

Employee Sexual Harassment Policy

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II. OVERVIEW

A. INTRODUCTION

Davidson College is committed to creating and maintaining an environment that is free of sexual harassment, 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 harassment, stalking, or relationship abuse or violence. This Policy provides recourse for members of the campus community who have experienced sexual harassment, relationship abuse and violence, or stalking, and establishes a process for the College to determine whether specific behaviors constitute violations of this Policy.

Any individual who has been the target of sexual harassment, 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 harassment, 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 harassment, 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. § 1681 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 harassment related to an individual’s sex, gender or sexual orientation, can occur in conjunction with harassment 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 harassment 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 Harassment, Relationship Abuse and Violence, and Stalking* available at:

<https://www.davidson.edu/offices-and-services/dean-students/sexual-misconduct/policy-procedures>

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 harassment.

III. RESOURCES

A. ON CAMPUS ASSISTANCE OPTIONS

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

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

Campus Police

The Davidson College Public Safety Office has staff trained in how to respond to a report of sexual harassment, relationship abuse and violence, or stalking. If preferred, the individual may request to speak to the Interpersonal Violence Officer. 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- campus and off-campus resources to assist you.

- Main Office Phone 704-894-2178
704-892-7773 (24 hour)

Human Resources Office

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

- Main Phone 704-894-2213

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 (24 hour) 877-240-6863

B. OFF CAMPUS IMMEDIATE ASSISTANCE OPTIONS

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 (24 hour) 704-892-5131
- Emergency (24 hour) 911

C. COMMUNITY RESOURCES

Crisis and Emergency Shelter Services

- Safe Alliance 704-332-9034
- Victim Assistance and Rape Crisis (24 hour) 704-375-9900
- Shelter for Battered Women/Crisis Hotline (24 hour) 704-332-2513
- 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

Servicios en Español

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

Services for the LGBTQ+ Community

- Safe Alliance 704-332-9034
- Victim Assistance & Rape Crisis (24 Hour) 704-375-9900
- Time Out Youth 704-344-8335

- (shelter & LGBTQ+ resource referrals ages 11-20)
Mecklenburg County Women's Commission 704-336-3210
(partner violence resources)

IV. PROHIBITED ACTS

This Policy's 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

The following definitions outline the types of conduct prohibited under this Policy and identify the individuals and processes involved in the investigation of and response to allegations of those prohibited acts. The following definitions of prohibited conduct are defined by the 2020 amendments to the implementing regulations, 34 C.F.R. Part 106, of the Title IX of the Education Amendments Act of 1972 ("Title IX").

Jurisdiction and Scope This Policy applies to employee conduct that occurs on campus or in a College Program or Activity. The following definitions of prohibited conduct do not apply to conduct that

1. Did not occur in a College Program or Activity;
2. Did not occur against a person in the United States; or
3. Occurred when the Complainant was not participating or attempting to participate in a College Program or Activity at the time the complaint was filed.

The Employee Sexual Harassment Policy applies to all Formal Complaints of sexual harassment, stalking or relationship abuse or violence. Therefore, all Formal Complaints will be reviewed by the Title IX Coordinator under this policy to determine if the alleged conduct is a potential violation of this Policy. If the alleged conduct does not meet the requirements for a Formal Complaint under this Policy, then the alleged conduct will be reviewed by Human Resources under the Non-Discrimination and Non-Harassment Policy.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- a. Quid Pro Quo: An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct, or
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education Programs or Activities.

Sexual Harassment, as a broad category, includes the offenses of sexual harassment,

sexual assault, domestic violence, dating violence, and stalking.

Sexual assault Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent. Sexual Assault includes:

- (1) Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- (2) The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant incapacity.
- (3) Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (4) Sexual intercourse with a person who is under the statutory age of consent.

Dating Violence Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence

Domestic Violence Any violence that may constitute felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the Complainant, (b) by a person with whom the Complainant shares a child in common, (c) by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, (d) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina, or (e) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of North Carolina.

Stalking 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." Under this section, "course of conduct" is defined as 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; and "substantial emotional distress" is defined as a significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

B. RELATED TERMS

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.

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.

Incapacitation "Incapacitation" is a state where an individual cannot make an informed or 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 can result from sleep, unconsciousness, mental or physical helplessness, ingestion of substances, or lack of awareness that sexual activity is taking place.

- a. 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 judgements; and capacity to appreciate the nature and the quality of an act.
- b. Evaluating incapacitation also requires an assessment of whether the Respondent knew or should have known that the Complainant was incapacitated. In determining whether the Respondent should have known that the Complainant was incapacitated, the standard is whether a reasonable sober person should have known that the 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 or out of consciousness.

Clear and Convincing Standard of Evidence The Hearing Officer considers the greater weight of the credible evidence to determine whether a Policy violation occurred. This standard, referred to as the “clear and convincing standard,” means the Hearing Officer, after considering all evidence, must find that the alleged violation is highly and substantially more likely to be true than untrue.

Education Program or Activity Locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned and controlled by the College or by a student organization that is officially recognized by the College.

Bias Bias is defined as an unfair prejudice in favor or against an employee based on the employee’s race, ethnicity, national origin, sex, gender identity, sexual orientation, disability, age or religion and associated stereotypes.

Reporting Party An individual who reports an experience of sexual harassment, relationship abuse and violence, or stalking. An individual who is a reporting party has either chosen not to file a Formal Complaint or is still considering whether to file a Formal Complaint regarding their experience.

Formal Complaint A document filed by a Complainant or Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment.

Days When computing time periods for actions in this Policy, the following rules apply:(a) Exclude the day of the event that begins the period (b) Exclude any intermediate Saturdays, Sundays, and College holidays (i.e., only business days are counted) (c) When an act must be done within a specified time, the act must be completed by 5 p.m. on the last day of the period.

Complainant The “Complainant” is the individual who files a Formal Complaint of sexual harassment, relationship abuse and violence, or stalking. In the case of complaints that are pursued when the affected individual is unable or unwilling to participate in the process, the College may pursue the Complaint in which case the College shall be the Complainant.

Respondent The “Respondent” is the individual whose conduct is alleged to have violated this Policy and whose conduct is being investigated.

Investigator The “Investigator” is an individual who has received specialized training in conducting sexual harassment investigations and has been assigned by the Title IX Coordinator to investigate an alleged violation of this Policy. 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; 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.

Advisor An “Advisor” is an individual who provides the Complainant or Respondent support, guidance, or advice. The Complainant and Respondent may have the Advisor of their choice present during any meeting or proceeding related to complaint resolution under this Policy. The College will provide a list of trained Advisors available to provide guidance and support to the employee. Employees are not required to choose an Advisor from the list of trained Advisors.

Hearing Officer The "Hearing Officer" is a trained individual selected by the College to facilitate hearings under this Policy. Upon the completion of a hearing, the Hearing Officer shall determine whether the Respondent is responsible for the alleged prohibited act(s).

Appeal Officer The "Appeal Officer" is a trained individual selected by the College to facilitate appeals under this Policy. Upon completion of the appeal, the Hearing Officer shall determine whether to uphold the recommendation of the Hearing Officer and subsequent decision of the College or take action to correct any issues found through the appeal process.

Title IX Coordinator As a recipient of Federal funds, Davidson College is required to comply with Title IX of the Education Amendments of 1972, 20 USC § 1681 et seq. ("Title IX"). Title IX prohibits discrimination on the basis of sex in education Programs or Activities. Sexual Harassment is a form of sex discrimination prohibited by Title IX. 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 also has responsibility for weighing an employee's request for confidentiality and determining whether supportive measures are appropriate. The Title IX Coordinator is available to advise all parties about the courses of action available at the College and action available externally, including reports to law enforcement. Davidson College's Title IX Coordinator is:

- c. **Carley Dix, Title IX Coordinator, Section 504 Coordinator and Compliance Officer, Chambers 1255, (704) 894-2591, cadix@davidson.edu**

V. REPORTING

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

A. WHERE TO REPORT

The College provides the following options for reporting an act of sexual harassment, stalking, or relationship abuse and violence. Reporting an incident is encouraged: through reporting, the College can ensure individuals have access to counseling services, support services, and any other supportive 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 Title IX Coordinator** Davidson College has a designated Title IX Coordinator to oversee compliance with Title IX, which prohibits discrimination on the basis of sex in education Programs or Activities. Sexual harassment is a form of sex discrimination prohibited by Title IX. All reported incidents of sexual harassment involving employees are reviewed by the Title IX Coordinator. The Title IX Coordinator will provide you with a written explanation of your rights and options under this Policy, including resources and services available to you, your option to request assistance or supportive measures, and an explanation of the College's internal complaint resolution procedures. The 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 you to Campus Police at your request.

2. **Report to Campus Police** The Davidson College Public Safety Office has staff trained in how to respond to a report of sexual harassment, relationship abuse and violence, or stalking. If you prefer, you may request to speak to the Interpersonal Violence Officer. 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. Campus Police will record the report for Clery Act purposes but shall do so without disclosing any personally identifiable information about the Complainant. Although the College strongly encourages all members of its community to report violations of this Policy to law enforcement, it is your choice whether or not to make such a report and you have the right to decline involvement with the police.

**Campus Police Main Office Phone: 704-894-2178
704-892-7773 (24 hour)**

3. **Report to a Director or Responsible Employee.** Employees may talk to their Director to report an incident of sexual harassment. Reports made to a Director will be referred to the Title IX Coordinator for assessment. A Director who receives a report must provide all relevant details about the alleged harassment to the Title IX Coordinator including the date, time, and location of the alleged harassment, and the names of: the person who provided the report, the individual who experienced the alleged harassment, the individual(s) accused of committing the alleged harassment, and anyone else involved in the alleged harassment.

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 harassment involving employees to the Title IX Coordinator. Responsible employees include Directors, members of the Senior Leadership Team, Human Resources staff, Public Safety staff, the Title IX Coordinator. A report made to a Responsible Employee will be referred in the same manner to the Title IX Coordinator for assessment.

VI. COLLEGE RESPONSE TO REPORTS

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

The College will undertake an appropriate inquiry into all reports involving employees, regardless of whether the Reporting Party 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 Reporting Party elects to pursue criminal charges, files a Formal Complaint, or requests the College not to pursue actions; and other factors. A full investigation occurs only if a Formal Complaint is filed.

As a general rule, the College will not conduct an investigation or take any action without first obtaining the Reporting Party's consent and will conduct any investigation and respond to a report consistent with the Reporting Party's request for confidentiality or request not to pursue action. The College's ability to respond to a report, to prevent its recurrence, or to

address its effects may be severely limited if the Reporting Party requests confidentiality, does not provide the name of the Responding Party, or asks that the report not be pursued.

A. Requests for Confidentiality In cases where the Reporting Party requests confidentiality or requests the College not to take any action in response to a report, the Title IX Coordinator or designee will conduct a preliminary assessment into the alleged Policy violation and will balance this request with the College's commitment to providing a safe and non-discriminatory environment to all members of the College community. The Title IX Coordinator or designee will consider many factors when determining whether or not the College can honor the request for confidentiality or no action, including, but not limited to:

1. The information provided suggests that the Responding Party has committed prior acts and/or suggests an increased risk that Responding Party will commit additional acts that would violate this Policy or are otherwise violent acts;
2. The information provided suggests that the act is part of a larger pattern at a specific location or by a particular group and thus there is an increased risk of future violations of this Policy under similar circumstances;
3. The alleged misconduct was committed by multiple perpetrators;
4. The alleged misconduct was perpetrated with a weapon;
5. The Reporting Party is a minor;
6. The College has other means to obtain relevant evidence (e.g., security camera footage, physical evidence, additional witnesses); and/or
7. The facts warrant issuance of a timely warning.

In appropriate cases, the College may be able to take steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against the Responding Party or reveal the identity of the Reporting Party.

However, the Title IX Coordinator or the Director of Human Resources may determine that, in the interest of providing a safe and nondiscriminatory environment, it is necessary for the College to act on information it has received. In that event, the Reporting Party will be informed of this determination before the College takes action in response to the report. The College's response will depend on the circumstances of the report, but could include:

1. Putting temporary measures in place to ensure a safe and non-discriminatory work environment; and/or
2. Filing a Formal Complaint on behalf of the affected individual, in which case the College will be the Complainant.

The College cannot withhold the Reporting Party's name from the Responding Party once the College takes action that affects the Responding Party.

B. Supportive Measures Upon receipt of a report of an alleged Policy violation, the College may determine that supportive measures are necessary to ensure a safe and nondiscriminatory environment for employees. Supportive measures may include changes made to a Reporting or Responding Party's work schedule, work

location, or work assignments. Supportive measures are voluntary and may be modified or discontinued at any time at the request of the Reporting or Responding Party.

Supportive measures are separate from any disciplinary action imposed after the Hearing Officer makes a determination of responsibility and are not disciplinary in nature. They are imposed by the Title IX Coordinator in consultation with the Director of Human Resources and may be imposed at any time, regardless of whether formal disciplinary action is sought by the Reporting Party or the College. They may be extended beyond and/or imposed after complaint resolution procedures are completed.

- C. **Requests for Supportive Measures** Employees seeking the assistance of supportive measures should speak with the Title IX Coordinator, who will evaluate and, if warranted, will coordinate the request. Supportive measures may be requested by both the Reporting and Responding parties.

The specific supportive measures implemented and the process for implementing those measures will vary depending on the facts of each case. The Title IX Coordinator will consider, among other factors, the specific needs expressed by the Reporting Party; the severity or pervasiveness of the allegations; any continuing effects on the Reporting Party; whether the actions requested will be unreasonably burdensome on the Responding Party, and whether the Reporting Party and Responding Party share the same on-campus job location.

Supportive Measure Options

- Alteration of work schedules or job assignments
- Alteration of office arrangements
- 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

VII. FILING A FORMAL COMPLAINT

- A. **Filing A Formal Complaint** To initiate the College's internal complaint procedures, the Complainant must file a Formal Complaint with the Title IX Coordinator. A Formal Complaint must include, at a minimum, the time, place, and type of Prohibited Act(s) alleged, a summary of the alleged incident(s), and the name of the Respondent.
- B. **Who May File** An individual may file a Formal Complaint against an employee for an alleged violation of this Policy, if at the time of filing a Formal Complaint, the individual is participating in or attempting to participate in the education Programs or Activities of Davidson College or is an employee of Davidson College.

In the event the Title IX Coordinator determines the College must file a Formal 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. The affected

individual will be entitled to receive all notifications due to a Complainant under this Policy, including notifications regarding the outcome of the complaint resolution procedures.

- C. Review of Complaint** Upon receipt of a Formal Complaint, the Title IX Coordinator will first determine whether the allegations in the Formal Complaint, if proven, would constitute a violation this Policy. This Policy incorporates definitions of charges as stated by Title IX of the Education Amendments Act. The Title IX Coordinator will review the complaint for the following requirements:
1. If proven would the conduct alleged in the Formal Complaint constitute a prohibited act under this policy;
 2. Was the Complainant, at the time of filing a Formal Complaint, participating in or attempting to participate in the education Programs or Activities of Davidson College;
 3. Did the conduct occur in a Davidson College Program or Activity;
 4. Did the conduct occur between parties while in the United States.

If the conduct does not meet the above requirements the Title IX Coordinator will dismiss the Formal Complaint under this Policy. Dismissal of a Formal Complaint may be appealed (See IX. Appeals). Written appeals must be sent to the Title IX Coordinator within five (5) days of receiving the notice of dismissal.

- D. Coordination with Non-Discrimination and Non-Harassment Policy** Such a dismissal does not preclude action under the Davidson College Non-Discrimination and Non-Harassment Policy. Dismissed complaints will be referred to Human Resources for further review. In cases where a Formal Complaint may be investigated under both the Non-Discrimination and Non-Harassment Policy and the Sexual Harassment Policy, the Title IX Coordinator will coordinate with Human Resources to complete both investigations while communicating with parties to ensure that the Complainant and Respondent understand their rights under both policies.

- E. Notice of Investigation** If the allegations would constitute a violation of this Policy, then the Title IX Coordinator shall prepare a written Notice of Investigation which will include: the nature, time, and place of the alleged violations (including the specific prohibited acts alleged), the name and contact information of the Investigator(s), a statement regarding confidentiality of the process, and a statement on the Policy which prohibits retaliation. The Title IX Coordinator will provide both Complainant and Respondent with the written Notice of Investigation and will also provide the parties with a copy of this Policy, and a list of trained Advisors.

- F. Role of an Advisor** The Complainant and Respondent may have the Advisor 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 Complainant or Respondent. Notices and information related to complaint resolution under this Policy will be provided to the parties and their Advisors. Advisors are required to keep such materials confidential unless the Advisor is otherwise authorized to disclose the information contained therein.

The Advisor has no formal role in the investigation process. The Advisor's role in any meeting during the investigation is limited to requesting reasonable breaks to confer

privately with the advisee. Advisors may not record the meetings, take notes, ask questions, or otherwise actively participate in meetings.

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.

The College will provide a list of trained Advisors available to provide assistance and support to the Complainant and Respondent. Employees are not required to choose an Advisor from the list of trained Advisors. Parties must provide the Title IX Coordinator with notice of the identity of their Advisor of choice prior to the Advisor attending a meeting or proceeding under this Policy, at least one day in advance.

VIII. FORMAL COMPLAINT RESOLUTION OPTIONS

A. 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 all rights to an investigation, determination of responsibility by the Hearing Officer, and appeal on the ground of procedural error. 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 (3) 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.

B. Adaptable Resolution

Adaptable resolution is a voluntary, structured process that facilitates communication between a Complainant and Respondent (via shuttle negotiation) with the goal of addressing prohibited conduct through a resolution agreement agreed to by both parties. The format of adaptable resolution is tailored to meet the needs of the Complainant and Respondent. Adaptable resolution allows parties to create an agreement that meets the interests of both parties based on the harm experienced without formal disciplinary action against the Respondent. The time frame for completion of adaptable resolution will vary based on the issues that need to be addressed by the parties and the format that parties have chosen. The College will attempt to complete an adaptable resolution within thirty (30) days of the parties agreeing to engage in an adaptable resolution process.

Adaptable resolution for Formal Complaints is available only in appropriate cases. Adaptable resolution is not available for Formal Complaints in which a student has made an allegation against an employee. The Title IX Coordinator has the discretion to determine if it is appropriate to use an adaptable resolution for a sexual harassment complaint. The complaint will be resolved by the Title IX Coordinator or a trained individual appointed by the Title IX Coordinator. If the Title IX Coordinator believes that they or the trained individual cannot fairly facilitate the process due to

bias or a conflict of interest, the Title IX Coordinator will appoint another trained individual. Complainant and Respondent may report any concerns about bias or conflict of interest to the Title IX Coordinator who will determine whether another trained individual should be assigned.

Requirements for Participation in an Adaptable Resolution Process:

1. Both Complainant and Respondent must consent in writing to engage in adaptable resolution, and either party may end the adaptable resolution process at any time, for any reason, prior to the signing of a resolution agreement.
2. Complainant and Respondent must agree that information learned and utilized by and between parties during an adaptable resolution process may not be used in any other College process including a formal sexual harassment investigation.
3. If parties are unable to reach a resolution, the matter will be referred to investigation and adjudication of the Formal Complaint unless the complaint is withdrawn or dismissed.
4. If the adaptable resolution process results in a resolution agreed to by the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances, the parties will sign the agreement, the agreement will be finally dispositive of the complaint, and the Formal Complaint will be closed.

Adaptable Resolution Process

The Title IX Coordinator will attempt to facilitate the parties' resolution to the complaint. The Title IX Coordinator will meet with each party to determine what information, resources, and support each party requires to participate in an adaptable resolution. Neither the College nor the other party may pressure the Complainant or Respondent into participating in adaptable resolution or a specific adaptable resolution format. Complainant and Respondent may have an Advisor present at any meetings related to the adaptable resolution process.

After both the Complainant and Respondent have met with the Title IX Coordinator to review the adaptable resolution process and discuss their options, the Complainant and Respondent may voluntarily consent to participate in adaptable resolution. Adaptable resolution for employees will be primarily formatted as a shuttle negotiation.

Shuttle Negotiation - In a shuttle negotiation, the facilitator shuttles between parties to assist in negotiating an agreement. This process allows parties the space to discuss concerns, address conflict, and share their perspective without having to directly interact with each other.

Adaptable Resolution Agreement

Measures that may be agreed to through a resolution process include:

- Training and education for the Respondent;
- Alterations to campus work schedules, locations, and/or assignments;
- Education plan for Respondent including scheduled meetings with appropriate campus resources;
- Any other appropriate measures agreed to by the parties.

When the parties have determined the measures that will make up their resolution agreement, the Title IX Coordinator will review the agreement to determine whether the agreement is consistent with the College's Employee Sexual Harassment Policy.

Once the agreement has been reviewed and approved by all parties, the agreement will be finalized, and the Formal Complaint will be resolved. Once finalized, the Respondent is required to comply with the agreement and complete any actions required within the time period specified by the agreement. The complaint will be closed when the Respondent completes all actions stated within the agreement. If the Respondent does not complete all actions stated within the agreement, the original Formal Complaint may move forward with investigation and adjudication of the Formal Complaint. In addition, if the Respondent does not comply with restrictions stated in the agreement, the Respondent will be referred to Human Resources for further review and response.

If no agreement is reached or the parties are unable to create an agreement that is consistent with the College's Employee Sexual Harassment Policy, the Title IX Coordinator will refer the matter to investigation and adjudication of the Formal Complaint unless the complaint is withdrawn.

C. Formal Resolution

Investigation into a Formal Complaint

1. 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; gather any physical or electronic records or documents to be included in an investigation report; and, where applicable, coordinate with Campus Police or other law enforcement agencies. Investigators prepare a written investigation report for the Director of Human Resources who will then make a determination about whether to proceed with adjudicating the alleged policy violations.

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 Title IX Coordinator may appoint a single Investigator or a team of Investigators to conduct the investigation. The Title IX Coordinator may appoint trained staff members or an external Investigator to serve as Investigators. An external Investigator may be appointed in the event that 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 Title IX Coordinator, in their discretion, deems it advisable.

2. Investigation 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 thirty (30) days.

3. Investigation Procedures The investigation will be conducted in a prompt, fair, thorough, and impartial manner. The investigation will be free from presumptions of conduct or responsibility for either party. 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. Complainant and Respondent must identify all witnesses during the investigation process. Parties will not be able to present information from witnesses during the hearing, if those witnesses were not identified and interviewed or did not provide a written statement during the investigation process. 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.

4. Investigation Report The Investigator will prepare a written investigation report, including as exhibits any relevant documentation. The Investigator shall submit the investigation report and exhibits to the Title IX Coordinator for review. The Title IX Coordinator will redact (remove) the following information from the investigation report and exhibits:

- a. Irrelevant information concerning sexual history, unrelated sexual activity, character, or incidents not directly related to the complaint (subject to the Title IX Coordinator's determination that the information demonstrates a pattern of behavior);
- b. Information that violates an individual's privacy rights or that constitutes an unwarranted invasion of privacy; or
- c. Information related to the longer-term impact of the alleged incident on Complainant or Respondent (which may be submitted as a separate impact or mitigation statement.)

5. Notice to Proceed and Option for Resolution Agreement At the conclusion of the investigation, the Director of Human Resources will issue a written Notice to Proceed to the Complainant and Respondent with a copy to the Title IX Coordinator. Where warranted, the Notice to Proceed will include any additions or revisions to the Policy violations alleged based on information gathered in the investigation. In rare circumstances, when the investigation finds no factual basis for the allegation, the Director of Human Resources, in consultation with the Title IX Coordinator, may dismiss the allegations prior to resolution by the Hearing Officer and shall notify Complainant and Respondent of the dismissal in writing. Parties may appeal this dismissal. The appeal must be sent to the Title IX Coordinator within five (5) days of receiving the notice of dismissal.

6. Review and Response to Investigation Report Upon receipt of the Notice to Proceed, the Title IX Coordinator shall provide the Complainant, Respondent, and their Advisors access to the investigation information. The parties may not make copies or take photographs of the information. The parties and their Advisors will have access to the information for ten (10) days. If the parties wish to respond to the information provided, they must send a written response to the Investigator(s) by the end of the 10-day review period. If new and relevant information is submitted during this review and response period, it will be shared with the Complainant and Respondent and each will have an opportunity to respond to the new information via the Investigator(s) within a time frame determined by the Title IX Coordinator. If the written reports of the parties' responses include information deemed by the Title IX Coordinator to be irrelevant or immaterial, the Title IX Coordinator shall redact (remove) the irrelevant or

immaterial information prior to permitting the other party to access the information.

Following the review and response period (typically within three (3) days after its conclusion), the Title IX Coordinator will issue the final investigation packet, comprising the investigation report and any exhibits thereto; the written reports of the parties' responses, if any; written notices to the parties (notice of investigation, notice upon conclusion of investigation); and the Formal Complaint, to the Hearing Officer.

The Title IX Coordinator shall notify the Complainant and Respondent when the final investigation packet has been issued to the Hearing Officer and shall arrange for the Complainant and Respondent to access the information. The Complainant, Respondent and their Advisors will have at least ten (10) days, before the scheduled complaint hearing, to review the final investigation packet. The parties may not make copies or take photographs of the information.

Formal Resolution Procedures

- 1. Review of Final Investigation Packet** The Hearing Officer will review the final investigation packet and may request any additional relevant information from the Investigator or parties before scheduling a hearing. The parties will have the opportunity to access any such requests for additional relevant information and any information produced in response to such requests prior to complaint hearing. The parties will have at least ten (10) days to review the final investigation packet before the scheduled hearing. The parties may not make copies or take photographs of the additional relevant information.
- 2. Impact Statement and Mitigation Statement** The Complainant has an opportunity to submit a written impact statement, and the Respondent has an opportunity to submit a written statement in mitigation or extenuation. These statements shall not exceed two (2) pages and should be submitted to the Title IX Coordinator no later than ten (10) days after the Title IX Coordinator issued the final investigation packet. These statements would only be reviewed by the Hearing Officer and made part of the record if the Hearing Officer determines that a Policy violation occurred. In that event, the statements would be reviewed by the Hearing Officer in determining disciplinary action recommendations as described below. If either the impact statement or mitigation statement include information deemed by the Title IX Coordinator to be irrelevant or immaterial, the Title IX Coordinator shall redact (remove) the irrelevant information prior to distributing to the Hearing Officer. Specifically, the Title IX Coordinator shall redact:
 - a. Irrelevant information concerning sexual history, unrelated sexual activity, character, or incidents not directly related to the complaint (subject to the Hearing Officer's determination that the information demonstrates a pattern of behavior); or
 - b. Information that violates an individual's privacy right or that constitutes an unwarranted invasion of privacy.
- 3. Hearing** The Hearing Officer will schedule a live hearing. Live hearings include hearings conducted in-person or via video technology such as Zoom. If the Complainant and Respondent request to participate in the live hearing via

alternative arrangements, the Hearing Officer will arrange for the parties to participate in the hearing outside the presence of the other party (e.g., by using a room divider, using separate conference rooms, using video technology such as Zoom).

The Hearing Officer will not receive new evidence, that was not previously included in the report, during the hearing. During the hearing, the Hearing Officer may ask questions of the Complainant, Respondent, witnesses or the Investigator(s). In addition, the Advisors of the Complainant and Respondent may ask the other party and any witnesses relevant questions and follow-up questions (this practice is also known as cross-examination). Only relevant questions may be posed by the party's Advisors. The Hearing Officer will determine if a question is relevant before the Complainant, Respondent, or witness answers a question. If the Hearing Officer determines that a question is irrelevant, they will provide concurrent reasoning regarding why the question has been excluded.

The Hearing Officer will make all determinations regarding credibility and weight of evidence, based solely on the available evidence provided through the investigation and hearing when making a final determination of responsibility. No party or witness is required to attend the hearing, provide testimony, or submit to cross-examination. The Hearing Officer will not draw an inference regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to provide testimony or submit to cross-examination or other questions. If a party or witness does not attend the hearing, provide testimony, or answer certain questions, any information previously provided by that party or witness will still remain in the investigation report. The College will make reasonable efforts to accommodate the availability of a party's witnesses when scheduling the hearing date. However, if after reasonable efforts have been made, a witness is unable to attend the hearing, this does not constitute an unavoidable conflict that would necessitate postponing the hearing.

If either Complainant or Respondent does not appear at the hearing, after confirmation by the Hearing Officer that the party was duly notified of the date and time of the hearing, the hearing will proceed and the party who failed to appear will be deemed to have waived the right to timely and equal access to information from the hearing that the Hearing Officer uses in the determination process. A Complainant or Respondent may have their Advisor present at the hearing, even if the party does not attend.

Role of Advisors Advisors will consult with the Complainant and Respondent to determine what questions the Complainant and Respondent have for the other party and any witnesses. The Complainant and Respondent may not directly ask questions during the hearing. Questions may only be posed by Advisors. If a party does not have an Advisor at the hearing, the College will select a trained Advisor to conduct cross-examination on behalf of that party.

Determination of Responsibility The Hearing Officer will apply a clear and convincing evidence standard when arriving at a determination of whether a Policy violation occurred. The Hearing Officer will base the determination solely on information presented as part of the complaint resolution process. The Hearing will exclude from consideration information in statements made by parties or witnesses who declined to be questioned during the hearing. The Hearing Officer will not base determinations of responsibility solely on a party's or

witness' absence from the live hearing or refusal to answer cross-examination or other questions.

- 4. Recommendation of Disciplinary Action** If the Hearing Officer determines a Policy violation occurred, the Hearing Officer will recommend disciplinary action to the Director of Human Resources or the Vice President of Academic Affairs/Dean of Faculty.

Prior to making a recommendation on disciplinary action, the Title IX Coordinator shall distribute to the Hearing Officer:

- a. Any written impact statement or mitigation statement; and
- b. Any items from the Respondent's files deemed appropriate by the Director of Human Resources for the Hearing Officer's consideration of the appropriate disciplinary action, if any, to be recommended. These items could include, but not be limited to:
 - i. Disciplinary records;
 - ii. Annual reviews;
 - iii. Criminal records;
 - iv. Police reports; and/or
 - v. Supportive measures imposed.

- 5. Notice of Action** The Title IX Coordinator shall distribute to the Respondent a notice of the Hearing Officer's determination of whether a Policy violation occurred (including the specific prohibited acts alleged and the Hearing Officer's determination of responsibility for each alleged prohibited act), the rationale for the decision. In addition, the Notice of Action shall include a record of procedural steps taken during the Formal Complaint process and the procedures for filing an appeal. The Title IX Coordinator shall concurrently provide a copy of the Notice of Action to the Complainant, with any redactions as required by federal law. The Title IX Coordinator will make every effort to conclude the complaint resolution process and distribute the Notice of Action within two (2) weeks of the Hearing.

- 6. Record of Hearing** The Title IX Coordinator shall maintain a record of the hearing proceedings including a recording of the hearing and any materials distributed to the Hearing Officer prior to a determination of responsibility and recommended disciplinary action (that is, any written impact statement or mitigation statement; and a copy of the items from the Respondent's file considered by the Hearing Officer in determining recommended disciplinary action, if any). The Title IX Coordinator shall provide an opportunity for the Complainant and Respondent to access the hearing record separately in a private setting at least two (2) days prior to the deadline for filing an appeal. The parties may not make copies or take photographs of the hearing record.

- 7. Final Determination** The determination by Hearing Officer as to whether a violation occurred, is finally dispositive of the complaint resolution process subject only to the rights of the parties to appeal as provided below. In the event the Hearing Officer determines the Respondent is not responsible for the alleged Policy violation, the College may continue to provide supportive measures for the Complainant so long as those measures do not unduly burden or prejudice the Respondent. If the Hearing Officer determines no Policy violation occurred, then no disciplinary action will be recommended. If the Hearing Officer determines a Policy violation occurred, the Hearing Officer will provide the determination and

recommended disciplinary action to the Director of Human Resources or the VPAA/DoF to determine appropriate disciplinary action.

Disciplinary Action If the Respondent is a staff member and the Director of Human Resources affirms a policy violation occurred, they will impose appropriate disciplinary action.

If the Respondent is a faculty member and the VPAA/DoF affirms that a policy violation occurred, the VPAA/DoF will impose appropriate disciplinary action. If the VPAA/DoF determines the faculty member's policy violation is serious enough to suspend or terminate for adequate cause, they will follow the dismissal and suspension procedures set forth in *The Davidson College Faculty Handbook* Section 8 of Article X.

8. List of Disciplinary Actions

- 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 a determination of a subsequent violation within a stated period of time.
- Apology: Oral or written apologies by the Respondent to persons or groups upon whose rights the Respondent may have infringed.
- Mandatory educational programming.
- 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.
- Any other action deemed appropriate by the Director of Human Resources or VPAA/DoF.

IX. APPEALS

A. Grounds for Appeal Either the Complainant or Respondent can appeal the dismissal of a Formal Complaint, the finding of the Hearing Officer or the disciplinary action imposed on the following grounds:

1. Procedural irregularity that had a material impact on the outcome of the complaint resolution process;

2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator(s), or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

B. Filing an Appeal Appeals must be filed with the Title IX Coordinator within five (5) days of receiving the written Notice of Action. Appeals are made in writing and must state in detail the reasons for the appeal. Appeals shall not exceed five (5) pages.

Upon receipt of a written appeal, the Title IX Coordinator will forward the appeal and the record on appeal to the Appeal Officer. The record on appeal comprises all materials reviewed by the Hearing Officer, the record of the hearing and exhibits (if any), and the Notice of Action. The Title IX Coordinator shall provide an opportunity for Complainant and Respondent to access the appeal and the record on appeal separately in a private setting. The parties may not make copies or take photographs of the information.

C. Appeal Procedures Appeals are heard by the Appeal Officer. The Appeal Officer ordinarily will decide within five (5) days of receiving the record on appeal whether the appeal states sufficient grounds to be considered. If it does not, the Appeal Officer will dismiss the appeal.

If the Appeal Officer finds the appeal states sufficient grounds, the Appeal Officer will invite the Hearing Officer to respond in writing. When an appeal is requested by the Respondent, the Appeal Officer will invite the Complainant to respond in writing. When an appeal is requested by the Complainant, the Appeal Officer will invite the Respondent to respond in writing. Written responses shall not exceed five (5) pages. The Appeal Officer may, in the Appeal Officer's discretion, request additional documentation related to alleged procedural errors to accompany the statement of the Hearing Officer or a party. The Appeal Officer shall provide copies of the written responses and additional documentation, if any, to the Chair, and shall provide an opportunity for the Complainant and Respondent to access the information separately in a private setting. The parties may not make copies or take photographs of the information.

The Appeal Officer may, in the Appeal Officer's discretion, choose to call a conference with the Complainant, Respondent, and Hearing Officer before making a decision on appeal.

The Appeal Officer considers the appeal solely on the grounds stated in the filed appeal, the record on appeal, and the written responses, and additional documentation of procedural error. The Appeal Officer will not substitute their own judgement for that of the Hearing Officer.

D. Actions Available on Appeal The Appeal Officer may:

1. Uphold the determination of the Hearing Officer;
2. Remand the matter to the Hearing Officer where a procedural irregularity could be corrected by the Hearing Officer;
3. Remand the matter to the Hearing Officer where newly available information could be considered by the Hearing Officer; or
4. Remand the matter to a new Hearing Officer. This action will only be taken in extraordinary cases, when the Appeal Officer determines the matter would be best addressed by a newly appointed Hearing Officer.

E. Notice of Outcome The Appeal Officer ordinarily will provide a written notice of outcome within two (2) weeks of the decision to consider the appeal, and this decision is

finally dispositive of the matter. The Notice of Outcome will be distributed to the Complainant, Respondent, and Title IX Coordinator with any redactions as required by federal law.

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, to be a Complainant or Respondent in a complaint resolution process, to serve or refuse to serve as a witness, or representative in the investigation and resolution of a complaint. It is prohibited for any member of the College to intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this Policy.

Prohibited acts of retaliation also include charges against an individual for policy violations that are outside of this Policy but arise out of the same facts or circumstances stated in a complaint or report of sex discrimination or sexual harassment when done for the purpose of interfering with any right or privilege secured by this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take appropriate steps to protect individuals who fear that they may be subjected to retaliation. Acts or threats of retaliation will be investigated and adjudicated accordingly and may result in disciplinary action.

XI. ADDITIONAL POLICY & PROCEDURE INFORMATION

A. **Rights of Parties** Complainant and Respondent have the right to a fair, prompt, 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.
- B. **Confidentiality** 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 confirm in writing to maintain in confidence all matters presented in the process; provided, however:
1. The College is authorized to disclose information as set forth in this Policy;
 2. Parties may disclose information to their Advisors and other personal support persons (e.g., family members, counselors or physicians, spiritual Advisors) and legal counsel; and
 3. Confidentiality does not extend to information that an individual has a legal right to disclose.
- C. **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 Dean of Students, the Director of Human Resources, the VPAA/DoF, the Hearing Officer, the Investigators assigned to the complaint, the Appeal Officer, the President, and the General Counsel) shall have access to information presented as part of the complaint resolution process.
- D. **Training** College officials and all others involved in the complaint resolution process shall receive annual training on this Policy including the definitions of prohibited conduct, the scope of the College's education programs and activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially.
- E. **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 their designee. Whenever an action may be or is required to be taken under this Policy by the Title IX Coordinator, the action may be taken by the Title IX Coordinator's designee.