Policies, Procedures, and Information on Sexual Misconduct, Relationship Abuse and Violence, and Stalking
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Policy, Procedures, and Information on Sexual Misconduct, Relationship Abuse and Violence, and Stalking

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Policy, Procedures, and Information on Sexual Misconduct, Relationship Abuse and Violence, and Stalking

I. 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 students 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 complaint 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. All individuals are encouraged to report an incident even if the reporting person does not want to file a criminal report or initiate Davidson’s internal complaint procedure. Sexual assault (including rape), physical violence, and stalking are serious criminal acts. The college urges students to report criminal acts to the police, though no student is required to do so.

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.


II. Options for Immediate Assistance
If you are in an emergency situation, go to a safe location and call 911.

If you have been the target of sexual misconduct, relationship abuse and violence, or stalking and are seeking immediate assistance, you have several on- and off-campus options. Students are not required to take any action when reporting sexual misconduct, and seeking immediate assistance does not automatically launch a formal complaint or investigation. Please note that different employees on campus have different abilities to maintain a student’s confidentiality – to access fully confidential resources you should contact a medical professional at the Student Health and Counseling Center.
(doctor, nurse, or counselor) or the Chaplain’s Office. For more information on confidential reporting, see the Confidential and Protected Resources section.

On Campus Immediate Assistance Options:

**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 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.

**STUDENT HEALTH AND COUNSELING CENTER**

Main Phone: 704-894-2300 (weekdays 7:30 am to 9:30 pm)  
Nurse on Call: 704-337-7047 (after hours and weekends)  
Counselor on Call: 704-894-2451 (24 hour)

The Student Health and Counseling Center is a confidential resource for students seeking medical assistance or psychological counseling. The staff can assist you in seeking immediate emergency medical care at a local hospital and/or receive an exam from a sexual assault nurse examiner (SANE) at a local hospital. Any student can call the counselor on call to address a psychological emergency. Calls are fully confidential, as with all counseling services, with exception made only in the case of imminent harm or as required by law.

**HEALTH EDUCATOR**

Main Phone: 704-894-2902  
After Hours: 704-892-3306  
Mobile Phone: 704-650-6813

The Health Educator can accompany you to the hospital for a SANE examination and can help you understand your options and resources. Additionally, the Health Educator can provide guidance and support.

**DEAN OF STUDENTS OFFICE**

Main Phone: 704-894-2225  
Dean on Call: 704-975-0386 (24 hour)

The Dean of Students office has trained staff who can help you understand your options and resources and can connect you with additional on- and off-campus resources. The Dean on Call can arrange for someone to accompany you to the hospital for a SANE examination. If you prefer, you may request to speak to the Title IX Coordinator.
RESIDENCE LIFE STUDENT STAFF

The Residence Life student staff (hall counselors, resident advisors) can help connect you with on- and off-campus resources.

CHAPLAIN’S OFFICE

Main Phone:  704-894-2423

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.

Off Campus Immediate Assistance Options:

TOWN OF DAVIDSON POLICE

Main Phone:  704-892-5131 (24 hour)
Emergency:  911 (24 hour)

The Davidson Police Department is available 24 hours a day, 365 days a year to meet with any crime victim of a sexual assault, domestic violence, any physical assault or the crime of stalking. The officers are committed to conduct 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 and where the evidence exists, prosecuted to the fullest extent of the law. There are no costs for these services.

COMMUNITY RESOURCES

Crisis and Emergency Shelter Services:

Safe Alliance (Victim Assistance and Rape Crisis):  704-332-9034
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:
(based at Carolinas Medical Center)  704-446-3999

Project Safe (based at Presbyterian Hospital):  704-614-7212
PRESERVATION OF EVIDENCE
If you have experienced sexual assault, evidence of the assault may be left on your body. If it is safe for you to do so, you should take steps to preserve evidence of the assault even if you have not made a decision to file a criminal report. If the assault occurred within the past 96 hours, you are strongly encouraged to receive an exam from a sexual assault nurse examiner (SANE) at a local hospital. It is important that you not bathe, wash, douche, smoke, or change clothing prior to the exam so that evidence may be preserved. If you do 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 you were assaulted. Campus Police can assist you in the collection and preservation of physical evidence even if you have not yet decided whether to file a criminal report. It is important that you not clean the bed/linen/area where you were assaulted so that evidence may be preserved. In all cases of sexual misconduct, domestic violence, dating violence, or stalking, you are encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other documents, if any, that would be useful to the investigation and complaint resolution process and/or to police.

III. Definitions
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:
Prohibited Acts

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

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

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.

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.

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 other person’s 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.

Sexual Harassment
“Sexual Harassment” is defined as conduct 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 gender identity (or that 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 gender identity; 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 or gender identity.
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 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 no way prevents the college from taking appropriate corrective and/or disciplinary action against the alleged harasser for the behavior.

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.

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.

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.

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.

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 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 or out of consciousness.

**Preponderance of the Evidence**
The Sexual Misconduct Board 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 Board, after considering all of the evidence, must find that it is more likely than not that the alleged violation occurred.

**Complainant**
A “Complainant” is an individual who reports an experience of sexual misconduct, stalking, or relationship abuse or violence. 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 student 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 misconduct investigations, and has been assigned by the Dean of Students 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; 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 Dean of Students to use to determine whether to charge the Respondent with a violation of this Policy.

**Advisor**
An “advisor” is any 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 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. At the student’s request, the college will provide a list of trained staff and student advisors available to provide guidance and support to the student. Students are not required to choose an advisor from the list of trained staff and students.

**Sexual Misconduct Board**
The “Sexual Misconduct Board” or “Board” is composed of five members, one of whom shall be the Chair. The members are appointed by the President or delegate, and shall serve a renewable four-year term. Every effort will be made to maintain gender balance on the Board, and membership normally will be limited to full-time faculty and staff members. The Title IX Coordinator shall arrange for the Board members to receive annual training.
Chair
The “Chair” of the Sexual Misconduct Board shall preside over any meeting of the Board but shall not have a vote in the Board’s deliberations. The Chair shall review the investigation report, statements made by the parties or witnesses, and other relevant materials gathered during the course of the investigation. The Chair determines whether the information is relevant and material to the determination of the charged violation(s) of this Policy and will redact (remove) information that is irrelevant, immaterial, more prejudicial than probative, repetitive, statements of reputation and personal or expert opinion.

Appeal Officer
The “Appeal Officer” is independent counsel selected by the college to consider appeals under this Policy.

Responsible Employee
A “responsible employee” is a college employee who is obligated to report incidents of alleged sexual misconduct to the Title IX Coordinator. Responsible employees include faculty, Student Life staff, Resident Life student staff members, Public Safety staff, coaching staff, supervisors of student employees, Title IX and Deputy Title IX Coordinators, the President and the Principal Executive Staff. A responsible employee who receives a report must report all relevant details about the alleged misconduct to the 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, any other students involved in the alleged misconduct.

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 Misconduct 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 a student’s request for confidentiality and determining whether interim measures and additional remedies are appropriate. The Title IX Coordinator is available to advise you 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:

Leslie Grinage, Associate Dean of Students, Chambers 1255, (704) 894-2225, legrinage@davidson.edu.

Davidson College’s Deputy Title IX Coordinators are:

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)

Tamala Bullard, Associate Director of Human Resources, 11 Jackson Court, (704) 894-2214, tabullard@davidson.edu (In addition to complaints under this Policy, any individual may direct Title IX complaints regarding employees to Tamala Bullard.)
IV. Reporting
Any individual who has been the target of sexual misconduct, stalking, or relationship abuse or violence is strongly encouraged to report the incident.

How to Report
The college provides the following options for reporting an act of sexual misconduct, stalking, or relationship abuse and violence. You are encouraged to report an incident even if you do not want to file a criminal report or initiate Davidson’s internal complaint procedures: by reporting, the college can ensure you have access to counseling services, academic 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.

All non-confidential reports will be reported to the Title IX Coordinator, who will meet with you to review your options and all available resources. The college will limit disclosure of information included in a non-confidential 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.

1. Report to Campus Police. Sexual assault (including rape), physical violence, and stalking are serious criminal acts and you 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 your choice whether or not to make such a report and you have the right 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. 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.

Campus Police Main Phone: 704-894-2178
Campus Police Office on Duty: 704-609-0344

2. Report to Title IX Coordinator. Davidson College has designated an Associate Dean of Students to serve as the Title IX Coordinator to oversee 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.

All reported incidents of sexual misconduct involving students 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 interim measures and additional remedies, 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. Dean Leslie Grinage, Title IX Coordinator: 704-894-2225, legrinage@davidson.edu
3. **Report to a Responsible Employee.** Reports made to a Responsible Employee will be referred to the Title IX Coordinator for assessment. A Responsible Employee who receives a report must report all relevant details about the alleged misconduct to the 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, any other students involved in the alleged misconduct.

Responsible employees include faculty, Student Life staff, Resident Life student staff members, Public Safety staff, coaching staff, supervisors of student employees, Title IX and Deputy Title IX Coordinators, the President and the Principal Executive Staff.

**Confidential and Protected Resources**

Confidential Resources are those required to keep all information disclosed to them confidential within the legal and ethical bounds of their profession. At Davidson College, these individuals include:

- The counselors, doctors, and nurses at the Student Health Center
- The College Chaplains

Reports made to these individuals are strictly confidential and will not be referred to the Title IX Coordinator or Campus Police without your consent.

Protected Resources include the Student Health Educator. Ordinarily, reports made directly to the Student Health Educator may be made in confidence, meaning these reports will be shared with the Title IX Coordinator and Campus Police (for Clery Act reporting purposes) without identifying information and without triggering action by the college. Exceptions include when you give consent for identifying information to be reported or if the Student Health Educator determines imminent health or safety concerns outweigh your request to keep the report in confidence.

Protected Resources also include public awareness events such as “Take Back the Night.” Information disclosed through a public awareness event is not considered notice of an act described in this Policy.

**Amnesty Related to other Policy Violations**

To encourage reporting of the acts prohibited by this Policy, the college will not subject an individual who reports an alleged incident of sexual misconduct, stalking, or relationship abuse and violence to disciplinary action for the individual’s own minor policy violation, such as personal consumption of alcohol or drugs, at or near the time of the alleged incident, provided that any such violations did not place the health or safety of any other person at risk. The college may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or drug use. Further, the college may offer amnesty related to other policy violations revealed in the process of pursuing a formal complaint.

**Options for the Reporting Person (“Complainant”)**

You are not required to take any action when you report a Policy violation, but if you choose to take action, your options include:

1. Filing a criminal report with campus police or local police;
2. Filing a formal complaint with the Dean of Students Office requesting that the college initiate its internal complaint procedures;
3. In appropriate cases, pursuing informal mediation of the complaint conducted by staff of the Dean of Students Office;
4. Requesting interim measures and additional remedies (for example, a no-contact order, alteration of class schedules or housing arrangements); and/or
5. Accessing available resources, including counseling.
Additional information about initiating the college’s internal complaint procedures is set forth below.

If you do not want to pursue the college’s internal complaint procedures, you may nonetheless (i) access support resources, such as counseling or, in appropriate cases, academic relief; and/or (ii) request interim measures.

V. 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 students.

The college will undertake an appropriate inquiry into all reports involving students, 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, files a formal complaint, or requests the college not to pursue action; 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 Complainant’s consent, and will conduct any investigation and respond to a report consistent with the Complainant’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 Complainant requests confidentiality, does not provide the name of the Respondent, or asks that the report not be pursued.

Requests for Confidentiality
In cases where the Complainant 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:

- The information provided suggests that the Respondent has committed prior acts and/or suggests an increased risk that Respondent will commit additional acts that would violate this policy or are otherwise violent acts;
- 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;
- The alleged misconduct was committed by multiple perpetrators;
- The alleged misconduct was perpetrated with a weapon;
- The Complainant is a minor;
- The college has other means to obtain relevant evidence (e.g., security camera footage, physical evidence, additional witnesses);
- If 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 Respondent or reveal the identity of Complainant.

However, the Title IX Coordinator or designee 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 Complainant 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: imposition of interim measures and additional remedies; and/or filing a formal complaint on behalf of the affected individual, in which case the college will be the Complainant. The college cannot withhold Complainant’s name from the Respondent once the college takes action that affects the Respondent.

**Interim Measures and Additional Remedies**

Upon receipt of a report of an alleged Policy violation, the college may determine that “interim measures” are necessary to ensure a safe and nondiscriminatory environment for students. Similarly, at the conclusion of the complaint resolution process, the college may determine that “additional remedies” are necessary to ensure a safe and nondiscriminatory environment for students. Interim measures and additional remedies are separate from any sanctions the Sexual Misconduct Board may impose during complaint resolution procedures and are not disciplinary in nature. They are imposed by the Dean of Students in consultation with the Title IX Coordinator and may be imposed at any time, regardless of whether formal disciplinary action is sought by Complainant or the college. They may be extended beyond and/or imposed after complaint resolution procedures are completed.

**Requesting Interim Measures or Additional Remedies**

Students seeking the assistance of interim measures or additional remedies should speak with the Title IX Coordinator, who will evaluate and, if warranted, will coordinate the request. Even when a student 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 students.

The specific interim measures or additional remedies implemented and the process for implementing those measures will vary depending on the facts of each case. The Title IX Coordinator and the Dean of Students will consider, among other factors, the specific need expressed by the Complainant; the severity or pervasiveness of the allegations; any continuing effects on the Complainant; and whether the Complainant and Respondent share the same residence hall, class, or on-campus job location.

Possible interim measures and additional remedies include:

- No-contact order between Respondent and Complainant
- Limiting access to certain college facilities or activities (including “social probation”)
- Limiting access to campus to specific times of day
- Alteration of class schedules
- Alteration of on-campus housing arrangements
- Removal from on-campus housing
- Changing campus work schedules or job assignments
- Suspension from on-campus employment
- Suspension from athletic teams or other student organizations
• Rescheduling of exams, papers, or other assignments
• Provisional suspensions or restrictions as provided in Extraordinary Disciplinary Powers of the President section of the student handbook
• Taking an incomplete in a class
• Authorized withdrawal from a class
• Alternative course completion options
• Voluntary leave of absence
• Access to counseling services
• Providing an escort to ensure safe movement between classes and activities
• Providing academic support services
• Any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy

Where Complainant and Respondent are members of the same organization or athletic team, the Title IX Coordinator and Dean of Students will consider ways to permit both students to continue participation, but when such compromise is not possible, the Dean of Students has the discretion to determine whether one or both students is restricted from participation.

**Reporting Violations of Interim Measures and Additional Remedies**
All individuals are encouraged to report concerns about failure of another individual to abide by restrictions imposed by an interim measure or additional remedy. Failure to abide by restrictions imposed by an interim measure or additional remedy is a violation of the Code of Responsibility.

**Investigating Basis for Imposing Interim Measures**
Interim measures can be imposed prior to investigation into a report. If a formal complaint has been filed, the interim measures will remain in place at least until the complaint resolution procedures are completed. If no formal complaint has been filed and the interim measures affect Respondent, the Dean of Students will assign an Investigator to investigate the allegations that led to the imposition of the interim measures (an “interim measures investigation”). At a minimum, this interim measures investigation will include an opportunity for Respondent to provide a statement in response to the allegations. [Note: if Complainant later files a formal complaint, an additional investigation into the allegations likely will occur. An interim measures investigation under this Section is for the limited purpose of determining the appropriateness of the interim measures.]

The Title IX Coordinator and Dean of Students will review the interim measures investigation report and will determine whether to keep the interim measures in place, whether additional interim measures are warranted, and the time period for their imposition. The Dean of Students will send written notice of this determination to Respondent and Complainant. Interim measures are subject to re-evaluation upon the conclusion of the time period for their imposition.
VI. Complaint Resolution Process

Informal Mediation
Informal mediation of a complaint is only available in appropriate cases. Informal mediation is never appropriate in cases involving allegations of nonconsensual sexual penetration or nonconsensual sexual contact. The Dean of Students has the discretion to determine if it would be inappropriate to informally mediate any particular sexual misconduct complaint.

Both Complainant and Respondent must agree to engage in informal mediation, and either party can end the informal mediation process at any time, for any reason. The complaint will be mediated by the Title IX Coordinator or a trained college mediator appointed by the Title IX Coordinator. Both student parties are expected to attend the mediation. During the mediation, the Complainant and Respondent may:

a) Communicate their feelings and perceptions to each other in the presence of, and facilitated by, the mediator;

b) Communicate feelings and perceptions regarding the alleged incident and the impact of the alleged incident; and/or

c) Relay wishes and expectations regarding non-disciplinary measures.

The mediator will attempt to facilitate the parties’ resolution of the complaint. If the mediation results in a resolution agreed to by the student parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances, the informal mediation will be concluded and the complaint will be closed. If the parties are unable to reach a resolution, the Complainant may file a formal complaint or may request the Title IX Coordinator evaluate the need for interim measures.

Students must understand that anything said in this informal mediation may be used in either criminal proceedings or the college’s internal complaint procedures.

Filing a Formal Complaint
To initiate the college’s internal complaint procedures, the Complainant must file a formal complaint with the Dean of Students. 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.

Who May File
Any individual may file a formal complaint against a student 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 complaint resolution procedures are completed.

Notice of Investigation
Upon receipt of a formal complaint, the Dean of Students 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 Dean of Students 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, a statement regarding confidentiality of the process, and a statement on the policy which prohibits retaliation. The Dean of Students 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 staff and students trained as advisors.

**Respondent Acceptance of Responsibility**
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, determination of responsibility by the Sexual Misconduct Board, and appeal on the ground of procedural error. In such cases, the Dean of Students, in consultation with the Title IX Coordinator and Chair, will determine the sanction(s) and will notify Respondent and Complainant of the sanctions in writing within three calendar days of receiving the Respondent’s written statement accepting responsibility. By accepting responsibility, Respondent also accepts the Dean of Student’s decision on sanctions as final and waives the right to appeal on the ground of procedural error.

**Assistance 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 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.

At the student’s request, the college will provide a list of trained staff and student advisors available to provide guidance and support to the student. Students are not required to choose an advisor from the list of trained staff and students. Parties must provide the Dean of Students with notice of the identity of their advisor of choice prior to the advisor attending a meeting or proceeding under this Policy, ideally at least one calendar day in advance.

**Investigation into Formal Complaint**

**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 Dean of Students 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 Dean of Students may appoint a single Investigator or a team of Investigators to conduct the investigation. The Dean of Students may appoint as Investigators 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 Dean of Students, in his or her discretion, deems it advisable.

**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 calendar days, not including college holidays (i.e., when classes are not in session).

In typical cases, the timeframe for the complaint resolution process (starting with the filing of a formal complaint and ending with the notice of the Sexual Misconduct Board’s determination of whether a policy violation occurred), not including any appeals, will not exceed sixty (60) calendar days, not including college holidays (i.e., when classes are not in session). 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 will exceed sixty (60) calendar days.

**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 the **pledge of confidentiality** to all individuals involved in the investigation.

**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 Chair for review. The Chair will redact (remove) information that the Chair determines is irrelevant or immaterial. Specifically, the Chair shall redact:

- Irrelevant information concerning sexual history, unrelated sexual activity, character, or incidents not directly related to the complaint (subject to the Chair’s determination that the information demonstrates a pattern of behavior);
• Statements of reputation or personal or expert opinion;
• Information that violates an individual’s privacy right or that constitutes an unwarranted invasion of privacy;
• Information that is irrelevant, immaterial, more prejudicial than probative, or repetitive;
• 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).

Notice to Proceed and Option for Resolution Agreement
At the conclusion of the investigation, the Dean of Students will issue a written Notice to Proceed to Complainant and Respondent with a copy to the Chair. 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 allegations, the Dean of Students, in consultation with the Title IX Coordinator, may dismiss the allegations prior to resolution by the Sexual Misconduct Board and shall notify Complainant and Respondent of the dismissal in writing.

Review and Response to Investigation Report
Upon receipt of the Notice to Proceed, the Chair shall arrange for Complainant and Respondent to access the information separately in a private setting on campus (typically within three (3) calendar days). The parties may not make copies or take photographs of the information. Within one (1) calendar day of accessing the information, each party shall notify the Chair whether the party requests to meet with the Investigator for the purpose of responding to this information. The Investigator will record each party’s responses to the information and submit a written report of the responses to the Chair. The party’s meeting with the Investigator should occur within three (3) calendar days of the party’s request to the Chair, and the Investigator shall submit the written report to the Chair within two (2) calendar days of the meeting. If new and relevant information is submitted during this review and response period, it will be shared with Complainant and Respondent and each will have an opportunity to respond to the new information via the Investigator within a time frame determined by the Chair. If the written reports of the parties’ responses include information deemed by the Chair to be irrelevant or immaterial, the Chair 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) calendar days after its conclusion), the Chair 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 Sexual Misconduct Board. The Chair shall notify Complainant and Respondent when the final investigation packet has been issued to the Board and shall arrange for Complainant and Respondent to access the information separately in a private setting. The parties may not make copies or take photographs of the information.
Complaint Resolution Procedures

Board review of final investigation packet
The Sexual Misconduct Board determines whether a policy violation occurred and imposes sanctions for policy violations as appropriate. The Board will review the final investigation packet and may request any additional relevant information from the Investigator or third parties. 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 the Board’s determination of whether a policy violation occurred. The parties may not make copies or take photographs of the additional relevant information.

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 Chair no later than three (3) calendar days after the Chair issues the final investigation packet. These statements would only be reviewed by the Board and made part of the record if the Board determines that a policy violation occurred. In that event, the statements would be reviewed by the Board in determining sanctions as described below. If either the impact statement or mitigation statement include information deemed by the Chair to be irrelevant or immaterial, the Chair shall redact (remove) the irrelevant or immaterial information prior to distributing to the Board. Specifically, the Chair shall redact:

- Irrelevant information concerning sexual history, unrelated sexual activity, character, or incidents not directly related to the complaint (subject to the Chair’s determination that the information demonstrates a pattern of behavior);
- Statements of reputation or personal or expert opinion;
- Information that violates an individual’s privacy right or that constitutes an unwarranted invasion of privacy;
- Information that is irrelevant, immaterial, more prejudicial than probative, or repetitive;

Conference
The Board may hold a conference with Complainant, Respondent, and the Investigator upon the request of any Board member, Complainant, or Respondent. Requests for a conference should be made as soon as possible after the final investigation packet is issued, but in any event no later than three (3) calendar days thereafter. At Complainant’s request, the Chair will arrange for Complainant to participate in the conference outside the presence of the Respondent (e.g., by using a room divider, using separate conference rooms, using technology such as Skype).

The focus of such conference will only be to clarify information presented in the investigation report. The Board will not receive new evidence not included in the report. Previously unavailable relevant information should be brought to the attention of the Chair, who will determine whether the information will be considered by the Board.
Board members may ask questions of the Complainant, Respondent, or Investigator, and Complainant and Respondent each may make a statement to the Board to clarify information presented in the investigation report. If either Complainant or Respondent does not appear at the conference, after confirmation by the Chair that the party was duly notified of the date and time of the conference, the conference 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 conference that the Board uses in the complaint resolution process.

**Determination of Responsibility**
The Board will apply a preponderance of evidence standard when arriving at a determination of whether a policy violation occurred. The Board will meet in executive session and will base its determination solely on information presented as part of the complaint resolution process. Board members may properly consider as evidence of violation that the Respondent has refused to cooperate in the investigation if there is other information to support the alleged policy violation. A majority of the Board must concur in the determination that a policy violation occurred.

**Imposition of Sanctions**
If the Board determines a policy violation occurred, the Board will impose sanctions and in determining sanctions, the Board will attempt to fairly fit the sanction to the violation seen in total context. For example, a fairly severe sanction might appropriately be imposed for a relatively minor violation which has been persistently repeated despite formal warning, while a relatively minor sanction might appropriately be imposed for a serious violation when substantial extenuation is shown.

Prior to making a determination on sanctions, the Chair shall distribute to the Board: (i) any written impact statement or mitigation statement; and (ii) any items from Respondent’s files deemed appropriate by the Dean of Students for the Board’s consideration of the appropriate sanction(s), if any, to be imposed. These items could include, but not be limited to: prior disciplinary records, criminal records, police reports, and/or interim measures imposed.

A majority of the Board must concur in the decision to impose any particular sanction. This policy includes a list of possible sanctions. In addition to sanctions imposed by the Board, the Dean of Students may impose new or continuing interim measures and additional remedies designed to ensure a safe and nondiscriminatory environment for students.

**Notice of Action**
The Chair shall distribute to Respondent a notice of the Board’s determination of whether a policy violation occurred (including the specific prohibited acts alleged and the Board’s determination of responsibility for each alleged prohibited act), the rationale for the decision, and the sanctions imposed, if any. The Chair shall concurrently provide a copy of the Notice of Action to Complainant, with any redactions as required by federal law. The Chair will make every effort to conclude the complaint resolution process and distribute the Notice of Action within two calendar weeks of distributing the final investigation packet to the Board.

**Record of Conference**
The Chair shall prepare a written digest of the conference for the purpose of preserving a record of the conference proceedings in the event of an appeal. The Chair shall include as an exhibit to the written digest any materials distributed to the Board prior to a determination on sanctions (that is, any written
impact statement or mitigation statement; and a copy of the items from Respondent’s file considered by
the Board in determining appropriate sanctions, if any). The Chair shall provide an opportunity for
Complainant and Respondent to access the written digest and exhibit (if any) separately in a private
setting at least two (2) calendar days prior to the deadline for filing an appeal. The parties may not
make copies or take photographs of the written digest and exhibit (if any).

Final Determination
The determination by the Sexual Misconduct Board both as to the fact of violation and as to the
sanction(s) to be imposed, are finally dispositive of the complaint resolution process subject only to the
rights of the parties to appeal as provided below. Whether or not the Board determines a policy violation
occurred, and in addition to any sanctions imposed by the Board, the Dean of Students, in consultation
with the Title IX Coordinator, may impose new or continuing additional remedies designed to ensure a
safe and nondiscriminatory environment for students. In the event the Board determines the Respondent
is not responsible for the alleged policy violation, the college may continue to provide additional remedies
for Complainant so long as those remedies do not unduly burden or prejudice Respondent.

Sanctions and Additional Remedies
If the Board determines no policy violation occurred, then no sanction will be recommended. If the
Board determines a policy violation occurred, the Board will impose sanction(s) and in determining
sanctions, the Board will attempt to fairly fit the sanction to the violation seen in total context.

List of Sanctions
Possible sanctions include:

- **Loss of status in housing lottery.**
- **Eviction**: removal from on-campus housing.
- **Social Probation**: exclusion from participation in privileged or extra-curricular activities for a
  period not exceeding one year. Social Probation may be extended to all activities, including
  campus social events, Patterson Court functions sponsored off campus, participation in college
  athletics (varsity, club, or intramural), attendance at sports events, and eating house, sorority, or
  fraternity activities. Violation of this policy, the Code of Responsibility, or the Honor Code during
  the period of probation will normally result in suspension from the college.
- **Restricted Access**: limiting campus access to certain areas of campus and/or specific times of
day
- **Suspension for a definite period of time**: Exclusion from classes and other privileges of
  activities with forfeiture of academic credit, as set forth in the notice of action, for a definite time,
  beginning immediately. If suspension is for more than one term, the suspension shall begin
  immediately and shall be served in consecutive terms.
- **Indefinite suspension**: Termination of student status, subject only to formal readmission, with
  no right to petition for readmission before the expiration of one calendar year from the date of
  suspension.
- **Warning**: Notice, oral or in writing, that continuation or repetition of conduct in violation may be
  cause for more severe disciplinary sanctions.
- **Censure**: A written reprimand, which may include warning of more severe disciplinary sanction
  in the event of determination of a subsequent violation within a stated period of time.
- **Apology**: Oral or written apologies 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.

When students are suspended they shall ordinarily leave campus within forty-eight hours after conclusion of the complaint resolution process. A suspended student shall not come on campus without the permission of the Dean of Students.

In the event that social probation is imposed during the student’s senior year and the probationary period extends beyond the date of commencement, the student shall not be eligible for a degree until the end of the probationary period.

Failure to comply with sanctions imposed will ordinarily result in harsher sanctions, including suspensions.

**Stay of sanctions pending appeals**

If the decision of the Sexual Misconduct Board is appealed, sanctions are stayed until the matter has been finally disposed of within these procedures; provided, however, that:

- If a sanction of suspension is appealed, the Respondent is restricted during the appeal period to academic involvements only. Thus, the continuation of participation in privileged or extra-curricular activities is not permitted during the appeals process. A reversal of the sanction of suspension on appeal may allow for reinstatement at the discretion of the appeal officer.
- If a sanction of suspension is appealed and the sanction upheld, the effect of the suspension shall be as of the date imposed by the Sexual Misconduct Board.
- If a sanction of social probation is appealed and the sanction upheld, the term of the probationary period shall begin when the appeal concludes.
- The Dean of Students, in consultation with the Title IX Coordinator, may impose additional remedies, including additional remedies that reflect the sanctions, while the appeal is pending to ensure a safe and non-discriminatory environment for students.

VII. Appeals

**Grounds for Appeal**

Either Complainant or Respondent can appeal the finding of the Sexual Misconduct Board or the sanctions imposed on the following grounds:

a. procedural error that had a material impact on the fairness of the complaint resolution process; or

b. the sanction is substantially disproportionate to the findings.

Previously unavailable relevant evidence that could significantly impact the result of the Board’s determination must be brought to the attention of the Chair within five (5) calendar days of receiving the written Notice of Action. In that event, the Chair will reconvene the Board to determine whether the information would have affected the result.

**Filing an Appeal**

Appeals must be filed with the Dean of Students within five (5) calendar 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 Dean of Students will forward the appeal and the record on appeal to the appeal officer and the Chair. The record on appeal comprises all materials reviewed by the Sexual Misconduct Board, the written digest of the conference and exhibits (if any), and the Notice of Action. The Dean of Students 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.

**Appeal Procedures**
Appeals are heard by independent counsel selected by the college, called the appeal officer. The appeal officer ordinarily will decide within five (5) business 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 Chair to respond in writing. When an appeal is requested by Respondent, the appeal officer will invite the Complainant to respond in writing. When an appeal is requested by 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 Chair or a student-party. The appeal officer shall provide copies of the written responses and additional documentation, if any, to the Dean of Students and the Chair, and shall provide an opportunity for 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 Complainant, Respondent, and the Chair before making a decision on appeal.

The appeal officer considers the appeal solely on the information in the appeal, the record on appeal, and the written responses, and additional documentation of procedural error, if any, and shall not consider any new evidence. The appeal officer will not substitute the officer’s own judgment for that of the Sexual Misconduct Board.

**Actions Available on Appeal**
The appeal officer may:

- Uphold the determination of the Sexual Misconduct Board.
- Reduce or increase the sanction(s) to one(s) deemed more appropriate than those imposed;
- Remand the matter to the Sexual Misconduct Board where a procedural irregularity could be corrected by the Board.
- Remand the matter to an ad hoc review panel composed of trained individuals not involved in the matter. This action will only be taken in extraordinary cases, when the appeals officer determines the matter would be best addressed by a newly-constituted panel.

**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 Complainant, Respondent, and the Chair with any redactions as required by federal law.
VIII. 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, Board member, or representative in the investigation and resolution of a complaint. Acts or threats of retaliation are a violation of the Code of Responsibility and will be investigated and adjudicated accordingly.

IX. Additional Policy and Procedure Information

Jurisdiction and Scope
This policy applies to the on-campus conduct of all students. It also applies to off-campus conduct of students that, in the College’s judgment, involves or affects the College or other members of the College community, such as conduct in connection with:

1. Academic work or other Davidson-related educational activities and experiences, such as class projects, field trips, study abroad, or internships;
2. Activities sponsored, conducted, or authorized by the College or its student organizations; or
3. Activities that cause or threaten harm to the health, safety, or well-being of the College or members of the College community.

This policy applies to all such conduct by a student while a student, even if it occurs outside of an academic term or when the student is not otherwise present at Davidson College. Moreover, the College continues to have authority to initiate or continue administration of this policy with respect to any such conduct by a student while a student even if, after a formal complaint is filed, the student withdraws, takes leave, or is otherwise absent from Davidson College.

Rights of Student Parties
Complainant and Respondent have the following common rights:

- 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; and
  - Is conducted by individuals who do not have a conflict of interest or bias for or against the Complainant or Respondent
- 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;
- Written notification of the result of the complaint resolution process (subject to any redactions required by federal law);
- An outcome based solely on information presented as part of the complaint resolution process;
- To not be subject to acts or threats of retaliation for action taken in good faith as part of the complaint resolution process;
- To not be required to take any reviews or examinations during the complaint resolution process (from the receipt of the Notice of Investigation until two calendar days after the Notice of Action is delivered);
- To decline to make statements, provide testimony, or attend meetings or proceedings related to the complaint resolution procedure under this Policy; provided, however:
Failure to appear at the Board conference is deemed a waiver to the right to timely and equal access to information used during the complaint resolution process;

Board members may properly consider as evidence of violation that the Respondent has refused to cooperate in the investigation if there is other information to support the alleged policy violation;

- Preservation of privacy, to the extent possible and allowed by law;
- Access to support from the counseling center staff and the college chaplain’s office.

Complainant has the following additional rights:

- Implementation of interim measures and additional remedies that reduce the burden on Complainant but do not unduly burden or prejudice Respondent;
- To request that the Title IX Coordinator evaluate the need for interim measures and additional remedies;
- Notice that the Title IX Coordinator has determined the college must act on information received in cases where the Complainant has requested confidentiality or that the college not take action;
- To provide information at any step of the procedures outlined in this Policy outside the presence of the Respondent.

Respondent has the following additional rights:

- An investigation into the allegations that for the basis for the college’s imposition of interim measures and additional remedies;
- To waive Sexual Misconduct Board proceedings by accepting responsibility for the alleged violation prior to, or during the course of, an investigation.

**Securing Witnesses**

Investigators are authorized to contact any relevant individuals to request that they participate in the investigation, including responding to requests for additional information from the Sexual Misconduct Board.

**Pledge of Honesty; Malicious and False Accusations**

All witnesses to an investigation, including the parties, shall pledge in writing to present honest testimony. A student who does not present honest testimony may be formally accused of lying as an Honor Code violation. Filing a formal complaint (for Complainant) or denying responsibility (for Respondent) will not in itself subject the party to an Honor Code charge for lying, regardless of the Board’s determination whether a policy violation occurred. An allegation which is both false and brought with malicious intent is a violation of the Honor Code.

**Pledge of 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 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 confidentiality pledge does not extend to information that an individual has a legal right to disclose.

Violations of the pledge of confidentiality may result in disciplinary action under the Code of Responsibility.
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 Chair of the Sexual Misconduct Board, the Investigators assigned to the complaint, the appeal officer, the President, the General Counsel) shall have access to information presented as part of the complaint resolution process.

Publication of Outcomes
In addition to the information contained in the college’s annual security report, the college will publish annually a three-year summary including the number of sexual misconduct reports received by the Title IX Coordinator, the number of sexual misconduct complaints filed with the Dean of Students Office, and the outcome of complaints filed (including the finding and sanctions, if any). The three-year summary will not include the names of any students. Any interim measures or additional remedies imposed will be reported in the aggregate.

Summary of Timelines for Complaint Resolution Procedures
In typical cases, the timeframe for the complaint resolution process (starting with the filing of a formal complaint and ending with the notice of the Sexual Misconduct Board’s determination of whether a policy violation occurred), not including any appeals, will not exceed 60 calendar days:

- The Dean of Students provides Notice of Investigation to Complainant and Respondent ordinarily within three (3) calendar days of receiving a formal complaint.
- The parties provide notice of the identity of their advisor ideally at least one (1) calendar day in advance of the advisor attending a meeting or proceeding under this Policy.
- The college will make every effort to complete an investigation in 30 calendar days. At the conclusion of the investigation, the Dean of Students will provide notify the parties whether, based on information gathered in the investigation, there are any additions or revisions to the policy violations alleged.
- The Chair shall arrange for the parties to access the information in the investigation report typically within three (3) calendar days of the Chair’s review and redaction of the investigation report.
- Within one (1) calendar day of accessing the information, each party shall notify the Chair whether the party requests to meet with the Investigator for the purposes of responding to this information. The parties’ meetings with the Investigator should occur within three (3) calendar days of the request to the Chair. The Investigator then has two (2) calendar days to submit a written report of the parties’ responses to the Chair.
- Within three (3) calendar days of the end of the review and response period, the Chair notifies the parties that the final investigation packet has been issued to the Board and provides an opportunity for the parties to access the information in the final investigation packet.
- The parties have up to three (3) calendar days after the final investigation packet is issued to request a conference with the Board and to submit a written Impact Statement or Statement in Mitigation to the Chair.
- The Chair will make every effort to conclude the complaint resolution process and distribute the Notice of Action within two (2) calendar weeks of issuing the final investigation packet to the Board.
• Previously unavailable relevant evidence that could significantly impact the result of the Board’s determination must be brought to the attention of the Chair within five (5) calendar days of receiving the written Notice of Action.

• Appeals must be filed within five (5) calendar days of receiving the written Notice of Action. The Chair shall provide an opportunity for the parties to access the written digest of the conference and exhibits (if any) at least two (2) calendar days prior to the deadline for filing an appeal.

• The appeal officer ordinarily will decide within five (5) business days of receiving the record on appeal whether the appeal states sufficient grounds to be considered.

• The appeal officer ordinarily will provide a written notice of outcome within seven (7) calendar days of the decision to consider the appeal.

There is no deadline by which a Complainant must file a formal complaint, and the fact that there was a delay between the alleged policy violation and the filing of a formal complaint is irrelevant to the Board’s determination whether a policy violation occurred. However, a delayed filing can affect the college’s ability to gather information related to the alleged policy violation and may affect the college’s jurisdiction to administer this policy.

**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. Students must understand that 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 Title IX investigation.

**Delegation**

Whenever an action may be or is required to be taken under this policy by the Dean of Students, the action may be taken by the Dean’s 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.
Deviations, Extensions, and Delays
Reasonable deviations from these procedures by the college will not invalidate a decision or proceeding unless significant prejudice to a student is caused by such deviation. While the college will make every effort to complete actions within the stated timelines, the college may extend timelines for good cause and with written notice to Complainant and Respondent that explain the reason for the extension or delay.

Accommodations for Persons with Disabilities
The College will make appropriate arrangements to ensure that students with disabilities are provided reasonable accommodations as needed to participate in this process. Requests for accommodations must be made to the College’s 504/ADA Coordinator. The 504/ADA Coordinator will review the supporting disability related documentation, make a decision about the request, notify the student about approved accommodations and make arrangements for the accommodations. Accommodations may include, but are not limited to, providing interpreters for the deaf, providing recordings of materials for the blind, and assuring a barrier-free location for the proceedings.

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. Procedures for Specific Circumstances

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 Chair 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 Chair 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; except if Respondent was formally charged and the Board did not find that a policy violation occurred, then information related to that charge shall not be considered in the complaint resolution process.

Multiple Complaints Filed
If more than one Complainant files a formal complaint against Respondent before the complaint resolution process for the initial complaint has been completed, the Chair shall have the discretion to determine the process for resolving multiple complaints, including the discretion to alter timelines.

Multiple Respondents
In the event the complaint involves more than one Respondent, the Chair shall have the discretion to determine the process for resolving the complaint against multiple Respondents.
Violation of Interim Measures Prior to Determination

If, prior to the Sexual Misconduct Board’s determination of responsibility, the Dean of Students receives information that indicates the Respondent has violated the terms of interim measures and additional remedies imposed, the Dean of Students may take any of the following actions:

- Impose new interim measures on Respondent.
- Charge Respondent with a violation of the Code of Responsibility.
- Prepare a written report for the Sexual Misconduct Board concerning the alleged violation.

Where appropriate, the Dean of Students will further investigate the allegations prior to preparing the report. The written report will be included in Respondent’s files and, in the event the Board determines a policy violation occurred, would be considered by the Board in determining appropriate sanction(s) to be imposed.

Conflicts of Interest

Investigators and Sexual Misconduct Board members with disclosed conflicts of interest or demonstrated bias for or against a student-party shall not be assigned to investigate or determine responsibility for an alleged policy violation. Examples of a conflict of interest include: a student-party currently enrolled in a course taught by a faculty member of the Board; a student-party in a formal counseling relationship with an Investigator or Board member; or where an Investigator or Board member currently supervises the student-party’s academic work, college student employment, or athletic or other educational programming. Bias is defined as an unfair prejudice in favor or against a student-party based on a student-party’s race, ethnicity, national origin, sex, gender identity, sexual orientation, disability, age, or religion and associated stereotypes.

Investigators and Board members deeming themselves disqualified for reasons of bias or interest shall remove themselves from the matter or may be removed by the Dean of Students or Chair. A party may petition the Dean of Students for removal of an Investigator; and may petition the Chair for removal of any member of the Board; on the basis of a conflict of interest or demonstrated bias.

Any vacancies occurring on the Sexual Misconduct Board while a contested matter is to come before it shall be filled by the President, in consultation with the Dean of Students, who shall appoint disinterested members of the full-time faculty or staff to fill such vacancies.

Scheduling Meetings and Proceedings

The Complainant and Respondent shall receive timely notice of any meeting or proceeding at which they may be present. The college will make reasonable efforts to schedule meetings and proceedings at times convenient to the parties. Meetings and proceedings will not be scheduled at a time when a party has an unavoidable conflict with a required academic obligation (e.g., classes, labs). An advisor’s inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding.

Respondent Withdrawal

Should a Respondent choose to withdraw or take leave from the college after a formal complaint is filed but before final disposition of the matter, the college may continue to administer this policy or, in the alternative, the college may make note in the student’s disciplinary records that charges under this Policy were pending at the time of withdrawal.
**Additional or Revised Charges**
If the investigation produces information that indicates either that (i) there is evidence of additional policy violations that would constitute new or revised charges; or (ii) there is no factual basis for the allegations in the formal complaint, the Investigator shall notify the Dean of Students. Upon review of the information, the Dean of Students may revise the Notice of Investigation to include the new or revised charges. In the event there is no factual basis for the allegations, the Dean of Students may dismiss the matter prior to resolution by the Sexual Misconduct Board.

**Jurisdiction over Related Charges**
The Sexual Misconduct Board has the authority to consider any charge under the Code of Responsibility that is related to an alleged violation of this Policy. The Dean of Students has the discretion to determine whether any such related charge will be considered by the Sexual Misconduct Board pursuant to these procedures or by judicial proceedings under the Code of Responsibility.

**Confrontation**
Complainant has the right to provide information at any step of the procedures outlined in this Policy outside the presence of the Respondent. At Complainant’s request, the conference with the Board or appeal officer may be conducted in a room with a room divider or screen, or with the assistance of technology such as Skype.

**Counter Appeals**
If both parties file appeals, the appeal officer shall have the discretion to determine the process for resolving counter appeals, including the discretion to alter timelines.

**Petition for readmission**
A student who has been suspended for an indefinite period pursuant to this Policy may petition in writing for readmission to the Faculty Executive Committee, with no right to petition for readmission before the expiration of one calendar year from the date of suspension. This petition will be submitted to the Dean of Students. The Faculty Executive Committee may, when possible, consult with members of the Sexual Misconduct Board who heard the student’s case.