



Hebrew College Title IX Sexual Harassment Policy

I. Introduction and Policy Statement

All members of the Hebrew College (“the College”) community deserve to learn, live, and work in an environment free from harassment and discrimination, including gender and sex-based misconduct. The College seeks to foster a safe environment through ongoing education, a clear and consistently upheld Sexual Harassment policy, and fair and equitable investigation and grievance procedures.

All terms capitalized in this policy are defined in Article III.

The College expects members of our community to respect themselves and one another, contribute to the safety and security of our community, and encourage one another to act as active bystanders to prevent, lessen, and curb Sexual Harassment. It is the responsibility of all Community members to share in the work of creating a safe and healthy campus environment, one that reflects our values as a Jewish community and as an educational institution charged with the sacred task of preparing caring and ethical Jewish leaders. We commit to creating a communal culture in which all human beings are respected as reflections of the divine image—treated with the utmost dignity and with care for their personal wellbeing and their physical, emotional, and psychological boundaries. When we fall short of our communal aspirations, we will approach our mistakes in a spirit of teshuvah—full accountability, repentance, and repair.

Sexual assault, sexual harassment, dating violence, domestic violence, stalking, and all forms of discrimination relating to one’s sex or gender identity (hereinafter referred to as “Sexual Harassment”) violate the rights and dignity of those subjected to the Sexual Harassment. When any member of our community (including a student, faculty, staff, trustee, friend, vendor, or visitor) engages in sex or gender-based misconduct, that person exhibits a fundamental failure to act with integrity and to recognize and respect the intrinsic worth of another. Acts of Sexual Harassment, as defined in this policy, are contrary to the College’s educational mission and values and will not be tolerated.

Consistent with the College’s values and applicable state and federal law (including Title IX of the Education Amendments of 1972 (“Title IX”) and its implementing regulations)¹ the College

¹ This interim policy complies with current law, as of November 2022, governing institutional response to allegations of Sexual Harassment, as defined by Title IX (codified at 20 U.S.C. §§ 1681–1688), its implementing regulations (codified at 34 C.F.R. Part 106), and the Massachusetts 2021 Campus Sexual Assault Law (M.G.L. 6 §§ 168D, 168E). The U.S. Department of Education is undertaking a comprehensive review of current Title IX regulations that will likely result in changes to the College’s Title IX policy. This policy shall apply to all reported

will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the College's Education Programs and Activities. As described in more detail throughout this policy, remedies include supportive and protective measures in addition to educational and disciplinary actions commensurate with the reported conduct.

This policy provides the College community with clearly articulated behavioral standards, definitions, key concepts, and resources concerning Sexual Harassment. In addition, the policy provides reporting options and a step-by-step overview of the allegation, investigation, and sanctioning processes.

II. Jurisdiction and Scope

This policy applies to Sexual Harassment that occurs within the College's Education Programs and Activities and that is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the College community.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, outside the scope of the College's Education Programs and Activities, or outside the geographic boundaries of the United States (even if the alleged misconduct occurs in the College's Education Programs and Activities, such as a study abroad program).

The College takes complaints of all sex and gender-based misconduct seriously, and will address sexual and gender-based misconduct not rising to the level of "Sexual Harassment" under the current Title IX regulations through the processes available in the Non-discrimination Policy,² Student Code of Conduct, Employee Handbook, or other applicable College policies.³

III. Definitions

"Sexual Harassment" for purposes of this policy is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, as those terms are defined below. Sexual Harassment may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.

The following definitions apply in this policy:

- A. **"Coercion"** is the use of pressure and/or other oppressive behavior, including expressed or implied threats of physical harm, or severe and/or pervasive emotional intimidation which places an individual in fear of immediate or future harm or physical injury, causing the individual to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully limit the other's

cases meeting the definitions and jurisdictional requirements of this policy unless any provision conflicts with state or federal law or until the College issues an updated policy.

² Non-Discrimination policy found on this page: http://hebrewcollege.edu/wp-content/uploads/2023/03/Hebrew_College_Non-Discrimination_Policy_2023.pdf

³ The College's policies are available at the following link: <https://hebrewcollege.edu/resources/policies-accreditation/>.

ability to freely choose whether or not to engage in sexual activity. Coercion also includes administering a drug, intoxicant, or other substance that impairs the other person's ability to give Consent.

- B. “Complainant”** means the individual who is alleged to have been impacted by a violation of this policy (*i.e.*, the victim).⁴
- C. “Confidential Employee”** means any person designated as a Confidential Employee under Article IV.D.
- D. “Consent”** is a voluntary, ongoing, mutual understanding among all participants that clearly indicates a willingness, through words or clear unambiguous actions, and demonstrates a knowing, intentional agreement to engage in each instance and stage of sexual activity. Knowledge of consent is the responsibility of each person involved in every instance of sexual activity and consent can be withdrawn at any time.

The following list provides examples of when consent has not been obtained or is not effective:

- Consent is not effective when any participant in the sexual activity is unsure if a knowing, intentional, voluntary agreement to engage in each act of sexual activity has been demonstrated.
- A current or previous dating or sexual relationship or manner of dress does not, by itself, establish Consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly demonstrates a willingness to engage in each instance of sexual activity.
- Consent is not effective if one person knew or reasonably should have known that another person involved was Incapacitated, as defined in this policy.
- Consent to one act does not imply Consent to another.
- Consent on a previous occasion does not constitute Consent on a later occasion.
- Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another.
- Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of Consent.
- Consent cannot be inferred from silence, passivity, or lack of resistance.
- Consent is not effective if it results from the use of physical force, a threat of physical force, Coercion, or any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to have sexual activity.
- Consent can be withdrawn or modified at any time, and sexual contact must stop immediately once Consent is withdrawn.

In addition, an individual is unable to provide Consent to engage in sexual activity

⁴ A Complainant and Respondent are each individually a “Party” and collectively the “Parties” with respect to a Formal Complaint filed under this policy.

when the individual:

- Is under age 16;
- Has a mental disorder or developmental or physical disability that renders the individual incapable of giving Consent;
- Is unconscious or physically unable to resist; or
- Is Incapacitated from alcohol or other drugs, and this condition is known, or reasonably should be known, by the Respondent.

E. “Dating Violence” is violence committed by a person who (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 will be determined based on a consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the persons involved in the relationship.

F. “Domestic Violence” is a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Massachusetts, 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 Massachusetts.

G. “Education Programs and Activities” 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, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on 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 Sexual Harassment occurs, including Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the College.

H. “Employee” means an individual who receives compensation for work or services for which the College has the right (whether or not it exercises the right) to supervise and control the manner of performance as well as the result of the work or service. Volunteers and independent contractors are not considered “employees” for the purposes of this Policy.

I. “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Sexual Harassment in

accordance with this Policy. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the College's Education Programs and Activities. A "document filed by a Complainant" means a document or electronic submission (such as an email) that contains the Complainant's physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

- J. "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 and Activities.

In determining whether a Hostile Environment exists, the College will consider the totality of the circumstances, including (but not limited to) factors such as:

- the 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. The College encourages members of the College Community to report any and all instances of Sexual Harassment, even if they are unsure whether the conduct rises to the level of a policy violation.

Sexual Harassment also includes gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender or gender stereotyping, even if those acts do not involve conduct of a sexual nature. Further, making employment or educational decisions based on sexual favoritism or on the basis of gender is strictly prohibited.

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 and Internet 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; or
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes.

K. "Incapacitated" refers to a state of being that prevents an individual from having the mental ability, emotional stability, or maturity to provide Consent at the time the alleged behavior occurs. Incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability or medical condition.

Incapacitation is a state where an individual cannot make an informed and rational decision to Consent to engage in sexual contact because the individual lacks conscious knowledge of the nature of the act (*e.g.*, to understand the "who, what, where, when, why or how" of the sexual interaction), is physically or mentally helpless, or is otherwise unaware that the sexual act is occurring.

Incapacitation can only be found when the Respondent knew or reasonably should have known that the Complainant was Incapacitated when viewed from the position of a sober, reasonable person. Alcohol and/or drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. Being intoxicated or impaired by drugs and/or alcohol is never an excuse to engage in Sexual Harassment and does not excuse one from the responsibility to obtain Consent.

Incapacitation is beyond mere drunkenness or intoxication, and consumption of alcohol or other drugs, inebriation, or intoxication alone are insufficient to establish Incapacitation. The impact of alcohol or drugs varies from person to person, and evaluating Incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual's:

- Decision-making ability
- Awareness of consequences
- Ability to make informed judgments
- Capacity to appreciate the nature or circumstances of the act.

No single factor is determinative of Incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness.

- L. “Preponderance of the Evidence”** is the standard for determining allegations of prohibited conduct under this policy. Preponderance of the evidence means the greater weight of the credible evidence. This standard is satisfied if the evidence and information gathered in the matter indicate that the action is more likely to have occurred than not.
- M. “Quid Pro Quo Sexual Harassment”** occurs when an employee of the College conditions the provision of aid, benefit, or service of the College on an individual’s participation in unwelcome sexual contact.
- N. “Respondent”** means the individual who is alleged to have violated this policy.
- O. “Retaliation”** is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or this policy because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Retaliation is prohibited and is considered a stand-alone policy violation without regard to any finding of responsibility for violation of this policy.
- P. “Sexual Assault”** includes the sex offenses and attempted offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.⁵
- **“Fondling”** is the touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of the victim’s age or because of the victim’s temporary or permanent mental or physical incapacity.
 - **“Incest”** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Massachusetts law, *i.e.*, sexual intercourse between a person and that person’s grandparent, parent, aunt, uncle, daughter, son, sister, brother, niece, nephew, or any person married to any of the foregoing.
 - **“Rape”** is the carnal knowledge of a person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of the victim’s age or because of the victim’s temporary or permanent mental or physical incapacity. There is “carnal knowledge” if there is the slightest penetration of the victim’s vagina or anus by the penis, tongue, finger, or hand of the other person.
 - **“Sexual Assault with an Object”** is using an object or instrument to

⁵ The College’s definition of “Sexual Assault” is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the College to adopt a definition of “Sexual Assault” that incorporates various forcible and non-forcible sex crimes as defined by the FBI’s Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

penetrate, however slightly, the genital or anal opening of another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.

- “**Sodomy**” is oral or anal sexual intercourse with another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of the victim’s age or because of the victim’s temporary or permanent mental or physical incapacity.
- “**Statutory Rape**” is sexual intercourse with a person who is under age sixteen, which is the age of consent as defined by Massachusetts law.

Q. “Stalking” is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition—

1. *Course of Conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, or communicates to or about a person threats, that a reasonable person would regard as threatening bodily injury or death of that person, their family members including someone with whom the person is dating or interferes with that person’s property.
2. *Reasonable Person* means a person under similar circumstances and with similar identities to the person subjected to the stalking behavior would fear for their safety or the safety of others, or suffer substantial emotional distress.
3. *Substantial Emotional Distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

R. “Supportive Measures” are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the College’s Education Programs and Activities without unreasonably burdening another Party, including measures designed to protect the safety of all parties implicated by a report or the College’s education environment, or to deter Sexual Harassment. Supportive Measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services,

changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

- S. **“Title IX Coordinator”** means either the Title IX Coordinator or the Deputy Title IX Coordinator appointed under Article IV.A.

IV. Reporting Sexual Harassment

The College recognizes that the decision on whether or not to share information about Sexual Harassment is personal, and that there are individual and societal barriers to reporting. Not all individuals are prepared to make a report to the College and/or to law enforcement, and individuals are not expected or required to pursue a specific course of action. The College recognizes that choosing to come forward with your story and experience and deciding how to proceed is a process that may unfold over time. Therefore, those involved in an incidence of Sexual Harassment may come forward at any time, even if it is weeks, months, or years after the incident took place.

The College recognizes and respects the right of individuals who have experienced Sexual Harassment to decide when and whether they wish to report misconduct to the College, to law enforcement authorities, to both, or to neither. The College will honor, to the extent practicable, the right of those impacted by Sexual Harassment to decide whether they wish to participate in a College and/or law enforcement investigation. While those involved in the Sexual Harassment incident may choose not to participate in the College’s investigation, the College does have a responsibility to investigate all incidents that are brought forward to ensure community safety.

Individuals wishing to report Sexual Harassment should contact the College’s Title IX Coordinators, law enforcement, or another community member they trust.

A. Title IX Coordinators

The Title IX Coordinator and the Deputy Title IX Coordinators will be responsible for the oversight and implementation of this Policy. Reports may be made in person, by regular mail, telephone, electronic mail to TitleIX@hebrewcollege.edu, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours, to the following individuals:

Dr. Susie Tanchel, Title IX Coordinator
(617) 559-8806
stanchel@hebrewcollege.edu

Rabbi Gita Karasov, Deputy Title IX Coordinator for Students
617.559.8630
dklein@hebrewcollege.edu

Rabbi Daniel Klein, Deputy Title IX Coordinator for Faculty 617.559.8637
djudson@hebrewcollege.edu

Steffi Bobbin, Deputy Title IX Coordinator for Staff
Phone: 617.559.8640
Email: sbobbin@hebrewcollege.edu

B. Medical Treatment and Preservation of Evidence

In cases of sexual assault, and for one's safety and well-being, immediate medical attention is encouraged to evaluate for physical injury, sexually transmitted diseases, and pregnancy. Being examined as soon as possible, ideally within 72 hours, is important for evidence collection, which may be used to support prosecution should the Complainant decide to pursue criminal charges.

C. Employee Reporting Requirements

Hebrew College employees are mandated to work in concert with the Title IX Coordinators to ensure a safe and healthy educational environment. All College employees, with the exception of Confidential Employees, must promptly report if they observe, witness, or otherwise learn about any member of the College community who engaged in or was impacted by Sexual Harassment to a Title IX Coordinator.

Employees should seek to ensure, as early as possible, that anyone who begins to reveal information about sexual or gender-based misconduct to them understands their employee reporting obligations. If the person disclosing the incident wants to maintain confidentiality, the employee should direct the person to a confidential resource before disclosure happens.

Writing required. Employees should submit written reports to the College's online reporting form, available at: http://hebrewcollege.edu/wp-content/uploads/2023/01/TitleIX_Formal-Complaint_Form_2023.pdf. An email or written memo is also acceptable if it can be delivered to a Title IX Coordinator promptly after the employee's duty to report arises. If the urgency of the situation or other circumstances necessitate an initial oral report (whether in person or by phone), the employee should take steps to submit a written report to a Title IX Coordinator promptly thereafter.

Report Contents. The employee's report must include all information concerning the incident known to the employee which is relevant to an investigation under this

Policy, including whether the subject of the report has expressed a desire for an institutional response to the incident or made a request for confidentiality in reporting the incident.

Confidentiality. While Hebrew College employees must report incidents of Sexual Harassment to a Title IX Coordinator, the employee may not further disclose the incident to any other individual other than (a) employees of the College who are necessary to conduct an investigation of the report or any related hearings and (b) a law enforcement officer.

Exceptions. The employee mandatory reporting requirement does not apply to:

1. Individuals who are themselves the victims of the Sexual Harassment;
2. Instances when an employee receives information about Sexual Harassment at a public awareness event sponsored by the College; or
3. Employees designated as Confidential Employees.

Consequences of Non-Compliance. An employee who fails to make a required report may be disciplined following an investigation and any required process under the applicable personnel policy.

Immunity. An employee who, in good faith reports or assists in the investigation of a report under this policy, or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident, will not be subject to disciplinary action under other College policies for violations that are reasonably related to the incident. This immunity does not apply to a person who perpetrates or assists in the perpetration of the incident reported under this policy.

D. Confidential Employees

The College believes it is critical to provide to community members who may be experiencing Sexual Harassment information about available institutional resources to empower those individuals to make informed decisions about their rights and options. Members of the College community may speak to officially designated Confidential Employees about incidents of Sexual Harassment without the conversation triggering a mandatory report of incident details.

The College has designated the following Confidential Employees:

Rabbi Dan Judson, Dean and Chief Academic Officer
617.559.8638
djudson@hebrewcollege.edu

Susan Morrel,
Senior Advisor, Master of Jewish Education
617.559.8657
smorrel@hebrewcollege.edu

A Confidential Employee is not required to report any information that would violate an individual's expectation of privacy, such as the name or other identifying information of an individual who has experienced or allegedly engaged in Sexual Harassment, unless:

- the Confidential Employee is given permission to share the information by the person who disclosed the information;
- there is an immediate threat of harm to self or others;
- the conduct involves suspected abuse of a minor under the age of 18; or
- as otherwise required or permitted pursuant to a subpoena or court order or similar individualized legal requirement communicated to the Confidential Employee.

This provision does not affect any employee's duty to report incidents of sexual misconduct or physical abuse as required by other law.

For employees looking for confidential resources, the College encourages the use of the Employee Assistance Program (EAP). More information on the College's EAP Program can be obtained by contacting the Director of Human Resources.

E. Reports to Law Enforcement

The College recognizes and supports the right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement. In addition, it is important for a victim of sexual harassment, sexual assault, dating violence, domestic violence, or stalking to go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after an incident. The College encourages anyone who experienced or witnessed a crime to make a report to the Newton Police Department by phone at (617) 796-2100 or, in case of emergency, by calling 911.

If a victim of a crime chooses to report to local police, the College will take all reasonable steps to work with law enforcement to facilitate timely investigation and resolution of criminal complaints. Reporting to law enforcement does not preclude any person from seeking additional supportive and remedial measures under this policy and community members are strongly encouraged to file complaints concurrently with the Title IX Office.

The College's definitions of Sexual Harassment, and its process and standard of proof for finding a Respondent responsible for Sexual Harassment differ from those standards and definitions in criminal cases. Law enforcement's determination regarding whether or not to prosecute a Respondent is not determinative of whether the College will conduct a Title IX investigation or conclude that a member of the community has committed Sexual Harassment in violation of College policy. However, any criminal disposition related to the Title IX complaint may be

considered in a Title IX investigation. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

F. External Reports

In addition to reporting to College officials, community members are free to contact either of the following agencies:

Massachusetts Commission Against Discrimination (MCAD)
John McCormack Building
One Ashburton Place
Sixth floor, Room 601
Boston, MA 02108
(617) 994-6000

Equal Employment Opportunity Commission (EEOC)
JFK Federal Building
475 Government Center
Boston, MA 02203
1-800-669-4000

G. Anonymous Reporting

Any individual may report an incident to a Title IX Coordinator anonymously using the online reporting form available at http://hebrewcollege.edu/wp-content/uploads/2023/01/TitleIX_Formal-Complaint_Form_2023.pdf. The College encourages those reporting anonymously to please share as much information as possible as the College's ability to respond to an anonymous report may be limited with less information available to us.

H. Requests for Anonymity

Once a report has been submitted to the Title IX Coordinator, the alleged victim identified in the report may request that the victim's identity remain private, that no investigation occur, or that no disciplinary action be taken. However, the College must determine whether it is required to investigate an alleged incident, even in a case where the victim has requested anonymity, to protect the health and safety of the College community. As necessary, the College reserves the right to initiate a Formal Complaint without the active participation of the victim of the alleged Sexual Harassment.

Factors the College may consider in evaluating whether to move forward with a complaint in these circumstances include: (1) the seriousness of the alleged incident; (2) whether the institution has received other reports of Sexual Harassment committed by the alleged perpetrator; (3) whether the alleged incident poses a risk of harm to others; and (4) any other factors the College determines relevant.

If the Title IX Coordinator elects to file a Formal Complaint, the College will inform the alleged victim of the incident of that decision. Even if the College determines not to investigate the alleged incident, the College may take additional steps the College deems necessary to protect the health and safety of the College's community in relation to the alleged incident.

I. Prohibition on False Complaints

Reports of a violation of this policy must be made in good faith. The College will not tolerate intentional false reporting of incidents. It is also a violation of this policy for any person to knowingly make a materially false statement during the course of an investigation, adjudication, or appeal under this policy. However, filing a complaint or providing information which a party or witness genuinely believes is accurate (*i.e.*, in "good faith"), but which is ultimately dismissed due to insufficient evidence or found to be untrue, does not constitute intentional false reporting. Members of the College community are encouraged to seek assistance even if they are unsure that what they are experiencing is Sexual Harassment. Any person who knowingly files a false complaint is subject to disciplinary action, up to and including termination or dismissal from the College.

J. Retaliation

No member of the College community may retaliate against another member for filing a complaint pursuant to this policy or for cooperating in an investigation of a violation of this policy. Complaints of retaliation should be reported immediately to the Title IX Coordinator. Any person who knowingly and intentionally retaliates against an individual is subject to disciplinary action, up to and including termination or dismissal from the College.

K. Bystander Intervention

The College strongly encourages all community members to take reasonable actions to prevent or stop Sexual Harassment when they observe or become aware of it. Taking action may include directly or indirectly confronting the situation (if it is safe to do so), taking steps to interrupt the situation, seeking assistance from a person in authority to assist, or reporting an incident you are made aware of to a College employee. Individuals who assist in stopping Sexual Harassment will be supported by the College, protected from retaliation, and may receive amnesty (discussed below).

L. Amnesty

The College seeks to remove any barriers to reporting Sexual Harassment by making the procedures for reporting transparent and straightforward. The College recognizes that a student who has been drinking or using drugs at the time the student is are harmed by Sexual Harassment or witnesses another person engaging in Sexual Harassment may be hesitant to make a report because of potential disciplinary

consequences for the student's own conduct. Any student who reports Sexual Harassment will not be subject to disciplinary action by the College for the student's own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies.

M. Timeframe for Reporting

Individuals are encouraged to report Sexual Harassment as soon as possible to maximize the College's ability to respond promptly and equitably. There is no timeframe, though, for reporting an incident, and upon receipt of any report, regardless of when the incident occurred, the College will conduct a Title IX assessment to determine if an investigation should take place. If an incident is brought to the College's attention after a Respondent is no longer affiliated with the College, the College cannot impose disciplinary sanctions. However, the College will take reasonable steps to eliminate Sexual Harassment, prevent its reoccurrence, and remedy its effects, including but not limited to, instituting no trespass orders. The College can also support impacted individuals by identifying external reporting options if requested.

N. Annual Reporting

The College makes an annual report of incidents of sex and gender-based misconduct as required by federal and state law. The Vice President for Finance and Administration compiles the report once a year with records from the Director of Human Resources and the Title IX Coordinator. In the report, only aggregate data is reported; names and details of the incident(s) are not reported and remain confidential.

O. Emergency Notification System (ENS)

If the President or the Vice President for Finance and Administration concludes that a report of Sexual Harassment presents an immediate threat to the College campus community, the College will issue a timely notice of the conduct to the College community to protect the health and/or safety of the broader campus community through the Emergency Notification System. The notice will not contain any personal, biographical, or other identifying information of the survivor/victim/victim/survivor.

V. Preliminary Assessment of Report

Upon receipt of a report, the Title IX Coordinator will conduct a preliminary assessment to determine whether the conduct, as reported, constitutes or could constitute Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of this Policy, and/or could not constitute Sexual Harassment, even if investigated, the Title IX

Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act (“FERPA”). The Title IX Coordinator may refer the report to other College offices, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of this Policy, and/or could constitute Sexual Harassment, if investigated, the Title IX Coordinator will contact the Complainant.

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if such identity is not apparent from the report.

A. Contacting the Complainant

If a report is not closed as a result of the preliminary assessment and the Complainant’s identity is known, the Title IX Coordinator or their designee will promptly contact the Complainant to discuss the following:

- the availability of Supportive Measures with or without filing a Formal Complaint;
- the Complainant’s wishes with respect to such Supportive Measures;
- the process for filing and pursuing a Formal Complaint;
- the importance of going to a hospital for treatment and preservation of evidence as soon as practicable after the incident, if applicable;
- the right to report the incident to the College and to receive a prompt and equitable resolution of the report;
- the right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the College in reporting the crime to law enforcement, or to decline to report the crime to law enforcement; and
- information about resources that are available on campus and in the community.

B. Supportive Measures and Other Services

The Title IX Coordinator or the Coordinator’s designee will coordinate all services for individuals impacted by Sexual Harassment. These services include but are not limited to the Supportive Measures identified in Article III and any of the following: issuing a no-contact order, confidential counseling, academic and residence hall accommodations for students when possible, as well as referrals within the College and in the local community. In addition, the College will allow the Complainant and the Respondent to drop a course in which both parties are enrolled without any academic penalty.

Any individual affected by or accused of Sexual Harassment will have equal access to support and counseling services offered through the College. The College encourages any individual who has questions or concerns to seek support of College-identified resources. The Title IX Coordinator is available to provide information about the College’s policy and procedure and to provide assistance.

Complainant: The Title IX Coordinator or their designee will offer and make available Supportive Measures to the Complainant upon receipt of a report of Sexual Harassment regardless of whether the Complainant elects to file a Formal Complaint.

Respondent: The Title IX Coordinator will notify the Respondent of the availability of Supportive Measures contemporaneously with the Respondent being notified of a Formal Complaint. Once a Formal Complaint has been initiated, the College will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The College will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

All Parties: The College will, to the greatest extent practicable, ensure that each Party or other person who reports an incident of Sexual Harassment is offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident. In addition, all Parties are allowed to drop a course in which both Parties are enrolled without any academic penalty.

Confidentiality: The College will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the College's ability to provide the Supportive Measures in question.

VI. Formal Complaint

A. Filing a Formal Complaint

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the College investigate and adjudicate a report of Sexual Harassment in accordance with this Policy. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the College's Education Programs or Activities.

A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified in Article IV.A above. No person may submit a Formal Complaint on the Complainant's behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the College if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College community. Factors the Title IX Coordinator may consider include (but are not limited to):

1. the seriousness of the alleged incident, including (a) whether a weapon was involved in the incident, (b) whether multiple assailants were involved in the incident, and (c) whether the incident poses a risk of recurrence;
2. whether the institution has received other reports of Sexual Harassment committed by the Respondent;
3. whether the alleged incident poses a risk of harm to others; and
4. any other factors the College determines relevant.

If the Complainant or the Title IX Coordinator files a Formal Complaint, an investigation and adjudication of the complaint will be commenced under this policy. If the Title IX Coordinator elects to proceed as a Complainant, the Title IX Coordinator will inform the alleged victim of the incident of that decision. Regardless of the victim's level of participation in the process, in all cases where a Formal Complaint is filed, the victim of the alleged conduct will be entitled to receive notice of the progress and ultimate disposition of the complaint; to review the evidence and investigative report; and to observe a hearing convened pursuant to this policy.

B. Consolidation of Formal Complaints

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment 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 Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this policy to the singular "Party," "Complainant," or "Respondent" include the plural, as applicable.

C. Dismissal Prior to Commencement of Investigation

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and must dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of this Policy (*e.g.*, because the alleged conduct did not occur in the College's Education Programs and Activities or did not occur in the United States).

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Formal Complaint to other College offices, as appropriate. A dismissal pursuant to this Section is presumptively a final

determination for purposes of this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

D. Notice of Formal Complaint

Within five days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Parties that includes:

- A physical copy of or hyperlink to this policy;
- Sufficient details known at the time so that the Parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notifying the Parties of their right to be accompanied by an advisor of their respective choice;
- Notifying the Parties of their right to inspect and review evidence;
- Notifying the Parties of the College's prohibitions on retaliation and false statements; and
- Information about resources that are available on campus and in the community.

Should the Title IX Coordinator elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the Title IX Coordinator will provide to the Parties a supplemental written notice describing the additional allegations to be investigated.

E. Presumption of Non-Responsibility

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

F. Interim Removal

At any time after receiving a report of Sexual Harassment, the Title IX Coordinator may remove a student Respondent from the College's Education Programs and Activities on a temporary basis if an individualized safety and risk analysis determines 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 the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to promptly meet with the Respondent to provide the Respondent an opportunity to challenge the interim removal.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the College may place the Respondent on administrative leave at any time after receiving a report of Sexual Harassment, including during the pendency of the investigation and adjudication process.

For all other Respondents, including independent contractors and guests, the College retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

VII. Investigation

A. Commencement and Timing

After the written notice of Formal Complaint is transmitted to the Parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the College and not with the Parties. The investigation will culminate in a written investigation report that will be submitted to the adjudicator during the selected adjudication process. Although the length of each investigation may vary depending on the totality of the circumstances, the College strives to complete each investigation within 45 days of the transmittal of the written notice of Formal Complaint.

B. Equal Opportunity

During the investigation, the investigator will provide an equal opportunity for the Parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a Party's opportunity to present testimonial and other evidence that the Party believes is relevant to resolution of the allegations in the Formal Complaint. A Party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

C. Witnesses and Evidence

The investigator will make reasonable attempts to contact and interview individuals who are identified as witnesses with information relevant to the allegations of misconduct. The investigator may elect not to interview witnesses whose sole purpose is to provide character information or who are otherwise unlikely to have relevant information as determined in the sole discretion of the investigator. The investigator will make reasonable attempts to obtain other relevant evidence available from the parties, witnesses, or other College departments.

D. Documentation of Investigation

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.

E. Access to Evidence

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the investigator will transmit to each Party and (if applicable) their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the College may choose not to rely on at any hearing and inculpatory or exculpatory evidence whether obtained from a Party or some other source. The parties will have ten days in which to submit to the investigator a written response, which the investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to the public.

F. Investigation Report

After the period for the parties to provide any written response has expired, the investigator will complete a written investigation report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each Party and their advisor, in either electronic or hard copy form.

VIII. Adjudication

After the investigator has sent the investigation report to the parties, the Title IX Coordinator will transmit to each Party a notice advising the parties of the adjudication processes available under the College's policy. These options include the Hearing Process, Administrative Resolution, and Alternative Resolution, all as defined below. Parties are urged to carefully review this policy, consult with their advisor, and consult with other persons as they deem appropriate (including the Title IX Coordinator, an attorney, or a victim's rights advocate) in order to determine the best pathway for resolving Formal Complaints under this policy.

A. Hearing Process

As mandated by the current Title IX regulations, the hearing process is the default process for adjudicating all Formal Complaints and will be utilized unless both parties voluntarily consent to Administrative Resolution or Alternative Resolution. The hearing process is outlined in detail below.

1. Hearing Officer

After selection of the hearing process as the form of adjudication, the Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint, at the conclusion of the hearing process. The Title IX Coordinator will ensure that the hearing officer is provided a copy of the investigation report and all evidence transmitted to the parties by the investigator.

2. Hearing Notice and Response to the Investigation Report

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of the College's Hearing Procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten days from the date of transmittal of the written notice.

A Party's written response to the investigation report must include:

- To the extent the Party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that a particular piece or class of evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history, or for any other reason;
- A list of any witnesses that the Party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- A list of any witnesses that the Party intends to bring to the hearing without an attendance notice issued by the hearing officer;

- Any objection that the Party has to the College's Hearing Procedures;
- Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- Any other accommodations that the Party seeks with respect to the pre-hearing conference and/or hearing;
- The name and contact information of the advisor who will accompany the Party at the pre-hearing conference and hearing;
- If the Party does not have an advisor who will accompany the Party at the hearing, a request that the College provide an advisor for purposes of conducting questioning.

A Party's written response to the investigation report may also include:

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Sexual Harassment.

3. Pre-Hearing Conference

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with each Party and their advisor. In the hearing officer's discretion, the pre-hearing conference may be conducted in-person or virtually, by use of video and audio technology.

During the pre-hearing conference, the hearing officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing.

4. Issuance of Notices of Attendance

After the pre-hearing conference, the hearing officer will transmit notices of attendance to any College employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any faculty member, supervisor, or other College employee, as necessary, if attendance at the hearing will conflict with job duties, classes, or other College obligations. All College employees are required

to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The College will not issue a notice of attendance to any witness who is not an employee or a student.

5. Hearing

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the College's Hearing Procedures. The hearing will be audio recorded. The audio recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

As required by the current Title IX regulations, the hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the hearing officer, the parties, the advisors, witnesses, and other necessary College personnel together in the same physical location. However, upon request of either Party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio. The hearing may, in the hearing officer's discretion, be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing Procedures and rulings from the hearing officer will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each Party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each Party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other Party and any witnesses, including questions that support or challenge credibility;
- Opportunity for each Party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
- Opportunity for each Party to submit evidence that the Party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
- Opportunity for each Party to make a brief closing argument.

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary College personnel. With the exception of the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them.

While a Party has the right to attend and participate in the hearing with an advisor, a Party and/or advisor who violates the rules of the hearing in such a way as to be materially disruptive may be barred from further participation and/or have their participation limited, as the case may be, in the discretion of the hearing officer.

Subject to the minimum requirements specified in this section, the hearing officer will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility. The hearing officer will independently and contemporaneously screen questions for relevance in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

The hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The hearing officer will have discretion to modify the Hearing Procedures, when good cause exists to do so, and provided the minimal requirements specified above are met.

6. Subjection to Questioning

In the event that any Party or witness refuses to attend the hearing, or attends but refuses to submit to questioning by the Parties' advisors, the statements of that Party or witness, as the case may be, whether given during the investigation or during the hearing, may be considered by the hearing officer in reaching a determination of responsibility. In applying this Section, the hearing officer will not draw an inference about the determination regarding responsibility based solely on a Party or a witness's absence from the live hearing and/or refusal to submit to questioning by the parties' advisors.

7. Deliberation and Determination

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The hearing officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference, during the hearing, or otherwise. The hearing officer will resolve disputed facts using a preponderance of the evidence (*i.e.*, "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Formal Complaint.

8. Written Decision

After reaching a determination and consulting with the Title IX Coordinator, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the College upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline determined in consultation with the appropriate College official, such as the Title IX Coordinator, President, Dean of Students, Director of Human Resources, or the Respondent's supervisor (if the Respondent is an employee);
- Whether the Complainant will receive any ongoing support measures or other remedies as determined by the Title IX Coordinator; and
- A description of the College's process and grounds for appeal.

The hearing officer's written decision will be simultaneously transmitted to the parties. Transmittal of the written decision to the parties concludes the hearing process, subject to any right of appeal.

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the College strives to issue the hearing officer's written determination within 15 days of the conclusion of the hearing.

B. Administrative Resolution

In lieu of the hearing process, the Parties may consent to have a Formal Complaint resolved by Administrative Resolution. Administrative Resolution is voluntary and must be consented to in writing by both parties and approved by the Title IX Coordinator. At any time prior to the issuance of the administrative officer's determination, a Party has the right to withdraw from Administrative Resolution and request a live hearing.

If Administrative Resolution is selected, the Title IX Coordinator will appoint an administrative officer. The Title IX Coordinator will ensure that the administrative officer is provided a copy of the investigation report and a copy of all the evidence transmitted to the parties by the investigator. Each party may, but is not required to, utilize an advisor of their choice to assist them in the Alternative Resolution process.

The administrative officer will promptly send written notice to the Parties notifying the parties of the administrative officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; and setting a date and time for each party to meet with the administrative officer separately. The administrative officer's meetings with the parties will not be held any earlier than ten (10) days from the date of transmittal of the written notice specified in this paragraph.

A Party's written response to the investigation report must include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that a particular piece or class of evidence should be categorically excluded from consideration based on privilege, relevancy, the prohibition on the use of sexual history, or for any other reason;

A Party's written response to the investigation report may also include:

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence;
- Argument regarding whether any of the allegations in the Formal Complaint constitute Sexual Harassment.
- A list of written questions that the Party would like the administrative resolution officer to direct to the other Party or a witness.

After reviewing the Parties' written responses, the administrative officer will meet separately with each party to provide the Party with an opportunity make any oral argument or commentary the Party wishes to make and for the administrative officer to ask questions concerning the Party's written response, the investigative report, and/or the evidence collected during the investigation.

After meeting with each Party and any witnesses the administrative officer deems necessary in their discretion, the administrative officer will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The administrative officer will take care to exclude from consideration any evidence that the administrative officer determines should be ruled inadmissible based on the objections and arguments raised by the Parties in their respective written responses to the investigation report.

The administrative officer will resolve disputed facts using a preponderance of the evidence (*i.e.*, "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Formal Complaint.

Thereafter, the administrative officer will consult with the Title IX Coordinator and will prepare and transmit a written decision which shall serve as a resolution for purposes of Administrative Resolution. If a finding of responsibility is determined for

one or more policy violations, the written decision will include the discipline determined by the administrative officer in consultation with the Title IX Coordinator and other appropriate College officials, such as the Title IX Coordinator, President, Dean of Students, Director of Human Resources, or the Respondent's supervisor (if the Respondent is an employee).

Transmittal of the administrative officer's written decision concludes the Administrative Resolution, subject to any right of appeal.

Although the length of each Administrative Resolution will vary depending on the totality of the circumstances, the College strives to issue the administrative officer's written decision within thirty days of the transmittal of the initiating written notice.

C. Discipline and Remedies

In the event the hearing officer or administrative officer determines that the Respondent is responsible for violating this policy, the officer will, prior to issuing a written decision, consult with an appropriate College official with disciplinary authority over the Respondent and such official will determine any disciplinary sanctions to be imposed. The officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing supportive measures or other remedies will be provided to the Complainant.

Potential sanctions for violating this policy may include, but are not limited to: referral to counseling, educational programs, a written reprimand, community service, probation, or suspension or dismissal from the College.

If the College receives an appropriate request by another postsecondary educational institution, the College will provide to the requesting institution information relating to the College's determination that the student or employee violated this policy.

IX. Dismissal During Investigation or Adjudication

The Title IX Coordinator may dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent was employed by the College at the time of the alleged incident but is no longer employed by the College; or
- Specific circumstances identified by the College prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed pursuant to this section, the Title IX Coordinator will provide written notice of dismissal to the Parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Formal Complaint to other College offices, as appropriate. A dismissal pursuant to this section is presumptively a final determination as it pertains to this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

X. Appeal

A. Grounds for Appeal

Either Party may appeal the determination of an adjudication, or a dismissal of a Formal Complaint, on one or more of the following grounds:

1. A procedural irregularity affected the outcome;
2. There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
3. The Title IX Coordinator, investigator, hearing officer, or administrative officer had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.
4. The sanctions imposed are substantially disproportionate to the severity of the violation.

Appeals are not intended to be full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation and evidence available at the time of the Investigation, and pertinent documentation regarding the grounds for appeal.

B. Deadline to File Appeal

A Party must file an appeal within seven days of the date the Party receives notice of dismissal or determination appealed from or, if the other Party appeals, within three days of the other Party appealing, whichever is later. The appeal must be submitted in writing to the Title IX Coordinator, who will assign and refer the case to an appeal officer. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the four grounds for appeal are being asserted, explain in detail why the appealing Party believes the appeal should be granted, and articulate what specific relief the appealing Party seeks.

C. Resolution of Appeal

Promptly upon receipt of an appeal, the appeal officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the appeal officer determines that the appeal is

not timely, or that it fails to invoke a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

If the appeal officer confirms that the appeal is timely and invokes at least one permitted ground for appeal, the appeal officer will provide written notice to the other Party that an appeal has been filed and that the other Party may submit a written opposition to the appeal within seven days. The appeal officer shall also promptly obtain from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal.

Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the appeal officer will promptly decide the appeal and simultaneously transmit a written decision to the parties that explains the outcome of the appeal and the rationale. The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no Party filing an appeal or, if any appeal is filed, at the point when the appeal officer has resolved all appeals, either by dismissal or by transmittal of a written decision. No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, the College strives to issue the appeal officer's written decision within 21 days of an appeal being filed.

XI. Alternative Resolution

The College may, in the Title IX Coordinator's discretion, facilitate an Alternative Resolution in accordance with the protocol outlined below.

A. Guiding Principles

Generally, alternative resolution involves a structured, supervised interaction between the Parties and/or other affected community members that seeks to identify and meet the needs of the Complainant and/or other affected community members while providing an opportunity for the Respondent to accept responsibility and repair harm to the greatest extent possible. Alternative resolution may not include an investigation, hearing, or disciplinary action against a Respondent (including transcript notations), but may include imposing appropriate and reasonable remedies as agreed to by the Parties. All alternative resolutions are facilitated by a trained administrator or external facilitator.

B. Availability of Alternative Resolution

Alternative resolution is available in matters in which the Title IX Coordinator, in the Title IX Coordinator's discretion, determines it is appropriate. Factors the Title IX Coordinator will consider when determining whether a report of Sexual Harassment is suitable for Alternative Resolution include, but are not limited to:

- the nature and severity of the conduct, including whether the use of force or a weapon was involved;
- the Respondent's prior known disciplinary or criminal conduct, including whether the College has received other reports of Sexual Harassment committed by the Respondent;
- whether the alleged incident poses a risk of harm to other individuals or the community;
- the dynamics of power or control commonly associated with the alleged conduct or the nature of the parties' relationship;
- whether multiple parties are affected or involved;
- any admissions of responsibility by the Respondent; and
- any other factor deemed relevant by the Title IX Coordinator in the interest of overall campus safety or safety of the parties involved.

Consistent with current Title IX regulations, alternative resolution will not be permitted if the Respondent is a non-student employee of the College accused of committing Sexual Harassment against a student.

C. Alternative Resolution Process

At any time after the parties are provided written notice of the Formal Complaint, and before the completion of any appeal, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in alternative resolution, including mediation or restorative justice processes, with the goal of entering into a final resolution agreement resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any alternative resolution process will be determined by the Parties, the assigned facilitator, and the Title IX Coordinator, in consultation together. Prior to commencing the alternative resolution process agreed upon, the Title IX Coordinator or their designee will transmit a written notice to the Parties that:

- Describes the parameters and requirements of the alternative resolution process to be utilized;
- Identifies the individual responsible for facilitating the alternative resolution (who may be another College official, or another suitable individual);
- Explains the effect of participating in alternative resolution and/or reaching a final resolution will have on a Party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the alternative resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each Party must voluntarily provide written consent to the Title IX Coordinator, before the alternative resolution may commence. The College will not pressure or compel any individual to

engage in alternative resolution, to directly confront the other, or to participate in any particular form of alternative resolution. Individuals may be accompanied by an advisor or support person at any meetings related to the alternative resolution process.

If the Parties reach a resolution through the alternative resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will reduce the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the College, except as otherwise provided in the resolution itself, absent a showing that a Party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either Party or to the College. Alternative resolution outcomes are not subject to appeal.

D. Termination of Alternative Resolution

A Party may withdraw the Party's consent to participate in alternative resolution at any time before a resolution has been finalized.

E. Deadlines for Alternative Resolution

The College will strive to complete all alternative resolutions within 30 days. If an alternative resolution process does not result in a resolution within 30 days, and absent an extension, abeyance, or other exception noted by the Title IX Coordinator, the alternative resolution process will be deemed terminated, and the Formal Complaint will be resolved pursuant to the investigation and adjudication procedures above. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended due to the alternative resolution.

During the pendency of the alternative resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

XII. Other Investigation and Adjudication Considerations

A. Advisor of Choice

From the point a Formal Complaint is made, and until an investigation, adjudication, and appeal are complete, each Party will have the right to be accompanied by an advisor of the Party's choice to all meetings, interviews, and hearings that are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing, the advisor will play a passive role and is not permitted to communicate on behalf of a Party, insist that

communication flow through the advisor, or communicate with the College about the matter without the Party being included in the communication. In the event a Party's advisor of choice engages in material violation of the parameters specified for an advisor, the College may preclude the advisor from further participation, in which case the Party may select a new advisor of the Party's choice.

In the event a Party is not able to secure an advisor to attend a hearing and requests the College to provide an advisor, the College will provide the Party an advisor, without fee or charge, who will conduct questioning on behalf of the Party at the hearing. The College will have sole discretion to select the advisor it provides. The advisor the College provides may be, but is not required to be, an attorney.

The College will provide an advisor to any Party upon receipt of a request to the Title IX Coordinator. The College will provide an advisor for any Party at a hearing for the purpose of cross-examining a Party or witness.

B. Conflicts of Interest, Bias, and Procedural Complaints

The Title IX Coordinator, investigator, hearing officer, administrative officer, appeals officer, and alternative resolution facilitator must be free of any material conflicts of interest or material bias. Any Party who believes one or more of these officials has a material conflict of interest or material bias must raise the concern promptly so that the College may evaluate the concern and find a substitute, if appropriate. The failure of a Party to timely raise a concern of a conflict of interest or bias will result in a waiver of the issue for purposes of any appeal.

C. Objections Generally

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the appropriate College official may evaluate the matter and address it, if appropriate. All complaints, concerns, or other feedback relating to the administration of this policy generally or in a particular case should be submitted to the Title IX Coordinator, or to the College's President if the feedback is related to the Title IX Coordinator's execution of the Coordinator's responsibilities.

D. Treatment Records and Other Privileged Information

During the investigation and adjudication processes, the investigator and adjudicator are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party; or

- information or records protected from disclosure by any other legally-recognized privilege, such as the attorney client privilege

unless the College has obtained the Party's voluntary, written consent to do so for the purposes of the investigation and adjudication process.

Notwithstanding the foregoing, the investigator and/or adjudicator, may consider any such records or information otherwise covered by this section if the Party holding the privilege affirmatively discloses the records or information to support the Party's allegation or defense.

E. Sexual History

During the investigation and adjudication processes, a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Notwithstanding the foregoing, a Complainant who affirmatively uses information otherwise considered irrelevant by this Section for the purpose of supporting the Complainant's allegations may be deemed to have waived the protections of this Section.

F. Respondent Withdrawal or Graduation Pending Disciplinary Charges

If a Respondent withdraws, graduates, resigns, or is otherwise separated from the College pending an investigation of a complaint of Sexual Harassment under this policy, the College may, in its discretion, expedite the disciplinary process as necessary to accommodate both the Complainant and the Respondent's interest in a speedy resolution and continue the investigation with or without the participation of the Respondent.

G. Relationship With Criminal Process

This policy sets forth the College's processes for responding to reports and Formal Complaints of Sexual Harassment. The College's processes are separate, distinct, and independent of any criminal processes. While the College may temporarily delay its processes under this policy to avoid interfering with law enforcement efforts if requested by law enforcement, the College will otherwise apply this policy and its processes without regard to the status or outcome of any criminal process.

XIII. Discretion in Application

A. Interpretation

The College retains discretion to interpret and apply this Policy in a manner that is not clearly unreasonable, even if the College's interpretation or application differs from the interpretation of the Parties.

The provisions of this Policy are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the College retains discretion to revise this Policy and the Hearing Procedures at any time, and for any reason. The College may apply Policy revisions to an active case provided that doing so is not clearly unreasonable.

B. Other Sex and Gender-Based Misconduct

This policy applies only to Sexual Harassment as defined in this Policy. The College may refer and resolve complaints of other forms of sex and gender-based discrimination and harassment consistent with other institutional policies, including the College's Non-Discrimination Policy, Student Handbook, and Faculty Handbook.

C. Outside Appointments, Dual Appointments, and Delegations

The College retains discretion to retain and appoint suitably qualified persons who are not College employees to fulfill any function of the College under this policy, including, but not limited to, the investigator, hearing officer, administrative officer, alternative resolution facilitator, and/or appeals officer. The College also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, administrative resolution officer, alternative resolution facilitator, and/or appeals officer.

The functions assigned to a given College official under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, administrative officer, alternative resolution facilitator, and appeals officer, may, in the College's discretion, be delegated by such College official to any suitably qualified individual and such delegation may be recalled by the College at any time.

D. Vendors, Contractors, and Third Parties

The College does business with various vendors, contractors, and other third parties who are not students or employees of the College. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the College retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the College retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

E. Recordings

Wherever this policy specifies that an audio or video recording will be made, the recording will be made only by the College and is considered property of the College, subject to any right of access that a Party may have under this policy, FERPA, and other applicable federal, state, or local laws. Only the College is permitted to make audio or video recordings under this policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this policy is strictly prohibited. Any Party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

F. Amendment of Policy

Hebrew College reserves the right to amend or modify this policy at any time to better serve the community. Any changes will be posted on the Hebrew College webpage and will not apply to open cases at the time of the change, unless specifically stated to the involved parties.