

ADMINISTRATIVE PROCEDURE 3.403

References Board of Trustees Policy: EP 1

Subject: Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy and Procedure

Adopted: January 20, 1996

Amended: August 27, 1998; April 30, 1999; April 9, 2015; February 10, 2021; January 18, 2022

Review: This procedure will be reviewed by the College's EEO/AA Officer by June 30 of every even-numbered year.

I. Policy Statement and Applicable Law

Elgin Community College is committed to maintaining a safe and healthy educational and employment environment that is free from discrimination, harassment and other misconduct on the basis of sex, which includes sexual orientation and gender-related identity. The College prohibits all forms of sex-based misconduct, including but not limited to sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking. The College also prohibits discrimination and harassment on the basis of sex, sexual orientation, gender-related identity and expression, pregnancy, and parental status under its Notice of Non-Discrimination policy.

It is the policy of Elgin Community College to comply with Title IX of the Education Amendments of 1972 ("Title IX"), Violence Against Women Reauthorization Act of 2013 (VAWA), Title VII of the Civil Rights Act of 1964 ("Title VII"), the Illinois Human Rights Act, the Jeanne Clery Disclosures of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), and the Preventing Sexual Violence in Higher Education Act, and all other applicable laws and local ordinances regarding unlawful sex-based discrimination, harassment or other misconduct. Consistent with these and other applicable state and federal laws, Elgin Community College prohibits discrimination on the basis of sex, sexual orientation, and/or gender in any College program or activity. "Sexual misconduct," including sexual harassment, sexual assault, and sexual exploitation, is a form of sex discrimination and is prohibited by this Policy. "Interpersonal violence," including domestic violence, dating violence, and stalking, is also prohibited by this Policy.

Individuals found to have engaged in prohibited sex-based misconduct will be subject to disciplinary action, up to and including termination and/or expulsion from the College.

II. Title IX Compliance

As required under Title IX, the College does not discriminate on the basis of sex in the education program or activity that it operates. This requirement not to discriminate extends to admission and employment.

The College has designated the College Paralegal, EEO/AA, Title IX & FOIA Compliance Officer as the Title IX Coordinator, who is responsible for coordinating the College's efforts to comply with its responsibilities under Title IX. Inquiries about the application of Title IX and 34 C.F.R. Part 106 may be directed to the College's Title IX Coordinator, the Assistant Secretary for Civil Rights at the United States Department of Education, or both.

III. Retaliation Prohibited

Any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting sex discrimination, sexual harassment or other sex-based misconduct, or against any person cooperating in the investigation of allegations of sex-based misconduct (including testifying, assisting or participating in any manner in an investigation), is strictly prohibited.

IV. Implementing Procedures

The College will establish, maintain and publish procedures implementing these Policies and Procedures, which set forth:

- The scope and jurisdiction of the College's prohibition on sex-based misconduct;
- Definitions of prohibited conduct;
- Responsibilities of and contact information for the College's Title IX Coordinator and Human Resource Department;
- Options for assistance following an incident of sex-based discrimination, harassment or other misconduct;
- Procedures for reporting and confidentially disclosing alleged sex-based misconduct, including a mechanism for reporting and independent review of allegations against one elected official by another elected official;
- The College's response to reports of alleged sex-based misconduct;
- The College's grievance process for complaints alleging Title IX sexual harassment and/or alleging sexual violence, domestic violence, dating violence, or stalking;
- Prevention and education programming provided to College students; and
- Training and education provided to the Title IX Coordinator; Program Manager/Assistant Director TRIO-Upward Bound; Director, International Education and Programs/PDSO/ARO; Chief of Human Resource Officer; Vice President of Business and Finance; Associate Vice-President of Student Services and Development/Dean of Students; Assistant Dean of Student Success and Judicial Affairs; Managing Director, Talent Management; Director of Labor and Employee Relations; and General Counsel; 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.

The College's prohibitions against sex discrimination, sexual misconduct and interpersonal violence apply to all students, faculty, and staff, to other members of the College community, and to contractors, consultants, and vendors doing business or providing services to the College.

PROCEDURES IMPLEMENTING THE COLLEGE'S POLICY PROHIBITED SEX-BASED MISCONDUCT

I. Purpose

The College is committed to maintaining a safe and healthy educational and employment environment that is free from discrimination, harassment and misconduct on the basis of sex, which includes sexual orientation or gender-related identity. The purpose of these Procedures is to implement the College's Policy Prohibiting Sex-Based Misconduct and Notice of Non-Discrimination Policy, 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 or sexual orientation, including gender-related identity; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics 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 take immediate and appropriate action once it knows or its Management should know 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 thoroughly investigate any complaints of sexual discrimination, harassment and/or misconduct in accordance with the procedures set forth below.

This Policy applies to on-campus and off-campus conduct, including online or electronic conduct, when the off-campus conduct: (i) occurs during a College sponsored employment or education activity or program; (ii) adversely impacts the education or employment of a member of the College community; or (iii) otherwise threatens the health and/or safety of a member of the College community.

II. Jurisdiction

The College's Policy Prohibiting Sex-Based Misconduct and these implementing Procedures apply to students, faculty, staff, appointees, or third parties, regardless of sexual orientation or gender-identity, whenever the 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.

III. Scope and Relationship to Other Policies

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 require the College not to address an act of misconduct falling within the scope of these Procedures.

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

Sections VI.A and VI.B address specific reporting procedures for students and employees, respectively. Section VIII, which describes a grievance process with a required live hearing, applies only to formal complaints alleging Title IX. Sexual Harassment and/or Interpersonal Violence. All other complaints of sex-based misconduct are investigated and resolved pursuant to the Anti-Discrimination, Harassment, and Retaliation Policy and Procedure (Administrative Procedure 3.40X).

Appendix A provides definitions for these Procedures.

IV. Administration

A. President's Task Force on Discrimination and Harassment

The President has appointed a Task Force on Discrimination and Harassment, to which the College's President has delegated day-to-day responsibility for this Policy. The President's Task Force consists of the following College personnel:

- President's Task Force Chair: Marilyn Prentice, EEO/AA Officer and Title IX Coordinator
 - Contact: Office of the General Counsel, E210; mprentice@elgin.edu; (847) 214-7992
- DeSean Coleman, Program Manager/Assistant Director of TRiO Upward Bound
 - Contact: K102.5; dcoleman@elgin.edu; (847) 214-6942
- Lauren Nehlsen, Associate Dean, Recruitment and Outreach Services and Center for Global Engagement
 - Contact: B105.19; lnehlsen@elgin.edu; (847) 214-7809

The President may modify the composition of the Task Force to the extent deemed necessary or appropriate in order to implement this Policy.

Responsibilities of the Title IX Coordinator 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.
- Implementing and monitoring compliance with Title IX, VAWA, and the Preventing Sexual Violence in Higher Education Act of Illinois on behalf of the College, including the coordination of training, education, communications, and administration of the resolution procedures for handling alleged or suspected violations of this Policy.
- Maintaining documentation of all reports of incidents of sex discrimination, sexual misconduct and interpersonal violence, and for establishing a protocol for recordkeeping of such incidents.
- 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.

Responsibilities of the President's Task Force include, but are not limited to:

- Implementing and monitoring the College's compliance with Title IX and the Illinois Preventing Sexual Violence in Higher Education Act.
- Notifying the Title IX Coordinator of any alleged or suspected violations of this Policy and the resolution of such alleged or suspected violations, regardless of whether a complaint or grievance is submitted.

Any inquiries regarding the application of Title IX, the Illinois Preventing Sexual Violence in Higher Education Act, or the College's Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy should be directed to the Title IX Coordinator or to one of the Task Force members identified above, or to the Assistant Secretary for Civil Rights at the United States Department of Education:

Office for Civil Rights
U.S. Department of Education
500 W Madison St., Suite 1475
Chicago, IL 60661-4544
Telephone: (312)730-1560
E-mail: OCR.Chicago@ed.gov

B. Human Resource Department

The Human Resource Department 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 VII and Title IX, the Human Resource Department 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.

V. Reporting Options and Available Resources On-and Off-Campus

There are various reporting options and resources available to the College community for individuals who wish to make a complaint or report of an alleged or suspected violation of this Policy. The College encourages those who have experienced sexual discrimination or misconduct to talk to one or more of the individuals or agencies identified below.

A. On-Campus Confidential Advisors.

Individuals wishing to obtain confidential assistance without making a report to the College may do so by speaking with one of the College's confidential advisors. The College's Wellness Professionals are available to discuss incidents of sexual misconduct or interpersonal violence in confidence, and generally only report to the College that an incident occurred without revealing

any personally identifying information. Disclosures to confidential advisors **will not** trigger the College's investigation into an incident.

In addition to providing confidential counseling, confidential advisors also provide emergency and ongoing support to individuals who have experienced sexual misconduct or interpersonal violence, including:

- The provision of information regarding the individual's reporting options and possible outcomes, including without limitation, reporting to the College pursuant to this Policy and notifying local law enforcement;
- The provision of resources and services, including, but not limited to, services available on campus and through community-based resources, such as, sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services;
- The provision of information regarding orders of protection, no contact orders or similar lawful orders issued by the College or a criminal or civil court;
- An explanation of the individual's right to have privileged, confidential communications with the confidential advisor consistent with state and federal law;
- Assistance in contacting campus officials, community-based sexual assault crisis centers and/or local law enforcement upon requested; and/or
- Assistance with securing interim protective measures and accommodations upon request.

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

On-Campus Confidential Advisor Contact Information:

Vincent Cascio
Wellness Professional
B120.01
Tel: 847-214-6963
E-mail: vcascio@elgin.edu

Jasmine Young
Wellness Professional
B120.03
Tel: 847-214-7418
E-mail: jyoung@elgin.edu

Coresair Mack
Wellness Professional
A230.01
Tel: 847-214-6925
E-mail: cmack@elgin.edu

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

B. Off-Campus Resources

The following off-campus agencies also employ individuals available to discuss incidents of misconduct in confidence. Disclosures to these entities *will not* trigger the College's investigation into an incident. Please note that limitations of confidentiality may exist for individuals under the age of 18.

- **National Sexual Assault Telephone Hotline:** 800-656-HOPE (4673)
- **State of Illinois Domestic Violence Hotline:** 877-863-6338.
- **Elgin Police:** Emergency: 911
Non-Emergency: 847-289-2700
- **Community Crisis Center of Elgin:** 847-697-2380
- **National Domestic Violence Hotline:** 800-603-4357(HELP)
<http://www.thehotline.org/>
- **Kane County Child Advocacy Center:** saopublic.co.kane.il.us/Pages/Default.aspx
- **Survivors of Incest Anonymous:** www.siaawso.org/

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

*Indicates Confidential Advisors, as defined in Appendix A.

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

C. Reporting to Law Enforcement - Emergency Response

In addition to contacting the Title IX Coordinator or a member of the Task Force, a Complainant has the option to contact the appropriate law enforcement authorities regarding the possibility of filing a criminal complaint. The Title IX Coordinator and other Task Force members are available to assist students and others in making contact with appropriate law enforcement authorities upon request. All complainants have the option to pursue a criminal complaint with an appropriate law enforcement agency, to pursue a harassment complaint under the College's complaint procedures, or to pursue both processes simultaneously.

The College will investigate and resolve alleged or suspected violations of this Policy where appropriate even if a criminal complaint is not pursued by the Complainant. Any pending criminal investigation or criminal proceeding may have some impact on the timing of the College's investigation, but the College will commence its own investigation as soon as is practicable under the circumstances. Even if a criminal investigation is ongoing, the College will conduct its own investigation and will not wait for the conclusion of a criminal investigation or proceeding to begin its investigation.

The College may, in some circumstances, be required by law enforcement to defer the fact-finding portion of its investigation for a limited time while law enforcement gathers evidence. In such cases, the Title IX Coordinator shall inform the parties of the need to defer the College's fact-finding, provide regular updates on the status of the investigation and notify the parties

when the College's fact-finding resumes. During this time period, the College will take any additional measures necessary to protect the Complainant and the College community.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether sexual misconduct or interpersonal violence, for purposes of this Policy, has occurred. In other words, conduct may constitute sexual misconduct or interpersonal violence under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute.

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

On-Campus:

Elgin Community College Police Department: 847-214-7778 or ext. 7777.

If you are in immediate danger, call 7777 from any campus phone for the Elgin Community College Police Department or call 847-214-7777 from any other phone.

In addition to having the option of pursuing a criminal complaint, individuals also have the right to request that law enforcement issue emergency protective restraining orders or to pursue such orders through the court process. The College can assist parties who wish to do so. Complainants who receive emergency or permanent protective or restraining orders through a criminal or civil process should notify the Title IX Coordinator so that the College can work with the individual and the subject of the restraining order to manage compliance with the order on campus.

For more information regarding the option to pursue a criminal complaint or for more information about protective or restraining orders, contact Elgin Community College Police Department at ext. 7777 from any campus phone or 847-214-7777 from any phone.

Off-Campus:

For more information about protective or restraining orders, see/contact:

- Non-emergency: City of Elgin Police Department - (847) 289-2700
- Illinois Legal Aid Online: <https://www.illinoislegalaid.org/legal-information/getting-stalking-no-contact-order>

D. Medical Assistance - Health Care Options

The College also encourages all individuals who feel they have been victims of sexual misconduct or interpersonal violence to seek immediate assistance from a medical provider for emergency services, including treatment of any injury, and to collect and preserve physical and other forms of evidence. Seeking medical attention helps preserve the full range of options, including the options of working through the College's Sexual Misconduct and Interpersonal Violence Complaint Resolution Procedures and/or filing criminal complaints. Medical personnel may be covered by federal and/or state privacy laws, such as the Health Insurance Portability and

Accountability Act (“HIPAA”). Under Illinois law, medical personnel are required to alert police when it reasonably appears that the individual requesting the treatment has received an injury sustained as a victim of a criminal offense, including sexual violence. However, it is the individual’s choice whether he or she wants to speak to the police.

Local medical assistance can be obtained at: Amita Health St. Joseph Hospital, 77 North Airlite Street, Elgin, IL 60123, 847-695-3200.

Seeking medical treatment also serves to preserve physical evidence of sexual violence. Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if he or she chooses not to make a report to the police. In order to best preserve forensic evidence, it is suggested that an individual not shower, bathe, douche, smoke, or change clothes or bedding before seeking medical attention, and that medical attention be sought as soon as possible. If the individual decides to change clothes, he she can bring them unwashed to the hospital or medical facility in a paper bag.

Under Illinois law, emergency medical or forensic examinations (i.e., evidence collection) for sexual assault survivors are provided free of charge to the patient. **Individuals can obtain a free emergency medical or forensic examination at Amita Health St. Joseph Hospital, 77 North Airlite Street, Elgin, IL 60123, 847-695-3200.**

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.

Individuals who have experienced sexual misconduct or interpersonal violence are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other copies of documents.

E. State of Illinois Sexual Harassment and Discrimination Helpline

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.

VI. Making a Report of Alleged Sex-Based Misconduct

Any student, employee or community member who wishes to avail himself or herself of these Procedures may do so by making a report to the Title IX Coordinator or a member of the President’s Task Force.

Although there is no specific time limit for reporting an alleged or suspected violation of this Policy, an individual who believes that he or she has been subjected to conduct that violates this Policy is encouraged to contact the appropriate official as soon as possible after the alleged or

suspected violation to discuss the available options for proceeding.

Students may also make a report to any Responsible Employee, as defined below. Detailed information concerning student and employee reporting follows below.

A. Student Reporting

The College encourages students 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. Different employees on campus have different reporting obligations with regard to alleged sex-based misconduct. Some College employees (referred to as “Responsible Employees”) are required to report all incidents of sex-based misconduct to the Title IX Coordinator, including the identities of the persons involved in the incident. While only designated Responsible Employees are required to report all incidents of sex-based misconduct to the Title IX Coordinator, all members of the College community (including students) are encouraged to report such incidents to the Title IX Coordinator.

The various reporting options available are set forth in further detail below. Regardless of to whom a report is made, the College will provide the person alleged to be the victim, if identified, with concise information, written in plain language, of the person’s rights and options pursuant to these Procedures.

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.

1. Student Reporting to the Title IX Coordinator

Students are encouraged to report alleged incidents of sex-based misconduct to the Title IX Coordinator or President’s Task Force member directly. The College’s Title IX Coordinator and President’s Task Force members are:

- EEO/AA Officer and Title IX Coordinator/President’s Task Force Chair:
Marilyn Prentice, Title IX Coordinator and EEO/AA Officer
Contact: Office of the General Counsel, E210; mprentice@elgin.edu; (847) 214-7992
- President’s Task Force:
DeSean Coleman, Program Manager/Assistant Director of TRiO Upward Bound
Contact: K102.5; dcoleman@elgin.edu; (847) 214-6942
- President’s Task Force:
Lauren Nehlsen, Director, International Education and Programs/PDSO/ARO
Contact: B105.19; lnehlse@elgin.edu; (847) 214-7809

2. Student Reporting to Responsible Employees

A Responsible Employee, as defined in Appendix A, must report to the Title IX Coordinator all relevant details about an alleged incident of sex-based misconduct, sex discrimination, sexual misconduct, or interpersonal violence shared by the student, including the date, time and specific location of the alleged incident, and the names of all involved individuals with the Title IX Coordinator. 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.

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

- Title IX Coordinator and President's Task Force
- College Administrators
- Supervisors and Managerial Staff
- Faculty
- Campus Police
- Coaches
- Advisors of the following student clubs/organizations:
 - ADAPT Club
 - Anime Club
 - Asian Filipino Club
 - Associated Nursing Students
 - Black Student Achievers
 - ECC Observer
 - Educators Rising
 - Engineering Tech Club
 - Forensics Team
 - Gamers United
 - Human Services Club
 - Humanities Center
 - Military Branches United
 - Organization of Latin American Students
 - Performing Arts Club
 - Phi Theta Kappa
 - Spartan Christian Fellowship
 - Spartan Project
 - Student Government
 - Students Who Are Not Silent
 - United Students of All Cultures

Before a student reveals any information to Responsible Employee, the employee should ensure that the student understands the employee's reporting obligations. If the student wants to make a confidential report, the Responsible Employee should direct the student to the confidential resources listed in Section VI.A.3 below.

If the student wants to tell the Responsible Employee what happened but also maintain confidentiality, the employee should tell the student that the College will consider the request, but that the College cannot guarantee it will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the student's request for confidentiality.

3. Confidential Reporting

Responsible employees are also obligated to report any alleged or suspected incident of sex discrimination, sexual misconduct, or interpersonal violence to the Title IX Coordinator even in situations where the Complainant does not want the College to take action on the complaint, or does not want his/her identity revealed.

Students who wish to confidentially report an incident of sex-based misconduct may make a confidential report to:

Vincent Cascio
Wellness Professional
B120.01
Tel: 847-214-6963
E-mail: vcascio@elgin.edu

Jasmine Young
Wellness Professional
B120.03
Tel: 847-214-7418
E-mail: jyoung@elgin.edu

Coresair Mack
Wellness Professional
A230.01
Tel: 847-214-6925
E-mail: cmack@elgin.edu

The individuals in this list are Confidential Advisors, as defined in Appendix A. Professional, licensed counselors who provide mental health counseling to students (including counselors who act in that role under the supervision of a licensed counselor) are not required to report any information about an alleged incident to the Title IX Coordinator without a student's permission.

Note: While the individuals listed above may maintain a student'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 minor student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, is required to: 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 sexual misconduct poses a serious and immediate threat to the College community, College Police may be called upon 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. Electronic and/or Anonymous Reporting

The reporter may choose to provide his/her identity or may choose to report anonymously. Reports may be submitted in person, in writing, electronically, or anonymously, and may be submitted by complainants, third parties, or bystanders. Electronic reports may be submitted at: <https://elgin.edu/about-ecc/college-administration/college-procedures/complaint-policy/>.

5. Note Regarding 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 discrimination, harassment or 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.

B. Employee Reporting

1. Alleged Sex-Based Misconduct of a Student

In addition to the reporting requirements for Responsible Employees, all College employees who have information regarding sex-based misconduct of a student should report it to the Title IX Coordinator or any Responsible Employee.

2. Alleged Sex-Based Misconduct of an Employee

An employee should notify the Title IX Coordinator or Human Resource Department if he or she believes that the College or a member of the College community has engaged in sex discrimination, sexual harassment or other sex-based misconduct in violation of the College’s Policy Prohibiting Sex-Based Misconduct or Notice of Non-Discrimination Policy.

3. Knowingly False Reporting

A person who knowingly makes a false report of sex-based misconduct is subject to these Procedures and could result in disciplinary action, up to and including suspension, expulsion, or termination. A determination regarding responsibility, alone, is not sufficient to conclude that a person knowingly made a false report.

C. Board Member Reporting

Members of the College’s Board of Trustees and other elected officials should promptly report claims of sex-based misconduct against a Board member. Board members and elected officials should 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. The investigator shall prepare a written report and submit it to the Board.

D. Amnesty for Complainants and Witnesses.

The College's primary concern is student safety. To encourage students to make good faith reports of violations of this Policy, the College will not discipline a student who makes a good faith report of sex discrimination, sexual misconduct, or interpersonal violence for any personal consumption of alcohol or drugs at or near the time of the alleged incident, even if the consumption violates the College's Student Code of Conduct, unless the violation endangers the health or well-being of any other individual, in which case such a violation will be addressed separately from the harassment violation.

E. Prohibition against Retaliation

Retaliation is strictly prohibited by the College as well as by Title IX and the Illinois Preventing Sexual Violence in Higher Education Act. No individual who, in good faith, makes a complaint alleging a violation of this Policy, reports or discloses an alleged violation of this Policy, or participates in the investigation or resolution of such a complaint shall be subject to retaliation as a result of such activity or participation. Retaliation is any action taken against an individual that (i) adversely affects the individual's opportunity to benefit from the College's programs or activities; and (ii) is motivated in whole or in part by the individual's filing a complaint or reporting or disclosing an alleged violation of this Policy or participating in the Sexual Misconduct and Interpersonal Violence Complaint Resolution Procedures. Any acts of retaliation, as defined in this Policy, will result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of sex discrimination, sexual misconduct or interpersonal violence. Sanctions for acts of retaliation include: Individuals who engage in retaliation as defined by this Policy are subject to disciplinary action that may include, but is not limited to, the sanctions listed in Section 8 of the College's Sexual Misconduct and Interpersonal Violence Complaint Resolution Procedures, up to and including exclusion, expulsion, or dismissal from the College, and termination of employment, including revocation of tenure.

F. Faculty-Employee/Student Relationships

The College prohibits dating, romantic, or sexual relationships between a faculty member and students that the faculty member currently teaches or supervises. In addition, the College strongly discourages dating, sexual and/or romantic relationships between its employees and students in all other contexts.

In particular, the College discourages faculty members from becoming involved in a dating, sexual, or romantic relationship with students who they do not or will not teach or supervise, as any dating relationship between a student and a faculty member creates the potential for a conflict of interest. Should a faculty member become involved in a consenting dating, sexual, or romantic relationship with a student he or she does not teach or supervise, the faculty member should be careful to refrain from any actions or decisions that may reward or penalize the consenting student. This includes refraining from writing any reference letters, performing

evaluations or recommending the student for scholarships, internships, or future employment.

Faculty members and other College employees may not have evaluative or supervisory authority over a student with whom the faculty member or employee is having or has recently had a dating, romantic or sexual relationship. If such a relationship exists or has existed, the employee must report the relationship to his or her supervisor or the Vice President of Teaching, Learning, & Student Development. If the person to whom the relationship is reported determines that reassignment or other mitigating action is necessary, it is the responsibility of both the employee and the individual to whom the relationship is reported to ensure that the evaluative or supervisory authority is reassigned or other appropriate mitigating action is taken. If such action is not feasible in a particular instance, the faculty member and the individual to whom the relationship is reported must bring the matter to the attention of the Vice President of Teaching, Learning, & Student Development to determine the appropriate course of action. Failure to report a relationship required to be reported under this paragraph is a violation of this policy, and may result in corrective action or discipline.

G. Conflict of Interest

The College requires any individual participating in the investigation, sanctioning or appeal of sexual misconduct or interpersonal violence matters to disclose any potential or actual conflict of interest. The Complainant and Respondent will both receive notice of the individuals or individuals with authority to make a finding or impose a sanction before those individuals initiate contact with either party. If a Complainant or Respondent believes that an investigator has a conflict of interest, the party should submit a request to replace the investigator to the Title IX Coordinator. If the Title IX Coordinator is the investigator believed to have a conflict, the party should submit such request to the Assistant Vice President of Student Services & Development/Dean of Students (when requesting party is a student) or Chief Human Resource Officer (when requesting party is an employee). In cases where a party believes that the appellate decision-maker has a conflict of interest, a request to replace the appellate decision-maker should be submitted to the Title IX Coordinator. In cases where a party believes that the sanctioning official has a conflict of interest, a request to replace the sanctioning official should also be submitted to the Title IX Coordinator. Any individual or individuals reviewing an appeal of the findings or imposed sanctions shall not have participated previously in the complaint resolution procedure.

VII. 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 VII.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, 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 is 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 VIII 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. Such interim measures may include, but are not limited to,

- Removing a student or employee from campus;
- Modifying course schedules and other academic support accommodations;
- Changes to academic, living, dining, transportation, and working situations;
- Counseling, health and mental services, and escort services;
- Obtaining and enforcing a campus “no contact” order; and
- Honoring an order of protection or no contact order entered by a State civil or criminal court.

In cases where the alleged Respondent is a student or student organization and considered a threat to persons or property, the College may impose interim measures such as suspension and/or loss/cancellation of other privileges prior to or during the resolution of sexual misconduct or interpersonal violence allegations. In cases where the alleged Respondent is an employee and considered a threat to persons or property, the College may impose interim measures such as placing an employee on administrative leave (with or without pay) during the resolution and response to a formal complaint.

Any such interim measures will be taken in a manner that minimizes the burden on the Complainant to the extent possible. Interim measures will be kept confidential to the extent that maintaining such confidentiality would not impair the ability of the College to provide the interim measures.

The College 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 by the College and in the community. Students and employees also will be provided with written information about how to request changes to academic, living, dining, transportation, and working situations if requested and reasonably available, regardless of whether the Complainant chooses to report the violation to campus security or local law enforcement

D. Clery Act Reporting Obligations

Pursuant to the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics 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.

E. Mandatory Reporting of Child Abuse, Child Sexual Abuse and Child Neglect

All College employees¹ are mandated reporters under the Illinois Abused and Neglected Children's Reporting Act. Mandated reporters are required to immediately report to the Illinois Department of Children and Family Services (DCFS) suspected child abuse and/or neglect when they have "reasonable cause to believe" that a child known to them in their professional or official capacity may be an abused or neglected child. This is done by calling the DCFS Hotline at 1-800-252-2873 or 1-800-25ABUSE.

- A "child" means any person under the age of 18 years, unless legally emancipated.
- "Abused child" means a child whose parent or immediate family member, any person responsible for the child's welfare, any individual residing in the same home as the child or a paramour of the child's parent:
 - Inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
 - Creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
 - Commits or allows to be committed any sex offense against such child;
 - Commits or allows to be committed an act or acts of torture upon such child;
 - Inflicts excessive corporal punishment;
 - Commits or allows to be committed the offense of female genital mutilation;
 - Causes to be sold, transferred, distributed or given to such child under 18 years of age, a controlled substance, except for controlled substances that are prescribed and dispensed to such child in a manner that substantially complies with the prescription;
 - or
 - Commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor or trafficking in persons.

There is *no* option for confidentiality in the case of suspected child abuse, child sexual abuse and/or child neglect. In other words, all mandated reporters with reasonable cause to believe that a child known to them in their professional capacities may be abused, sexually abused or neglected are required to contact DCFS. Mandated reporters must also notify the Title IX Coordinator that a DCFS report has been made.

VIII. Title IX Sexual Harassment and Interpersonal Violence Grievance Process

The following Procedure applies to formal complaints of Title IX Sexual Harassment and complaints alleging sexual violence, domestic violence, dating violence or stalking in violation of the *Preventing Sexual Violence in Higher Education Act* ("Interpersonal Violence"). All other complaints of sex discrimination and sex-based misconduct are addressed pursuant to the Anti-Discrimination, Harassment, and Retaliation Policy (Administrative Procedure 3.40X).

¹ 1 College volunteers having regular contact with minors are also Mandated Reporters.

These Procedures apply to all suspected or alleged violations of this Policy involving allegations of sexual misconduct or interpersonal violence. These Procedures will be implemented and applied in a manner that is consistent with all applicable collective bargaining agreements. If a complaint includes allegations or an individual files multiple complaint that could invoke more than one Administrative Procedure or other College policy or procedure, the College shall determine in its discretion what process it will use to resolve the complaint(s), and shall notify all parties of its determination. In addition, the College may, upon finding good cause, modify these Procedures in the interests of promoting full and fair resolution of suspected or alleged violations of this Policy in accordance with applicable law. Employees are also encouraged to consult any applicable collective bargaining agreement for additional procedures that may apply.

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) Title IX Sexual Harassment 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 his or her behalf.

The College aims to resolve all Title IX Sexual Harassment and Interpersonal Violence complaints within ninety (90) calendar days, unless the College determines in its discretion that good cause exists to extend the time to complete the investigation, in which case the parties will be notified and provided with an explanation of the reason for the extension of the 90-day period.

The College as it deems appropriate may extend the time provided in this Grievance Process to comply with a requirement 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. Where a party requests an extension of time or postponement of a scheduled date and the College grants the request, such an extension or postponement will be provided on an equal basis to both parties.

A. Notice of Allegations

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 raised in the formal complaint, 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 VIII.A above), and prior to a determination regarding responsibility being reached, the complainant may request to participate in an informal resolution process. Informal resolution will only occur with the complainant's voluntary, written consent. At any time prior to the resolution, the complainant will have the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

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 as defined in 34 C.F.R. § 106.30 (Title IX) even if proved, did not occur in the College'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. In cases where the College determines that Title IX is not applicable but the College still intends to apply this Grievance Process to resolve the alleged misconduct, the College will inform the parties that Title IX is inapplicable but that such Process

will nevertheless be applied. In addition, dismissal of a formal complaint for purposes of Title IX does not preclude action under other College policies and procedures. Complaints may be referred for investigation and resolution under the Anti-Discrimination, Harassment, and Retaliation Policy and Procedure (Administrative Procedure 3.40X).

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 under this Process does not preclude action under other College policies and procedures.

E. Investigation of Formal Complaint

The Title IX Coordinator will appoint members of the President’s Task Force 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 Task Force 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 VIII.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 Task Force 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 Task Force’s completion of their investigative report, the Task Force 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 raised in the formal complaint, in electronic format. The parties will have 10 business days to submit a written response to the evidence, which the Investigator will consider prior to completion of their investigative report.

After receiving and reviewing the parties' written responses, if any, the Task Force will create an investigative report that fairly summarizes the relevant evidence, and will forward a copy of their 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 names of the Task Force members) and purpose of the hearing; and
- (2) Send to each party (and the party's advisor, if any) the investigative report in electronic format for their review and written response.

F. Hearings

A hearing will be conducted by the President's Task Force members. Both parties will have the opportunity to request a substitution if the participation of the appointed Task Force members 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 party's 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 Task Force members and parties to simultaneously see and hearing 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 that 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 Task Force members, 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.

If a party or witness does not submit to cross-examination at the live hearing, either due to absence from the hearing or due to the party's or witness's refusal to answer cross-examination or other questions, the Task Force members may still rely on any statement of that party or witness in reaching a determination regarding responsibility; however, the Task Force members will not draw an inference about the determination regarding responsibility based solely on a party's or witness's 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 raised in the formal complaint 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 Task Force members will make a decision regarding responsibility. The Task Force members will apply a preponderance of the evidence standard when determining responsibility. Within seven (7) business days of reaching their decision, the Task Force members 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 34 C.F.R. § 106.30 (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. Sanctions; Corrective Actions

If the Task Force finds, based on a preponderance of the evidence, that the Respondent violated the College's Sex Discrimination, Sexual Misconduct, and Interpersonal Violence Policy, the final report will be forwarded to the following appropriate sanctioning official for a determination of sanctions and/or other corrective action.

- When the Respondent is a student, the Assistant Vice President of Student Services & Development /Dean of Student Services and Development or designee serves as the sanctioning official.
- When the Respondent is an employee, the Chief Human Resource Officer serves as the sanctioning official.
- When the Respondent is a visitor, the Vice President of Business and Finance serves as the sanctioning official.

Each sanctioning official will receive 8-10 hours of annual training regarding issues related to sexual misconduct, as well as sanctioning guidelines consistent with relevant federal and state law and regulations.

Disciplinary sanctions or corrective actions for violation of the College's Sex Discrimination, Sexual Misconduct, and Interpersonal Violence Policy includes but is not limited to the following: written or verbal apology; discrimination, harassment, or consent education; drug or alcohol counseling; community service; verbal or written warning; probation; suspension, and dismissal or other separation from the College. Employees are advised to consult any applicable collective bargaining agreement for additional information regarding potential disciplinary action. Guests and other third parties who are found to have violated this policy are subject to corrective action deemed appropriate by the College, which may include removal from the College and termination of any applicable contractual or other arrangements.

Where appropriate, the College will also take reasonable steps to remedy the harm to the Reporting Party. Additional corrective actions for the Complainant may include but are not limited to support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support. Corrective actions and remedies at the level of the College may include but are not limited to providing and/or requiring counseling and training, developing educational materials and programming, implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns of violations.

The College may also disclose to the Complainant information about any sanctions or corrective actions taken that relate directly to the Complainant (e.g., a "no contact" order). In no event will the Complainant in matters involving an alleged violation of the Policy that involves sex discrimination, sexual harassment, sexual misconduct or interpersonal violence be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome. In instances where the College is unable to take disciplinary or other corrective action in response to a violation of this Policy because a

Reporting Party requests confidentiality or for some other reason, the College will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

If the College is unable to take disciplinary or other corrective action in response to a violation of this Policy, the College will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

I. 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 College President 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 or Task Force members 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 College President or designee and will notify the other party in writing that an appeal has been filed. Before reaching a determination regarding the appeal, the College President 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 College President or designee has concluded their review of the appeal, the College President or designee will issue a written decision simultaneously to both parties, describing the outcome of the appeal and the rationale for the outcome. The College President or designee's decision is final.

IX. 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 its campus-wide task force 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.

X. Educational Resources and Training

The College will provide the following educational programming regarding sexual misconduct and interpersonal violence.

A. Officials with Responsibility for Investigation or Adjudication of Sexual Misconduct or Interpersonal Violence.

The College will provide officials 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 (sexual violence, domestic violence, dating violence, and stalking), including:

- The College's Policy;
- The relevant federal and State law concerning 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;
- The roles of the College, medical providers, law enforcement, and community agencies in ensuring a coordinated response to a reported incident of sexual violence;
- The effects of trauma on a survivor;
- The types of conduct that constitute sexual violence, domestic violence, dating violence, and stalking, including same-sex violence;
- Consent and the role drugs and alcohol use can have on the ability to consent;
- Cultural sensitivity and compassionate communication skills for dealing with persons reporting sexual misconduct and interpersonal violence;
- Complainant-centered and trauma-informed response training;
- Providing services to or assisting in locating services for complainant; and
- How to conduct the College's Sexual Misconduct and Interpersonal Violence Complaint Resolution Procedures in a way that protects the safety of complainants and promotes institutional accountability.

B. Primary Prevention and Awareness Programs.

The College will provide primary prevention and awareness programs for all incoming students and new employees that include the following:

- A statement that the College prohibits the offenses of sexual assault, domestic violence, dating violence and stalking, and a description of the College's policies that prohibit this conduct;
- The definition of consent and inability to consent, in reference to sexual activity, as defined in the applicable jurisdiction;
- The definition of sexual assault, domestic violence, dating violence, and stalking (or similar offenses) in this Policy and in the applicable jurisdiction;
- The definition of retaliation as it relates to sexual violence;
- A description of safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of sexual assault, domestic violence, dating violence, or stalking against a person other than such individual;
- Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- The procedures that a complainant should follow if sexual assault, domestic violence, dating violence, or stalking has occurred, as described in this Policy;
- The complainant's options for reporting such incidents to the College, to College law enforcement, and to local law enforcement;
- The complainant's options for reporting such incidents to a confidential advisor or other confidential resources;
- Available survivor services;
- The possible sanctions and protective measures that the College may impose following a final determination of a violation of College Policy regarding sexual assault, domestic violence, dating violence, or stalking;
- The procedures for College disciplinary action in cases of alleged sexual assault, domestic violence, dating violence, or stalking, as described in this Policy, including the standard of proof that is used;
- Information about how the College will protect the confidentiality of complainants, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the complainant, to the extent permissible by law, and how 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;
- A statement that the College will provide written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for student and employee complainants both within the College and in the community;
- A statement that the College will provide written notification to complainants about options for, and available assistance in, changing academic, living, transportation, and working situations or protective measures, if so requested by the complainant and if such accommodations are reasonably available, regardless of whether the complainant chooses to report the crime to campus security or local law enforcement; and

- A statement that, when a complainant reports to the College that the complainant has been a victim of sexual assault, domestic violence, dating violence, or stalking, whether the offense occurred on or off campus, the College will provide the complainant a written explanation of the complainant's rights and options.

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 VIII above.

The College, in conjunction with its campus-wide 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.

C. Ongoing prevention and awareness campaigns.

The College will also provide ongoing prevention and awareness campaigns for students and employees that include the information covered in the primary prevention and awareness programs.

APPENDIX A

Definitions for the College's Sex-Based Misconduct Procedures

1. **Bystander Intervention:** see Section 5 of the *Preventing Sexual Violence in Higher Education Act*, [110 ILCS 155/5](#).
2. **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sex-based misconduct.
3. **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 VI of these Procedures are not Confidential Advisors.
4. **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.
5. **Coercion.** to force a person to act based on fear of harm to self or others. Means of coercion may include, but are not limited to, pressure, threats, emotional intimidation or the use of physical force.
6. **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.
7. **Domestic Violence:** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Illinois, or by any other person against an adult or youth victim who is

protected from that person's acts under the domestic or family violence laws of the State of Illinois.

8. **Education Program or Activity:** refers to all the operations of the College, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or other property owned or occupied by the College. It also includes off-campus locations, events, or circumstances over which the College exercises substantial control over the Respondent and the context in which the Title IX Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the College.
9. **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 his or her sex, race, ethnicity, religion, age, disability, national origin, sexual orientation, or gender-related identity, color, marital status, military status or unfavorable military discharge.
10. **Hostile Environment Sexual Harassment:** is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the College's Education Programs or Activities.

In determining whether a hostile environment exists, the College will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. The College will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant's position. A person's adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

Some specific examples of conduct that may constitute Sexual Harassment if unwelcome include, but are not limited to:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Unwelcome kissing, hugging, or massaging
- Sexual innuendos, jokes, or humor
- Displaying sexual graffiti, pictures, videos, or posters
- Using sexually explicit profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- E-mail, internet, or other electronic use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin

- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person's dress in a sexual manner
- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes

11. **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. Where alcohol or other drugs are involved, one does not have to be intoxicated or drunk to be considered incapacitated. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's: decision-making capacity, awareness of consequences and ability to make informed judgments, or capacity to appreciate the nature of the act. Whether a Respondent reasonably should have known that a Complainant was incapacitated will be evaluated using an objective reasonable person standard. The question is whether the Respondent knew, or a sober, reasonable person in the position of the Respondent, knew or should have known, that the complainant was incapacitated.

Because incapacitation may be difficult to discern, individuals are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is incapacitated and therefore unable to give consent.

Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one's responsibility to obtain consent.

12. **Interpersonal Violence:** sexual violence, domestic violence, dating violence or stalking under the *Preventing Sexual Violence in Higher Education Act*.
13. **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.
14. **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.
15. **Quid Pro Quo Sexual Harassment:** is 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.
16. **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sex-based misconduct.
17. **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 VI of these Procedures lists categories of employees who are Responsible Employees for the College.

18. **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.
19. **Sexual Harassment:** refers to Hostile Environment Sexual Harassment or Quid Pro Quo Harassment as defined in this policy.
20. **Sexual Violence:** Also referred to as "Sexual Assault" is 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. Sexual violence may involve individuals who are known to one another or have an intimate and/or sexual relationship, or may involve individuals not known to one another. Sexual violence includes, but is not limited to:
 - **Sexual Penetration without Consent:** Any 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, when consent is not present or coercion and/or force is used.
 - **Sexual Contact without Consent:** The touching of the private body parts of another person for the purpose of sexual gratification, when consent is not present or coercion and/or force is used. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else.
 - **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the laws of the state in which the incident occurred. (For incidents that occur outside of the U.S. (e.g., study abroad programs), Illinois law will apply in determining a violation of this Policy.)
 - **Statutory Rape:** Sexual intercourse with a person who is under the legal age of consent (17 years in Illinois). (For incidents that occur outside of the U.S. (e.g., study abroad programs), Illinois law will apply in determining a violation of this Policy.)

Additional examples include, but are not limited to the following:

- forcible sexual intercourse
- forcible sodomy
- forcible fondling
- child molestation
- incest
- attempted rape
- statutory rape
- 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.

21. **Sex-Based Misconduct:** Misconduct on the basis of sex, sexual orientation or gender-related identity. Such misconduct includes sex discrimination, sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, sexual violence and stalking.
22. **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.
23. **Sexual Violence:** physical sexual acts attempted or perpetuated 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.
24. **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.
25. **Survivor-Centered:** See Section 5 of the *Preventing Sexual Violence in Higher Education Act*, [110 ILCS 155/5](#).
26. **Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress.

27. **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.
28. **Trauma-Informed Response:** See Section 5 of the *Preventing Sexual Violence in Higher Education Act*, [110 ILCS 155/5](#).