwestern Valley West Hospital, Sandwich	815-786-8484
Rochelle Community Hospital	815-562-2181

These health care options which provide medical forensic services (rape kits) and/or Sexual Assault Nurse Examiners at no cost, pursuant to the *Sexual Assault Survivors Emergency Treatment Act* (410 ILCS 70).

Seeking medical treatment also serves to preserve physical evidence of sexual violence.

Off-campus health care providers will generally maintain confidentiality and not share information with the College unless the reporting person requests the disclosure and signs a consent or waiver form. Note, however, that while these health care providers may maintain a reporting person's confidentiality vis-à-vis the College, they may have other reporting obligations under State law.

## **V. Reporting Sex-Based Misconduct**

The College encourages individuals who have experienced sex-based misconduct to talk with someone about what happened so that they can get the support they need and so that the College can respond appropriately.

### **A. Reporting Options and Notification Requirements**

Different employees on campus have different notification obligations when they receive information about conduct that may reasonably constitute sex-based misconduct. The following sections detail the various reporting options for students, employees and other individuals, along with the applicable notification requirements for each option. Regardless of to whom a report is made, the College will provide the person alleged to be the victim, if identified, a concise notification, written in plain language, of the person's rights and options pursuant to these Procedures.

#### **1. Reporting to the Title IX Coordinator**

Individuals are encouraged to report alleged incidents of sex-based misconduct to the Title IX Coordinator directly. The College's Title IX Coordinator(s) are:

Santina Swiger  
Executive Director Human Resources  
Kishwaukee College  
21193 Malta Road  
Malta, IL 60150

Telephone: (815) 825-9732  
Email: [sswiger@kish.edu](mailto:sswiger@kish.edu)

Michelle Rothmeyer  
Vice President Student Services  
Kishwaukee College  
21193 Malta Road  
Malta, IL 60150  
Telephone: (815) 825-9807  
Email: [mrothmeyer@kish.edu](mailto:mrothmeyer@kish.edu)

## 2. Reporting to Responsible Employees

Certain College employees (referred to as “Responsible Employees”) are required to notify the Title IX Coordinator when they have information about conduct that may reasonably constitute sex-based misconduct. This notification must include all relevant details about the alleged sex-based misconduct, including the date, time and specific location of the alleged incident(s) and the names of all involved individuals. To the extent possible, information shared with a Responsible Employee will be disclosed only to the Title IX Coordinator and/or those individuals responsible for handling the College’s response to the report. However, the College may be required to disclose information as part of its response, in order to help maintain a safe and healthy educational and employment environment that is free from harassment and other forms of discrimination.

The following categories of employees are the College’s Responsible Employees:

- Title IX Coordinators
- College Administrators College administrators (Vice Presidents, Deans, Assistant Deans, and Directors)
- Supervisors and Managerial Staff
- All faculty members
- Campus Police DeKalb County Sheriff’s Officers
- Director Student Success
- Student Involvement Office
- Full-time staff members
- Coaches of college athletic teams
- Advisors of the following student clubs/organizations officially recognized by the College: Student Government Association, Phi Theta Kappa, National Society of Leadership and Success, Alpha Delta Nu, Black Student Union, Business Club, Criminal Justice Club, Educators Rising, Floral Club SAIFD, Green Team Horticulture Club, Kougars’ Cheer and Dance, Latinos Unidos, Performing Arts Club, Student Nursing Organization (SNO), and The Tabletop Gaming Club.

### 3. Confidential Reporting

Individuals who wish to confidentially report an incident of sex-based misconduct may make a confidential\* report to the following on-campus Confidential Employees or off-campus confidential resources:

#### Off-Campus Confidential Resources:

\*Talkspace

<https://www.talkspace.com/kish>

\*Northwestern Medicine Ben Gordon Center

866-242-0111

<https://www.bengordoncenter.org/>

\*Sinnissippi Center, Inc. of Ogle County

800-242-7642

<https://sinnissippi.org/>

\*Indicates Confidential Advisors, as defined in Appendix A.

The confidential resources listed in this section are not required to report any information about an alleged incident to the Title IX Coordinator without the reporting party's permission.

Note: While the resources listed above may maintain an individual's confidentiality vis-à-vis the College, they may have reporting or other obligations under State law. Any College employee who suspects or receives knowledge that a person may be an abused or neglected child must: 1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline; and 2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.

Also Note: If the College determines that a person alleged to be the perpetrator of sex-based misconduct poses a serious and immediate threat to the College community, the College may be required to issue a timely warning to the College community. Any such warning will not include any information that identifies the person alleged to be the victim.

### 4. Reporting to Other College Employees

While only designated Responsible Employees are required to notify the Title IX Coordinator when the Responsible Employee has information about conduct that may reasonably constitute sex-based misconduct, all members of the College community (including students) are encouraged to notify the Title IX Coordinator when they have information about such incidents.

### 5. Electronic Reporting and Anonymous Reports

The College maintains an online system for electronic reporting, which can be found at the following link: <https://www.kish.edu/student-life-student-success/filing-report>. The reporting party may choose to provide

their identity or may choose to report anonymously. The system will notify the reporting party, before they enter information, that entering personally identifying information may serve as notice to the College for the purpose of triggering an investigation. Where a reporting party chooses to provide their identity and contact information through the online system, the College will respond to the reporting party within 12 hours with a concise notification, written in plain language, of rights and options pursuant to these Procedures.

#### **B. Student Participation in Public Awareness Events**

Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents are not considered notice to the College of sex-based misconduct for purposes of triggering an obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students’ rights at these events.

#### **C. Immunity for Good-Faith Reporting**

Students who in good faith report an alleged violation of the College’s Policy Prohibiting Sex-Based Misconduct will be granted immunity and will not receive a disciplinary sanction for a student conduct violation (such as underage drinking) revealed during the course of reporting. Immunity will not be provided for student conduct violations which the College determines are egregious, including without limitation misconduct which places the health or safety of another person at risk.

#### **D. Knowingly False Reporting and Statements**

A person who knowingly makes a false report of sex-based misconduct may be subject to disciplinary action, up to and including suspension, expulsion, or termination. The College will not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex-based misconduct occurred. The College is still permitted to address false reports and statements by initiating a disciplinary process under its Student Code of Conduct or employee policies as long as there is evidence independent of the determination of whether sex-based misconduct occurred.

### **VI. College Response to Reports of Alleged Sex Discrimination, Harassment or Other Misconduct**

#### **A. Processing of Report**

Upon receipt of a report, the Title IX Coordinator will analyze the report to determine the appropriate method for processing and reviewing it.

For any report alleging sexual harassment, as defined under Title IX, and/or alleging sexual violence, domestic violence, dating violence or stalking pursuant to the *Preventing Sexual Violence in Higher Education Act*, the Title IX Coordinator will promptly contact the person alleged to be the victim (hereinafter “complainant”) to:

1. Discuss the availability of supportive measures (*see* Section VI.B below);



2. Consider the complainant's wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
4. Explain to the complainant the process for filing a formal complaint.

## **B. Supportive Measures**

Supportive measures (also referred to as "interim protective measures") are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a complainant or respondent. Supportive measures are designed to restore or preserve equal access the College's education program or activity without unreasonably burdening a party, including measures designed to protect the safety of all parties or the College's educational environment, or to deter sexual harassment. Supportive measures can be offered irrespective of whether a formal complaint has been filed.

Examples of supportive measures that the College may offer include, but are not limited to:

- Counseling and mental health support;
- Extensions of deadlines or other course-related adjustments;
- Leaves of absence;
- Changes to academic, living, dining, transportation and/or working schedules or situations;
- Increased security and monitoring of certain areas of campus;
- Issuance and enforcement of mutual campus no contact orders; and
- Enforcement of an order of protection or no contact order entered by a State civil or criminal court.

A report of alleged sex-based misconduct may also prompt the College to consider broader remedial action, such as increased monitoring, supervision or security at locations where the alleged incident occurred; increased education and prevention efforts, including to targeted population groups; the use of climate assessments and/or victimization surveys; and/or revisions to the College's policies and practices.

The College will maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair the College's ability to provide the supportive measures.

The Title IX Coordinator(s) is/are responsible for coordinating the College's implementation of supportive measures.

## **C. Emergency Removals and/or Administrative Leave**

Prior to initiating or completing the Grievance Process in response to a formal complaint, described further in Section VII below, or in the absence of a formal complaint, the College may remove a respondent from the College's education program or activity on an emergency basis. Where the alleged conduct, if proven, would constitute sexual harassment as defined under Title IX, the College will effectuate an emergency removal only where the College has determined, based on an individualized safety and risk analysis, that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. In such cases, the College will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

In addition, the College may place an employee on administrative leave during the pendency of the Grievance Process in response to a formal complaint.

#### **D. Clery Act Reporting Obligations**

Pursuant to the *Jeanne Clery Campus Safety Act* (“Clery Act”), 20 U.S.C. § 1092(f), the College will issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. The *Clery Act* also requires the College to maintain a public crime log and publish an Annual Security Report (“ASR”) available to all current students and employees. The ASR documents three calendar years of select campus crime statistics (including statistics regarding incidents of dating violence, domestic violence, and stalking), security policies and procedures, and information on the basic rights guaranteed to victims of sexual assault.

### **VII. Grievance Process for Complaints Alleging Title IX Sexual Harassment and/or Alleging Sexual Violence, Domestic Violence, Dating Violence or Stalking**

For purposes of this Grievance Process, a formal complaint is a document filed by a complainant or signed by the Title IX Coordinator, alleging (a) sexual harassment in violation of Title IX and/or (b) sexual violence, domestic violence, dating violence or stalking in violation of the *Preventing Sexual Violence in Higher Education Act*; and requesting that the College investigate the allegation. At the time of filing a formal complaint pursuant to this Grievance Process, the complainant must be participating in or attempting to participate in the College’s education programs or activities, either as a student or an employee. Should a formal complaint be filed, the Title IX Coordinator will investigate the formal complaint or appoint a qualified person to undertake the investigation on their behalf.

The College, as it deems appropriate, may extend the timeframes provided in this Grievance Process and may postpone the scheduled date for any proceeding, meeting, or hearing, provided that the extended deadline or postponed date would not exceed a time limit required by law. If the College grants one party’s request for an extension or postponement, that extension or postponement will be made available on an equal basis to both parties.

#### **A. Notice of Allegations**

Within 10 business days after signing a formal complaint or receiving a formal complaint filed by a complainant, the Title IX Coordinator will provide written notice to the parties who are known of the following:

1. This Grievance Process, including the informal resolution process, where applicable.
2. The allegations potentially constituting sexual harassment under Title IX and/or sexual violence, domestic violence, dating violence or stalking under the *Preventing Sexual Violence in Higher Education Act*, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.

3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
5. That the parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations described in the formal complaint or the notice of allegations, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source.
6. The College Code of Conduct provision(s) that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of an investigation, the College decides to investigate allegations that are not included in the initial written notice of allegations, the Title IX Coordinator will provide subsequent written notice of the additional allegations to all known parties.

#### **B. Informal Resolution**

At any time after receiving the initial notice of allegations (*See* Section VII.A above), and prior to a determination regarding responsibility being reached, the complainant and respondent may request to participate in an informal resolution process. Informal resolution will only occur with both parties' voluntary, written consent. At any time prior to agreeing to a resolution, any party will have the right to withdraw from the informal resolution process and resume the Grievance Process with respect to the formal complaint.

The College does not permit informal resolution in cases involving alleged sexual harassment, sexual violence, domestic violence, dating violence or stalking by a College employee toward a student.

#### **C. Consolidation of Formal Complaints**

The Title IX Coordinator may consolidate formal complaints as to allegations against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

#### **D. Dismissal of Formal Complaints**

If, during the course of an investigation or following an investigation into a formal complaint, the Title IX Coordinator or designated Investigator determines that the conduct alleged in the formal complaint would not constitute sexual harassment under regulations implementing Title IX even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator will dismiss the formal complaint with regard to that conduct for purposes of Title IX.

The Title IX Coordinator may dismiss a formal complaint, or any allegations therein, at any time during an investigation if: (1) the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled or employed by the College; or (3) specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal—either of a complaint altogether, or of a complaint for purposes of Title IX—the Title IX Coordinator or Investigator will promptly send written notice of the dismissal and reason(s) for the dismissal simultaneously to the parties. Dismissal of a formal complaint for purposes of Title IX does not preclude action under this Grievance Process or other College policies and procedures. In cases where the College determines that Title IX is not applicable but the College still intends to apply this Grievance Process or other policies and procedures to resolve the alleged misconduct, the College will inform the parties that Title IX is inapplicable but that this Process or other applicable policies and procedures will nevertheless be applied.

#### **E. Investigation of Formal Complaint**

The Title IX Coordinator will appoint one or more trained investigators to undertake an investigation into a formal complaint. Throughout the investigation, the parties will be afforded an equal opportunity to present witnesses including fact and expert witnesses, and other inculpatory and exculpatory evidence. The Investigator will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. Any proceeding, meeting, or hearing held to resolve formal complaints pursuant to this Grievance Process will protect the privacy of the participating parties and witnesses.

Both parties will be afforded an opportunity to be accompanied to any meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney. The advisor's role is limited to providing support, guidance and/or advice, and to conducting cross-examination during the live hearing (*see* Section VII.F below). A party's advisor may not speak on behalf of the party during any meeting, interview or hearing and must comply with all behavioral rules and expectations set forth in these Procedures. If a party's advisor violates these Procedures or engages in behavior that harasses, abuses or intimidates a party, witness or individual resolving a complaint, that advisor may be prohibited from further participation.

When a party's participation is invited or expected at an investigative interview or other meeting, the Investigator will provide that party with written notice of the date, time, location, participants, and purpose of said interview or meeting at least three (3) business days prior to the interview or meeting.

At the conclusion of the investigation and prior to the Investigator's completion of his/her investigative report, the Investigator will send to each party (and the party's advisor, if any) the evidence obtained as part of the investigation that is directly related to the allegations described in the formal complaint and notice of allegations, [in electronic format/in hard copy]. The parties will have 10 business days to submit a written response to the evidence which the Investigator will consider prior to completion of his/her investigative report.

After receiving and reviewing the parties' written responses, if any, the Investigator will create an investigative report that fairly summarizes the relevant evidence, and will forward a copy of his/her report to the Title IX Coordinator. Upon receipt of the Investigator's Report, the Title IX Coordinator will schedule a hearing. At least 10 business days prior to the hearing, the Title IX Coordinator will:

- (1) Provide both parties with written notice of the hearing date, time, location, participants (including the name of the appointed Hearing Officer) and purpose of the hearing; and
- (2) Send to each party (and the party's advisor, if any) the investigative report [in electronic format or hard copy] for their review and written response.

#### **F. Hearings**

A hearing will be conducted by a Hearing Officer appointed by the College. Both parties will have the opportunity to request a substitution if the participation of the appointed Hearing Officer poses a conflict of interest. A party wishing to request a substitution must contact the Title IX Coordinator within three (3) business days after the parties' receipt of the notice of hearing to make such a request.

At the request of either party, the College will arrange for the live hearing to occur with the parties located in separate rooms, with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or witness answering questions. A party wishing to request that the live hearing occur with the parties located in separate rooms must contact the Title IX Coordinator to request such an arrangement at least three (3) business days in advance of the hearing. The College may conduct any live hearing virtually, with the participants in one or more separate geographical locations, and with technology enabling participants simultaneously to see and hear each other.

At the live hearing, each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice and may never be conducted by a party personally.

If a party does not have an advisor who is available to conduct cross-examination on behalf of that party at the live hearing, then the College will provide the party with an advisor of the College's choice, free of charge, to conduct cross-examination on behalf of that party. To invoke this right, the party must notify the Title IX Coordinator at least three (3) business days in advance of the hearing that the party does not have an advisor to conduct cross-examination. A party who fails to notify the College that he/she does not have an advisor within the required three (3) business day timeframe will waive the right to request that an advisor be appointed.

Only relevant questions, as determined by the Hearing Officer, may be asked of a party or witness. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, except where:

1. The questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or
2. 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 Officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.

The College will make all evidence obtained as part of the investigation that is directly related to the allegations described in the formal complaint or the notice of allegations available for the parties' inspection and review during the hearing. In addition, the College will create an audio or audiovisual recording, or transcript, of the live hearing, which the Title IX Coordinator will make available to the parties for inspection and review upon request.

#### **G. Determination Regarding Responsibility**

Within ten (10) business days after the conclusion of the hearing, the Hearing Officer will make a decision regarding responsibility. The Hearing Officer will apply a preponderance of the evidence standard when determining responsibility. Within seven (7) business days of reaching his/her decision, the Hearing Officer will issue a written determination to both parties simultaneously. The written determination will include:

1. Identification of the allegations potentially constituting sexual harassment as defined in regulations implementing Title IX and/or constituting sexual violence, domestic violence, dating violence or stalking pursuant to the *Preventing Sexual Violence in Higher Education Act*;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the College Code of Conduct or other conduct standards to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
6. The procedures and permissible bases for the complainant and respondent to appeal.

#### **H. Appeals**

Both parties will have the right to appeal any determination regarding responsibility, and any dismissal of a formal complaint or allegations therein, to the Director Student Success or designee. An appeal must be based on one or more of the following grounds:

1. A procedural irregularity occurred;
2. New evidence or information exists that could affect the outcome of the matter;

3. The Title IX Coordinator, Investigator or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the matter; and/or
4. The sanction is disproportionate with the violation.

A party who wishes to appeal a determination regarding responsibility or a dismissal of a formal complaint or allegations therein must submit a written appeal request to the Title IX Coordinator within seven (7) business days of the party's receipt of the written determination or written dismissal notice. The written appeal request must identify the ground(s) on which the party seeks to appeal the determination or dismissal.

Within seven (7) business days of the Title IX Coordinator's receipt of an appeal request, the Title IX Coordinator will forward the appeal request to the Director Student Success or designee and will notify the other party in writing that an appeal has been filed. Before reaching a determination regarding the appeal, the Director Student Success will afford both parties an equal opportunity to submit a statement in support of, or challenging, the determination or responsibility or dismissal that is the subject of the appeal. Within seven (7) business days after the Director Student Success or designee has concluded his/her review of the appeal, the Director Student Success or designee will issue a written decision simultaneously to both parties, describing the outcome of the appeal and the rationale for the outcome. The Director Student Success or designee's decision is final.

#### **IX. Board Member Allegations**

Members of the College's Board of Trustees and other elected officials should promptly report claims of sex-based misconduct against a Board member to the Board Chair or College President. If the report is made to the College President, the President shall promptly notify the Board Chair, or if the Board Chair is the subject of the complaint, the Board Vice Chair. When a complaint of sex-based misconduct is made against a member of the Board of Trustees, the Board Chair shall consult with legal counsel for the College to arrange for an independent review of the allegations. If the allegations concern the Board Chair, or the Board Chair is a witness or otherwise conflicted, the Board Vice Chair shall so consult with legal counsel. If the allegations concern both the Board Chair and the Board Vice Chair, and/or they are witnesses or otherwise conflicted, the Board Secretary shall so consult with legal counsel.

#### **X. Prevention and Education for Students**

The College will review on an ongoing basis, its sexual discrimination, harassment and misconduct prevention and education programming to ensure students and employees are provided substantive opportunities to learn about sexual discrimination, harassment and misconduct, including primary prevention, bystander intervention, risk reduction, consent, reporting methods, relevant College policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

The College, in conjunction with the Title IX Compliance Committee established pursuant to the *Campus Security Enhancement Act of 2008* (110 ILCS 12/10), will annually review its prevention and education offerings to identify ways in which to enhance its effectiveness.

## **XI. Training**

The Title IX Coordinator(s), campus law enforcement, campus security, and anyone else involved in the receipt of reports of, responding to, investigating or adjudicating alleged incidents of sexual discrimination, harassment or other misconduct, or involved in the referral or provision of services to survivors, receive annual education and training on primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures, confidentiality requirements, relevant College policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

In addition to the above training, individuals who investigate or resolve complaints, including through informal resolutions, receive at least 8-10 hours of annual training on issues related to *Preventing Sexual Violence in Higher Education Act* offenses including sexual violence, domestic violence, dating violence, and stalking; the scope of the College's education program or activity; the Title IX and College definitions of sexual harassment; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and how to conduct the College's Grievance Process outlined in Section VII, above. Decision-makers in particular receive training on any technology to be used at live hearings and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators in particular receive training on issues of relevance so as to enable them to create an investigative report that fairly summarizes relevant evidence.

All Confidential Advisors receive 40 hours of training on sexual violence before being designated a Confidential Advisor. Annually thereafter, Confidential Advisors attend a minimum of six (6) hours of ongoing educational training on issues related to sexual violence. Confidential Advisors also receive periodic training on the College administrative process, interim protective measures and accommodations, and the College's Grievance Process pursuant to Section VII above.

The College, in conjunction with its Title IX Compliance Committee task force established pursuant to the *Campus Security Enhancement Act of 2008* (110 ILCS 12/10), will annually review its training offerings to identify ways in which to enhance its effectiveness.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.



## APPENDIX A

### Definitions for the College's Sex-Based Misconduct Procedures

- A. **Bystander Intervention:** see Section 5 of the *Preventing Sexual Violence in Higher Education Act*, [110 ILCS 155/5](#).
- B. **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sex-based misconduct.
- C. **Confidential Advisor:** a person who is employed or contracted by the College to provide emergency and ongoing support to student survivors of sexual violence. Confidential Advisors may include persons employed by a community-based sexual assault crisis center with whom the College partners. Individuals designated as "Responsible Employees" in Section V of these Procedures are not Confidential Advisors.
- D. **Consent:** knowing and voluntary agreement to engage in sexual activity. Coercion, force, or the threat of either invalidates consent. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person's manner of dress does not constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: 1) the person is incapacitated due to the use or influence of alcohol or drugs; 2) the person is asleep or unconscious; 3) the person is under age; or 4) the person is incapacitated due to a mental disability.
- E. **Dating Violence:** violence committed by a person: 1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and 2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- F. **Domestic Violence:** includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the State of Illinois and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who:
- is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
  - is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - shares a child in common with the victim; or

- commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of Illinois.
- G. Education Program or Activity:** a location, event, or circumstance over which the College exercised substantial control over both the respondent and the context in which the sex-based misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College.
- H. Hate Crime:** an act or an attempted act that violates a criminal statute by any person that in any way constitutes an expression of hostility toward the victim because of their sex, race, ethnicity, religion, age, disability, national origin, sexual orientation, or gender-related identity, color, marital status, military status or unfavorable military discharge.
- I. Hostile Environment Caused by Sexual Harassment:** a sexually harassing hostile environment is created when conduct by an individual is so severe, pervasive or persistent that it denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the College's educational programs or activities or the individual's employment access, benefits or opportunities. In determining whether a hostile environment has been created, the conduct in question will be considered from both a subjective and an objective perspective of a reasonable person in the alleged victim's position, considering all the circumstances.
- J. Incapacitation:** when a person is incapable of giving consent due to the person's age, use of drugs or alcohol, or because an intellectual or other disability which prevents the person from having the capacity to give consent.
- K. Intimidation:** to intentionally make another timid or fearful, to compel or deter by or as if by threats. Intimidation is a form of retaliation prohibited by the College's Policy Prohibiting Sex-Based Misconduct and these Procedures.
- L. Preponderance of the Evidence:** when considering all the evidence in the case, the decision-maker is persuaded that the allegations are more probably true than not true.
- M. Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sex-based misconduct.
- N. Responsible Employee:** a College employee who has the authority to redress sex-based misconduct, who has the duty to report incidents of such misconduct or other student misconduct, or whom a student could reasonably believe has this authority or duty. Section V of these Procedures lists categories of employees who are Responsible Employees for the College.
- O. Retaliation:** Any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging sexual discrimination, harassment or misconduct, or any person cooperating in the investigation of such allegations (including testifying, assisting or participating in any manner in an investigation) is strictly prohibited and may violate the protections of the *State Employees and Officials Ethics Act*, the *Whistleblower Act*, and the *Illinois Human Rights Act*. Action is generally deemed adverse if it would deter a

reasonable person in the same circumstances from opposing practices prohibited by the College's Sex-Based Misconduct Policy and these Procedures. Retaliation may result in disciplinary or other action independent of the sanctions or supportive measures imposed in response to the allegations of sexual discrimination, harassment or misconduct.

- P. Sexual Assault:** any type of sexual contact or behavior that occurs by force or coercion, without consent of the recipient of the unwanted sexual activity, or in a familial relationship of a degree that would prohibit marriage. It includes sexual acts against a person who is unable to consent either due to age or lack of capacity or impairment. Examples include forcible sexual intercourse, forcible sodomy, forcible fondling, child molestation, incest, attempted rape, statutory rape and rape. Sexual assault can occur between members of the same or opposite sex. Sexual assault includes any forced act against one's will where sex is the weapon.
- Q. Sex-Based Misconduct:** Misconduct on the basis of sex, sexual orientation, gender-related identity and expression, pregnancy, and other protected characteristics related to sex under federal, state, or local law. Such misconduct includes sex discrimination, sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, sexual violence and stalking.
- R. Sexual Exploitation:** when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or a sexually transmitted disease to another, or exposing one's genitals to another in non-consensual circumstances.
- S. Sexual Harassment:** Unwelcome sexual advances, requests for sexual acts or favors, and other verbal, non-verbal or physical conduct of a sexual nature when:
- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, academic advancement, evaluation, or grades;
  - Submission to or rejection of such conduct by an individual is used as a basis for employment, academic advancement, evaluation, or grading decisions affecting that individual;
  - Such conduct has the purpose or effect of substantially interfering with an individual's employment or educational performance or creating an intimidating, hostile, or offensive employment or educational environment; or
  - Such conduct denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the College's educational programs or activities or the individual's employment access, benefits or opportunities.

Examples of conduct of a sexual nature may include:

- Verbal: Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats, whether spoken or in emails, articles, documents, or other writings.
- Non-Verbal: Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures.
- Physical: Touching, pinching, brushing the body, or any unwelcome or coerced sexual activity, including sexual assault.

**T. Sexual Harassment as defined by Title IX:** conduct on the basis of sex that satisfies one or more of the following:

- An employee of the College conditioning the provision of an aid, benefit or service of the College on an individual's participation in unwelcome sexual conduct;
- 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
- "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8) or "stalking" as defined in 34 U.S.C. 12291(a)(30).

**U. Sexual Violence:** physical sexual acts attempted or perpetrated against a person's will or where a person is incapable of giving consent (*e.g.*, due to the person's age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

**V. Survivor:** an individual who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled, employed, or attending an event at a higher education institution.

**W. Survivor-Centered:** *See* Section 5 of the *Preventing Sexual Violence in Higher Education Act*, [110 ILCS 155/5](#).

**X. Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for their safety or the safety of others; or 2) suffer substantial emotional distress.

**Y. Threat:** any oral or written expression or gesture that could be interpreted by a reasonable person as conveying an intent to cause harm to persons or property.

**Z. Trauma-Informed Response:** *See* Section 5 of the *Preventing Sexual Violence in Higher Education Act*, [110 ILCS 155/5](#).