

Employee Sexual Harassment and Sexual Misconduct Policy

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II. OVERVIEW

A. INTRODUCTION

Davidson College is committed to creating and maintaining an environment that is free of sexual misconduct, stalking, and relationship abuse and violence, and that promotes a healthy spirit of responsibility, dignity, and respect in matters of sexual conduct and interpersonal relationships. The college does not condone and will not tolerate sexual misconduct, stalking, or relationship abuse or violence. This Policy provides recourse for members of the campus community who have experienced sexual misconduct, relationship abuse and violence, or stalking, and establishes a process for the college to make a determination whether specific behaviors constitute violations of this Policy.

“Sexual misconduct” is a term that encompasses a broad range of behavior, from harassing statements to criminal sexual assault. Any individual who has been the target of sexual misconduct, stalking, or relationship abuse or violence has the option to make a report to campus police or local law enforcement, to initiate Davidson’s internal procedure as outlined in this Policy, to do both, or to do neither.

The college strongly encourages all members of our community to report any act of sexual misconduct, stalking, or relationship abuse or violence, and to seek appropriate health care and support even if the reporting person does not want to initiate Davidson’s internal procedure. Sexual assault (including rape), physical violence, and stalking are serious criminal acts and we encourage reporting of incidents to the police.

When the college receives a report of sexual misconduct, stalking, or relationship abuse or violence, the college will use the procedures outlined in this Policy to take reasonable, prompt, and appropriate action to respond.

This Policy has been developed consistent with Title IX of the Education Amendments of 1972 (20 U.S.C. § 168 et seq., its implementing regulations, 34 C.F.R. Part 106, and significant guidance documents published by the U.S. Department of Education Office for Civil Rights; and with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) (“the “Clery Act”) and its implementing regulations, 34 C.F.R. Part 668. Please note that the definitions and standard of review in this Policy differ from North Carolina criminal law. (Refer to the college’s Annual Security Report for the North Carolina criminal law definitions for sex offenses, stalking, domestic violence, and dating violence.)

B. NOTICE OF NON-DISCRIMINATION

Davidson College expressly prohibits any form of intimidation or harassment based on race, color, ethnicity, national origin, religion, age, disability, sex, gender or sexual orientation, gender identity, or any other status protected by applicable federal, state, or local law. (see Non-Discrimination and Equal Employment Opportunity).

C. COORDINATION WITH NON-DISCRIMINATION POLICY

The College recognizes that harassment and sexual misconduct related to an individual’s sex, gender or sexual orientation, can occur in conjunction with misconduct related to an individual’s race, color, ethnicity, national origin, religion, age, or disability. Targeting individuals on the basis of these characteristics is also a violation of our community standards. Under these circumstances, the College will coordinate the investigation and resolution efforts to address harassment and sexual misconduct related to the targeted individual’s sex, sexual orientation, or gender together with the conduct related to the targeted individual’s race, color, ethnicity, national origin, religion, age, or disability.

D. SCOPE

This Policy applies to complaints against employees by any members of the Davidson College community, including other employees (regular and temporary), and other individuals associated with Davidson College including but not limited to; visitors, volunteers, independent contractors, vendors or other third parties with whom the college has business or educational dealings, or who have complaints against an employee. This Policy also applies to students who have complaints against an employee. For complaints against students, see *Policies, Procedures and Information on Sexual Misconduct, Relationship Abuse and Violence, and Stalking* available at: <http://www.davidson.edu/offices/dean-of-students/sexual-misconduct/policies-and-procedures>.

In this Policy, “Complainant” refers to the individual who reports an experience or incident of sexual misconduct, stalking, or relationship abuse or violence, regardless of whether that individual makes a formal complaint or seeks a formal resolution. “Respondent” refers to the person whose conduct is alleged to have violated this Policy and whose conduct is being investigated. A “report” refers to any incident or concern regarding sexual misconduct that is reported to the college.

All College community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. Members of the Davidson College community have a responsibility to adhere to College policies and local, state and federal law.

This Policy applies both to on-campus conduct and off-campus conduct that has an actual or potential adverse impact on any member of the College community or the College.

E. COMMITMENT TO ACADEMIC FREEDOM

Teaching, performing research, and learning are subject to the protections of “academic freedom” as described in the college’s policy on academic freedom. Actions or words used in the context of the academic curriculum and teaching environments that serve legitimate and reasonable educational purposes will not be evaluated as harassment or other unlawful discrimination because of the principles underlying academic freedom. However, academic freedom is not a legitimate defense in the case of bona fide discrimination or harassment including sexual misconduct.

III. PROHIBITED ACTS

The College’s Policy, definitions, and standard of review differ from North Carolina criminal law. Neither law enforcement’s determination whether to prosecute nor the outcome of any criminal prosecution is determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

The following defined acts are prohibited, regardless of the sex, sexual orientation, gender identity, or gender expression of the individuals involved.

A. PROHIBITED ACTS DEFINED

IV. SEXUAL MISCONDUCT

“Sexual Misconduct” encompasses a broad range of behavior, from harassing statements to criminal sexual assault. It includes “Non-consensual Sexual Intercourse,” “Non-Consensual Sexual Contact,” “Sexual Exploitation,” and “Sexual Harassment.”

1. Non-Consensual Sexual Penetration

“Non-Consensual Sexual Penetration” is defined as any sexual penetration no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent.

2. Non-Consensual Sexual Contact

“Non-Consensual Sexual Contact” is defined as touching of intimate body parts such as genitalia, groin, breast, buttocks, or mouth or any clothing covering them, without consent; the removal of another person’s clothes without consent; touching a person with one’s own intimate body parts without

consent; compelling another to touch one's intimate body parts without consent; or any other intentional sexual touching with any object by a person upon another person, without consent.

3. Sexual Exploitation

"Sexual Exploitation" occurs when an individual takes non-consensual or abusive sexual advantage of another to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to: engaging in voyeurism; electronic transmission of pornographic or other sexually inappropriate material; exposing one's genitals or breasts in non-consensual circumstances or inducing another to expose genitalia or breasts; and any other sexual activity that goes beyond the boundaries of consent, such as recording of sexual activity, allowing another person to observe sexual activity without the sexual partner's/partners' consent, or engaging in sexual activity with another person while knowingly infected with a sexually transmitted infection (STI) or HIV without informing the other person of the infection.

4. Sexual Harassment

"Sexual Harassment" is defined as conduct with a sexual or gendered element that has the purpose or effect of substantially interfering with a person's work or educational opportunity; creates an intimidating, hostile, or offensive work or educational environment; or otherwise negatively affects a person's work or educational opportunities. Sexual harassment denies an individual dignity and respect and may take on different forms. It includes, but is not limited to:

- Unwelcome verbal, written, or physical conduct that denigrates or shows hostility or aversion toward an individual because of that individual's gender (or the gender of an individual's relatives, friends, or associates);
- Unwelcome threats, derogatory comments, jokes, innuendos, insults, slurs, epithets, negative stereotyping, and other similar conduct that relates to gender; or
- The placement, dissemination, or circulation on campus of any unwelcome written or graphic material (in hard copy or electronic form) that denigrates or shows hostility or aversion toward an individual or group because of gender.

Sexual harassment may further include unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome conduct of a sexual nature where:

- Submission to or tolerance of such conduct is made either an explicit or implicit term or condition of employment, advancement, or promotion or student admissions, enrollment, participation, and programming;
- Submission to or tolerance or rejection of such conduct is used as a basis for employment or for academic, athletic, or other educational decisions affecting an individual;
- The conduct has the purpose or effect of substantially interfering with an individual's work or academic, athletic, or other educational performance; or
- The conduct creates an intimidating, hostile, or offensive work or educational environment.

If an individual has welcomed sexual advances or other harassing conduct (whether sexual or otherwise) by active participation in or encouragement of such activity, that individual should specifically inform the alleged harasser if such conduct is no longer welcome in order for any subsequent conduct to be deemed unwelcome. However, failure to give such notice in any way prevents the college from taking appropriate corrective and/or disciplinary action against the alleged harasser for the behavior.

5. Relationship Abuse and Violence

“Relationship Abuse and Violence” encompasses a broad range of behavior, including, but not limited to, “domestic violence” and “dating violence.” It includes acts of coercion, abuse, violence, or threats of violence between partners in a personal, intimate relationship. The coercive, abusive, violent, or threatening behaviors can be physical, sexual, psychological, verbal, and/or emotional. Relationship Abuse and Violence can occur between current or former intimate partners who have dated, cohabitated, or been married.

6. Domestic Violence

“Domestic Violence” is defined by the Clery Act as a felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner; a person with whom the individual shares a child in common; a person who is cohabitating with, or has cohabitated with, the individual as a spouse or intimate partner; a person similarly situated to a spouse of the individual under the domestic or family violence laws of North Carolina; or any other person against an adult or youth who is protected from that person’s acts under the domestic or family violence laws of North Carolina.

7. Dating Violence

“Dating Violence” is defined by the Clery Act as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the individual. It includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

8. Stalking

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

For purposes of this definition:

- “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, threatens, or communicates to or about a person, or interferes with a person’s property.
- “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the individual being stalked.
- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

B. RELATED TERMS

1. Consent

“Consent” means the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter.

Consent can be communicated by either explicit verbal consent or overt action clearly expressing consent. Such signals of consent must be mutual and ongoing, as well as offered freely and knowingly.

Consent cannot be inferred under circumstances in which consent is not clear, including but not limited to the absence of “no” or “stop,” or the existence of a prior or current relationship or sexual activity. As well, a verbal “no,” even if it may sound indecisive or insincere, constitutes a lack of consent. If at any time during a sexual encounter any confusion or ambiguity should arise on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other’s willingness to continue. Consumption of alcohol, in and of itself, does not relieve an individual of responsibility to obtain ongoing consent.

An individual who is asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, is not able to consent. An individual who is under the age of 16 is not able to consent. Indications of consent are irrelevant if the person is not able to consent.

2. Coercion

“Coercion” is the use of pressure to compel another individual to initiate or continue sexual activity against an individual’s will. Coercion can include a wide range of behaviors, including harassment, intimidation, manipulation, threats, or blackmail. A person’s words or conduct are sufficient to constitute coercion if they impair another individual’s ability to choose whether or not to engage in sexual activity.

3. Incapacitation

“Incapacitation” is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual activity) and/or is physically helpless.

Incapacitation may result from the use of alcohol or drugs, but consumption of alcohol or drugs alone is not sufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual’s decision-making ability; awareness of consequences; ability to make informed judgments; and capacity to appreciate the nature and the quality of an act.

Evaluating incapacitation also requires an assessment of whether the Respondent knew or should have known that the Complainant was incapacitated. In determining whether Respondent should have known that Complainant was incapacitated, the standard is whether a reasonable sober person should have known that Complainant was incapacitated. Indicators of incapacitation may include the following: bloodshot or unfocused eyes; concern expressed by others about the individual; memory loss or disorientation; outrageous or unusual behavior; slurred speech; unsteady gait; vomiting; unconsciousness; and going in and out of consciousness.

V. REPORTING

Any individual who has been the target of sexual harassment, sexual misconduct, stalking, or relationship abuse or violence is strongly encouraged to report the incident.

A. WHERE TO REPORT

The college provides the following options for reporting an act of sexual misconduct, stalking, or relationship abuse and violence. Reporting an incident is encouraged: by reporting, the college can ensure individuals have access to counseling services, support services, and any other interim measures that are appropriate. Incident reports also provide information to help the college provide a safe and non-discriminatory environment for all members of the college community.

1. Report to Campus Police.

Sexual assault (including rape), physical violence, and stalking are serious criminal acts and Complainants are strongly encouraged to report criminal acts to the police. Although the college strongly encourages all members of its community to report violations of this Policy to law enforcement, it is an individual's choice whether or not to make such a report or to decline involvement with the police.

The Davidson College Public Safety Office has staff trained in how to respond to a report of sexual misconduct, relationship abuse and violence, or stalking. Alternatively, a Complainant may request to speak to the Interpersonal Violence Officer (as of July 1, 2016, Assistant Chief Carolyn McMackin serves in this role). Campus Police can assist Complainants with personal safety, seeking medical attention, preserving evidence, or filing a police report. Campus Police also can contact other on- and off-campus resources to assist. Campus Police will record the report for Clery Act purposes, but shall do so without disclosing any personally identifiable information about the Complainant.

- **Campus Police Main Phone: 704-894-2178**
- **Campus Police Office on Duty: 704-609-0344**
- **Carolyn McMackin, Assistant Chief & Interpersonal Violence Officer: 704-894-2913, [camcmackin@davidson.edu](mailto:camcmackin@ davidson.edu)**

2. Report to the Title IX Coordinator or a Deputy Coordinator.

Reports of sexual misconduct can be made to the Title IX Coordinator or any Deputy Title IX Coordinator.

Davidson College has designated a Deputy Title IX Coordinator located in Human Resources to handle employee compliance with Title IX, which prohibits discrimination on the basis of sex in education programs or activities. Sexual misconduct is a form of sex discrimination prohibited by Title IX (as of July 1, 2016, **Karen Truesdale** serves in this role).

- **Davidson College Title IX Coordinator:**
Leslie Grinage, Associate Dean of Students, Chambers 1255, (704) 894-2225, ligrinage@davidson.edu. (In addition to complaints under this Policy, any individual may direct Title IX complaints against **students** to Leslie Grinage.)
- **Davidson College Deputy Title IX Coordinators:**
Katy McNay, Assistant Director of Athletics for Compliance, Baker Sports Complex, (704) 894-2637, kamcnay@davidson.edu (In addition to complaints under this Policy, students may direct complaints regarding **gender equity in athletics** to Katy McNay.)

Karen Truesdale, Associate Director of Human Resources, 11 Jackson Court, (704) 894-2214, katruesdale@davidson.edu (In addition to complaints under this Policy, any individual may direct Title IX complaints against **employees** to Karen Truesdale)

3. Report to a Manager or Responsible Employee.

Employees are encouraged to talk to their managers or anyone in a management position at Davidson to report an incident of sexual harassment or misconduct. Reports made to a manager will be referred to the Title IX Coordinator or a Deputy Title IX Coordinator for assessment. A manager who receives a report must provide all relevant details about the alleged misconduct to the Deputy Title IX Coordinator including the date, time, and location of the alleged misconduct, and the names of: the person who provided the report, the individual who experienced the alleged misconduct, the individual(s) accused of committing the alleged misconduct, anyone else involved in the alleged misconduct.

Reports may also be made to a "Responsible Employee." A "Responsible Employee" is a college employee who is obligated to report incidents of alleged sexual misconduct involving students to the Title IX Coordinator. Responsible employees include faculty, Student Life staff, Resident Life student staff members, Public Safety staff, Human Resources staff, coaching staff, supervisors of student employees, Title IX and Deputy Title IX Coordinators, the President and the Principal Executive Staff. A report made to a Responsible Employee will be referred in the same manner to the Title IX Coordinator or a Deputy Title IX Coordinator for assessment.

B. ROLE OF THE TITLE IX COORDINATOR AND DEPUTY TITLE IX COORDINATORS.

The "Title IX Coordinator" is responsible for overseeing the college's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The Title IX Coordinator and Deputy Title IX Coordinators have responsibility for weighing a Complainant's request for confidentiality and determining whether interim measures and additional remedies are appropriate. Deputy Title IX Coordinators may also serve as investigators.

In the meeting with a Complainant, the Title IX Coordinator or Deputy Title IX Coordinator will provide the Complainant with a written explanation of rights and options under this Policy, including resources and services available, options to request assistance or interim measures and additional remedies, and an explanation of the college's internal procedures. The Title IX Coordinator or Deputy Title IX Coordinator also will report the alleged incident to Campus Police for Clery Act purposes, but may refrain from disclosing personally identifiable information about the Complainant to Campus Police when requested.

C. CONFIDENTIALITY

If a Complainant requests confidentiality of a report, the college will take all reasonable steps to respond consistent with the request.

The college will limit disclosure of information included in a report to those individuals involved in the college's response to the report and to legally required or permitted disclosures. This means only people who need to know will be told.

In the event the college's internal employee procedures are initiated, all persons participating in that process will be required to maintain in confidence all matters presented in the process. The college will limit disclosure of information to those individuals involved in the college's response to the report and to legally required and permitted disclosures.

D. REPORTING OPTIONS FOR THE COMPLAINANT (IF AN EMPLOYEE)

A employee Complainant is not required to take any action when reporting a Policy violation. Should the Complainant wish to take action, the options include:

- [Filing a criminal report](#) with campus police or local police;
- [Pursuing informal resolution](#) of the complaint through the Deputy Title IX Coordinator (see below);
- [Requesting interim measures and additional remedies](#) (see below); and/or
- [Filing a formal complaint](#) with Human Resources (see below);
- Accessing available resources, including counseling.

If a Complainant does not want to pursue the college's internal complaint procedures, he or she may nonetheless access support resources, such as counseling or, request interim measures.

E. COLLEGE INVESTIGATION OF REPORTS

The college is committed to taking appropriate action to resolve incidents of sexual misconduct, stalking, or relationship abuse and violence and to ensure a safe and non-discriminatory environment for all community members.

The college will undertake an appropriate inquiry into all reports, regardless of whether the Complainant wishes to pursue resolution of any kind. The specific steps in the college's inquiry will vary depending on the nature of the allegations; the information available to the college; whether the Complainant elects to pursue criminal charges or files a formal complaint; and other factors. A full investigation will occur if a formal complaint is filed.

As a general rule, the college will not conduct an investigation or take any action without first notifying the Complainant, and will conduct any investigation and respond to a report consistent with the Complainant's request for confidentiality. The college's ability to respond to a report, to prevent its recurrence, or to address its effects may be severely limited if the Complainant requests confidentiality or does not provide the name of the Respondent.

VI. FILING A CRIMINAL REPORT

An employee who wishes to file a criminal report with campus police or local police may go directly to any officer or police station. A Davidson College Campus Police Officer or a representative from Human

Resources is available to accompany any employee to file a police report should the employee request assistance.

A. DAVIDSON COLLEGE CAMPUS POLICE

- Office: Tomlinson Hall—Basement, 704-894-2178 (8:00 AM-4:30 PM)
- Campus Police Office on Duty: 704-609-0344 (24/7)
- Carolyn McMackin, Assistant Chief & Interpersonal Violence Officer: 704-894-2913, [camcmackin@davidson.edu](mailto:camcmackin@ davidson.edu)

B. LOCAL POLICE DEPARTMENTS

- Town of Davidson Police: 704-892-5131
- Cornelius Police: 704-892-1363
- Huntersville Police: 704-875-6542
- Mooresville Police: 704-664-3311

C. CONCURRENT OR SUBSEQUENT LEGAL PROCEEDINGS

The college's Policy, definitions, and standard of review differ from North Carolina criminal law. Neither law enforcement's determination whether to prosecute the Respondent nor the outcome of any criminal prosecution is determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

This complaint resolution process is separate from any criminal proceedings or civil litigation. Information provided as part of the complaint resolution process may be used in criminal proceedings or other legal proceedings.

In the event there is a criminal investigation involving acts that are alleged violations of this Policy, the college will fulfill its responsibility to take prompt and appropriate action to provide interim measures and resources to the Complainant. The college will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation and may need to delay temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed its gathering of evidence, the College will resume and complete its investigation. If the Complainant wishes to file a formal complaint under this Policy while criminal proceedings are pending, or if the Title IX Coordinator determines that the college must file a formal complaint, the college will not wait for the conclusion of the criminal case to proceed with the disciplinary process.

Individuals who report an alleged violation of this Policy shall be informed that they may request that a Davidson College campus police officer be present during a meeting with the Title IX Coordinator or an

Investigator so that they can simultaneously provide a statement for campus police and for the college's investigation.

VII. PURSUING INFORMAL RESOLUTION

Informal resolution is a viable option when the parties desire to resolve the situation cooperatively or when a formal investigation is not desired by the Complainant. Informal resolution is particularly appropriate if the conduct is isolated and does not involve allegations of nonconsensual sexual penetration or nonconsensual sexual contact.

A Complainant is encouraged to speak with the Deputy Title IX Coordinator to discuss a variety of means of informal resolution.

VIII. REQUESTING INTERIM MEASURES OR ADDITIONAL REMEDIES

Complainants seeking the assistance of interim measures or additional remedies should speak with the Title IX Coordinator or a Deputy Title IX Coordinator, who will evaluate and, if warranted, will coordinate an interim response to the request. Even when a Complainant does not specifically request that protective action be taken, the college may choose to impose interim measures or additional remedies at its discretion to ensure a safe and nondiscriminatory environment for community members.

Possible interim measures and additional remedies for employees include:

- No-contact order between Respondent and Complainant
- Limiting access to certain college facilities or activities
- Limiting access to campus to specific times of day
- Alteration of work schedules or job assignments
- Alteration of office arrangements
- Removal from on-campus housing
- Suspension with or without pay from on-campus employment
- Voluntary leave of absence
- Access to counseling services and related release time
- Providing an escort to ensure safe movement on campus
- Other remedies that may be tailored to the involved individuals to achieve the goals of this Policy

Additional interim measures and additional remedies may be available for students bringing reports under this Policy. See *Policies, Procedures and Information on Sexual Misconduct, Relationship Abuse and Violence, and Stalking*.

IX. FILING A FORMAL COMPLAINT

To initiate the college's internal complaint procedures the Complainant must file a formal complaint with the Director of Human Resources if the Respondent is an employee (faculty, staff or temporary non-student). A formal complaint must include, at a minimum, the time, place, and type of Prohibited Act(s) alleged, a factual summary of the alleged incident(s), and the name of the Respondent, if known. The Complainant may file the complaint in writing or verbally.

A. WHO MAY FILE

Any individual may file a formal complaint against an employee for an alleged violation of this Policy. In the event the Title IX Coordinator determines the college must file a complaint on behalf of an affected individual who has requested confidentiality or is otherwise unable or unwilling to participate in the process, the college shall be the Complainant and the affected individual shall be considered a witness and will be entitled to receive all notifications due to Complainant under this Policy, including notification regarding the outcome of the process.

B. ASSISTANCE OF AN ADVISOR

The Complainant and Respondent may have the advisors of their choice present during any meeting or proceeding related to complaint resolution procedures under this Policy, including meetings related to investigation of the formal complaint. The advisor's role is to provide support, guidance, or advice to the Complainant or Respondent. The advisor has no formal role in the complaint resolution process and cannot act on behalf of the Complainant or Respondent in relation to the complaint resolution process. The advisor's role in any meeting or proceeding is limited to requesting reasonable breaks to confer privately with the advisee. Advisors may not record the meetings or proceedings, take notes, ask questions, or otherwise actively participate in meetings or proceedings. The Complainant and Respondent may share with their advisor notices and information provided to them in relation to complaint resolution under this Policy, provided that the advisor shall keep such materials confidential unless the advisor is otherwise authorized to disclose the information contained therein.

While the college will make reasonable efforts to accommodate the schedule of a party's advisor in scheduling meetings, an advisor's inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding.

C. INVESTIGATION OF A FORMAL COMPLAINT

1. Decision to Investigate and Notification

Upon receipt of a formal complaint, the Director of Human Resources will determine whether the allegations in the formal complaint, if proven, would constitute a violation of this Policy. If the allegations would constitute a violation of this Policy, then the Director of Human Resources shall prepare a written Notice of Investigation which will include: the nature, time, and place of the alleged violation(s), the name and contact information of the Investigator, a statement regarding confidentiality of the process, and a statement on the policy which prohibits retaliation. The Director of Human

Resources will provide both Complainant and Respondent with the written Notice of Investigation, and will also provide the parties with a copy of this Policy.

If the allegations in the formal complaint would not meet the definition of harassment and discrimination as defined in this Policy, the Director of Human Resources will provide notice to the Complainant that the college does not intend to investigate the complaint and will provide the reasons the complaint has been rejected for investigation under this policy.

1. Respondent Acceptance of Responsibility or Voluntary Resignation

The Respondent may choose to accept responsibility for the alleged violation prior to, or during the course of, an investigation. If the Respondent chooses this option, the Respondent must submit a written statement accepting responsibility for the alleged violation and waiving all rights to an investigation and determination of responsibility. In such cases, the Director of Human Resources will determine the disciplinary action and will notify Respondent and Complainant of the decision in writing within three days of receiving the Respondent's written statement accepting responsibility. By accepting responsibility, Respondent also accepts the Director of Human Resources' decision on disciplinary action as final.

A Respondent may also voluntarily resign a position at Davidson at any time during the process.

2. Investigators

Investigators are individuals who have received specialized training in conducting sexual misconduct investigations. Investigators are neutral fact finders who, during the course of the investigation, typically conduct interviews with the Complainant, the Respondent, and third party witnesses; take custody of any physical or electronic records or documents to be included in an investigation report; visit and take photographs at each relevant site; and, where applicable, coordinate with Campus Police or other law enforcement agencies. Investigators prepare a written investigation report for the Director of Human Resources to use to determine whether to charge the Respondent with a violation of this Policy.

Investigators are authorized to contact any relevant individuals and to access any relevant records not otherwise prohibited by legal protections of privilege or confidentiality.

Depending on the circumstances, the Director of Human Resources may appoint a single Investigator or team of Investigators to conduct the investigation. The Director of Human Resources may appoint as Investigators a Deputy Title IX Coordinator, trained staff members or an external expert Investigator (generally an attorney). An external Investigator may be appointed in the event there are insufficient staff resources to investigate a complaint, there is a legitimate conflict of interest between the available staff Investigators and a party to the complaint, the complaint is particularly complex, or in any other case that the Director of Human Resources, in his or her discretion, deems it advisable.

3. Preservation of Evidence

When an individual experiences sexual assault, evidence of the assault may still be present on the body. The college strongly recommend that the individual take steps to preserve evidence of the assault regardless of whether or not the individual has decided to file a criminal report. Within up to 96 hours after the assault, the college strongly encourages the individual to receive a physical examination from a sexual assault nurse examiner (SANE) at a local hospital. It is highly recommended that the individual refrain from bathing, washing, douching, smoking, or changing clothes prior to the exam so that

evidence may be preserved to the greatest extent possible. If the individual does not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infection(s).

There may also be physical evidence of the assault at the location where the individual was assaulted. Campus Police can assist the individual in the collection and preservation of physical evidence regardless of whether or not a criminal report is filed. It is important that the area where the assault occurred is not cleaned or disturbed by anyone (including touching anything in this area) so that evidence may be preserved and not contaminated. In all cases of sexual misconduct, domestic violence, dating violence, or stalking, the individual is encouraged to preserve evidence by saving text messages, instant messages, social networking pages, and other communications, and keeping pictures, logs, or other documents, if any, that would be useful to the investigation and/or to police.

4. Information Concerning Unrelated Sexual Activity

Information concerning the unrelated sexual activity of Complainant is irrelevant and shall not be considered in the complaint resolution process except in the case that the Investigator determines there is relevant information regarding sexual activity between Complainant and Respondent.

Information concerning the unrelated sexual activity of Respondent is irrelevant and shall not be considered in the complaint resolution process except in the case that the Investigator determines the information alleges behavior that is sufficiently similar in nature to suggest a pattern of behavior. Information that suggests a pattern of behavior may be considered in the complaint resolution process regardless of whether Respondent was formally charged with a violation of this Policy.

5. Timeframe

The length of the investigation depends on the circumstances of each case, but the college will make every effort to complete an investigation in 30 days.

In typical cases, the timeframe for the complaint resolution process (starting with the filing of a formal complaint) will not exceed sixty (60) days. In some circumstances—including, but not limited to, cases involving a parallel criminal process; cases involving multiple alleged Policy violations, Complainants, and/or Respondents; and when the complaint resolution process has to accommodate periods of time when the college is not in session—the timeframe for the complaint resolution process may exceed sixty (60) days.

6. Investigation Procedures

The investigation will be conducted in a prompt, fair, thorough, and impartial manner. At a minimum, it will include obtaining information from the Complainant and Respondent and pertinent witnesses, and soliciting and reviewing documentation relevant to the investigation including available police reports.

The Complainant and Respondent will be asked to identify all information they would like the Investigator to review, including any witnesses they would like to be interviewed. Decisions about interviews and collection and evaluation of information are at the discretion of the Investigator. The Investigator may need to interview the Complainant and Respondent multiple times during the investigation. The Investigator will present a non-disclosure agreement to all individuals involved in the investigation.

7. Draft Investigation Report

At the conclusion of the investigation, the Investigator will prepare a written investigation report, summarizing the information gathered, outlining the contested and uncontested information and including as exhibits any relevant documentation. The Complainant and Respondent will have an opportunity to review the draft report individually, to meet with the Investigator and to submit additional comments and information to the Investigator.

8. Final Investigation Report

Following comment and review of any additional information gained following the meeting with the Complainant and Respondent, the Investigator will prepare the Final Investigation Report which will include a recommendation by the Investigator as to whether the evidence supports a finding that a policy violation occurred by the Preponderance of the Evidence Standard defined below. In reaching this recommended finding, the Investigator will consult with General Counsel. The Investigator shall submit for review the investigation report and exhibits to the Director of Human Resources if the Respondent is a staff member and to the Vice President of Academic Affairs/Dean of Faculty if the Respondent is a faculty member.

D. DETERMINATION OF RESPONSIBILITY

If the Respondent is a staff member, the determination of responsibility is made by the Director of Human Resources. The determination of responsibility is based solely on information presented in the investigation report.

If the Respondent is a faculty member, the determination of responsibility is made by the VPAA/DoF. The determination of responsibility is based solely on information presented in the investigation report.

1. Preponderance of Evidence Standard

The Director of Human Resources or the VPAA/DoF considers the greater weight of the credible evidence to determine whether a policy violation occurred. This standard, referred to as the "preponderance of the evidence," means the decision-maker, after considering all of the evidence, must find that it is more likely than not that the alleged violation occurred.

2. Conflict of Interest

Should the Director of Human Resources or VPAA/DoF be the Respondent or deem himself/herself disqualified for reasons of bias or interest, the Title IX Coordinator and/or Deputy Title IX Coordinators, in consultation with the President will make the determination of responsibility. A Complainant or Respondent may petition the Title IX Coordinator to request that the Director of Human Resources or VPAA/DoF not make the determination of responsibility on the basis of a perceived conflict of interest or demonstrated bias. The Title IX Coordinator, in consultation with the President, will determine if a material conflict of interest exists, and if so, the Title IX Coordinator and/or Deputy Title IX Coordinators, in consultation with the President will make the determination of responsibility.

E. IMPOSITION OF DISCIPLINARY ACTION

1. Notice of Action

The Director of Human Resources shall distribute to the Respondent a notice of determination of whether a policy violation occurred, including the rationale for the decision and the disciplinary action imposed, if any. He/she shall concurrently provide a copy of the Notice of Action to the Complainant, with any redactions as required by federal law. Both parties will be able to review at this time the Final Investigation Report individually with the Investigator.

2. Disciplinary Action and Additional Remedies

If the Respondent is a staff member and the Director of Human Resources affirms a policy violation occurred, he/she will impose disciplinary action and in determining disciplinary action, the Director of Human Resources will attempt to fairly fit the sanction to the violation seen in total context. For example, a fairly severe action might appropriately be imposed for a relatively minor violation which has been persistently repeated despite formal warning, while a relatively minor action might appropriately be imposed for a serious violation when substantial extenuation is shown.

If the Respondent is a faculty member and the VPAA/DoF affirms that a policy violation occurred, the VPAA/DoF will impose disciplinary action and in determining disciplinary action, will attempt to fairly fit the sanction to the violation seen in total context.

3. List of Disciplinary Actions

Possible disciplinary action includes:

- Warning: Notice, oral (with written file annotation) or in writing, that continuation or repetition of conduct in violation may be cause for more severe disciplinary action.
- Censure: A written reprimand, which may include warning of more severe disciplinary action in the event of determination of a subsequent violation within a stated period of time.
- Apology: Oral or written apologies by Respondent to persons or groups upon whose rights the Respondent may have infringed.
- Mandatory educational programming, which may include but is not limited to alcohol and/or drug abuse awareness/prevention programming, and sexual harassment prevention training .
- Restricted Access: limiting campus access to certain areas of campus and/or specific times of day.
- Paid suspension for a definite period of time.
- Unpaid suspension for a definite period of time.
- Demotion.
- Termination of employment.

If the VPAA/DoF determines the policy violation is serious enough to suspend or terminate for adequate cause an appointment with continuous tenure, he/she will follow the dismissal and suspension procedures set for in *The Davidson College Faculty Handbook* in Section 8 of Article X.

F. NON-DISCLOSURE AGREEMENT

All aspects of the complaint resolution process shall be confidential, including information provided as part of the process, and all persons participating in the complaint resolution process shall pledge in writing to maintain in confidence all matters presented in the process. Provided, however:

- The college is authorized to disclose information as set forth in this Policy;
- Parties may disclose information to their advisors and other personal support persons (e.g., family members, counselors or physicians, spiritual advisors) and legal counsel;
- The Non-Disclosure Agreement does not extend to information that an individual has a legal right to disclose.

Violations of the Non-Disclosure Agreement may result in disciplinary action.

G. DISCLOSURE OF INFORMATION

The college will limit disclosure of personally identifiable information presented as part of the complaint resolution process to those individuals involved in the college's process and other legally required or permitted disclosures. Appropriate college officials (including, but not limited to, the Title IX Coordinator, the Director of Human Resources, the Dean of Faculty, the Investigators assigned to the complaint, the President, the General Counsel) shall have access to information presented as part of the complaint resolution process.

H. RIGHTS OF PARTIES

Complainant and Respondent have the right to a prompt, fair, and impartial complaint resolution process, meaning a process that:

- Is completed within reasonably prompt timeframes;
- Is conducted in a manner that is consistent with this Policy;
- Includes timely notice of meetings at which the parties may be present;
- Provides timely and equal access to information that will be used during the complaint resolution process;
- Is conducted by individuals who do not have a conflict of interest or bias for or against the Complainant or Respondent;
- Provides equal opportunities to have the advisor of the party's choice present during any meeting or proceeding related to complaint resolution procedure under this Policy, including meetings related to investigation of the formal complaint;
- Provides written notification of the result of the complaint resolution process (subject to any redactions required by federal law);
- Bases the determination of responsibility solely on information presented as part of the complaint resolution process;

- Is not subject to acts or threats of retaliation for action taken in good faith as part of the complaint resolution process;
- Preserves privacy, to the extent possible and allowed by law.

I. DELEGATION

Whenever an action may be or is required to be taken under this Policy by the Director of Human Resources or VPAA/DoF, the action may be taken by his/her designee. Whenever an action may be or is required to be taken under this Policy by the Title IX Coordinator or Deputy Title IX Coordinator, the action may be taken by the Title IX Coordinator's designee.

J. TRAINING

College officials involved in the complaint resolution process shall receive annual training on this Policy and issues related to sexual misconduct, including how to conduct a complaint resolution process that protects individuals who are targets of sexual misconduct and that promotes accountability.

Investigators will receive annual training on how to conduct an investigation.

X. RETALIATION

No person shall be subject to restraints, interference, coercion, or reprisal for action taken in good faith to seek advice concerning an alleged violation of this Policy, to file a report, to initiate the college's internal complaint resolution process, or to serve as a witness, or representative in the investigation and resolution of a complaint. Acts or threats of retaliation are a violation of college policy and will be investigated and adjudicated accordingly.

XI. RESOURCES

A. ON CAMPUS IMMEDIATE ASSISTANCE OPTIONS

In an emergency situation, go to a safe location and call 911.

If an individual has been the target of sexual misconduct, relationship abuse and violence, or stalking and is seeking immediate assistance, there are several on- and off-campus options available.

1. Campus Police
 - Main Phone 704-894-2178
 - Officer on Duty 704-609-0344 (24 hour)

The Davidson College Public Safety Office has staff trained in how to respond to a report of sexual misconduct, relationship abuse and violence, or stalking. If preferred, the individual may request to speak to the Interpersonal Violence Officer (as of July 1, 2016, Assistant Chief Carolyn McMackin serves in this role). Campus Police can assist you with personal safety, seeking medical attention, preserving

evidence, or filing a police report. Campus Police also can contact other on- and off-campus resources to assist you.

2. Human Resources Office

The Human Resources office has trained staff who can help identify and explain options and resources and can connect Complainants with additional on- and off-campus resources.

- Main Phone 704-894-2213
- Karen Truesdale, Deputy Title IX Coordinator 704-894-2214

3. Employee Assistance Program

Counselors provided through the Employee Assistance Program (EAP) for Davidson College can help with many concerns, and use of the EAP is held in strict confidence. Each employee (and his/her family members) are provided up to six free sessions annually with an EAP counselor.

- Employee Assistance Program 704-529-1428
- EAP 1-800 Number 800-633-3353

4. Chaplain's Office

The college chaplains are available to all members of the college community — those of any faith tradition, or none at all — to offer confidential spiritual direction and pastoral counseling. They also can assist individuals in determining whether additional counseling with a clinically-trained therapist might be helpful.

- Main Phone 704-894-2423

B. OFF CAMPUS IMMEDIATE ASSISTANCE OPTIONS

1. Town of Davidson Police

The Davidson Police Department is available 24 hours a day, 365 days a year to meet with any victim of sexual assault, domestic violence, physical assault or the crime of stalking. Its officers are committed to conducting a full criminal investigation into these allegations. The Davidson Police Department also provides a Victim-Witness Advocate who is trained to support and assist victims of domestic violence and sexual assault. This support is provided as the case is investigated. There are no costs for these services.

- Main Phone 704-892-5131 (24 hour)
- Emergency 91 (24 hour)

C. COMMUNITY RESOURCES

1. Crisis and Emergency Shelter Services

- Safe Alliance 704-332-9034

- Safe Alliance (Victim Assistance and Rape Crisis) 704-375-9900 (24 Hour)
- Shelter for Battered Women/Crisis Hotline 704-332-2513 (24 Hour)
- Victim & Legal Assistance - Domestic Violence 704 336-4126
- Salvation Army Center of Hope Women and Children's Shelter 704-348-2560
- Mecklenburg County Women's Commission: 704-336-3210
- Domestic Violence Healthcare Project (CMS) 704-446-3999
- Project Safe (based at Presbyterian Hospital) 704-614-7212
- Sexual Trauma Resource Center 704-332-9034

2. Servicios en Español

- Shelter for Battered Women/Crisis Hotline 704-332-2513 (24 Hour)
- Victim & Legal Assistance – Domestic Violence 704-336-4126
- Programa Confianza (Mecklenburg County Residents) 704-336-3210

3. Services for the LGBTQ+ Community

- Safe Alliance (Victim Assistance & Rape Crisis) 704-332-9034
704-375-9900 (24 Hour)
- Time Out Youth (shelter & LGBTQ+ resource referrals ages 11-20) 704-344-8335
- Mecklenburg County Women's Commission (partner violence resources) 704-336-3210