

## 12. Pending appeals and the Commencement ceremony

Seniors who have been formally charged with violations of the Honor Code or Code of Responsibility, or with other pending student conduct matters, and seniors with pending appeals shall not be eligible to graduate until the disciplinary matter is finally concluded, and must receive the permission of the Dean of Students or the President to participate in the Commencement ceremony as an August graduate.

## 13. Petition for readmission

A student who has been suspended for an indefinite period may petition in writing for readmission to the Faculty Executive Committee. This petition will be submitted through the Dean of Students Office. The Faculty Executive Committee may, when possible and as appropriate, consult with representatives from the Dean of Students Office or members of the Honor Council, Code of Responsibility Council or Dean who heard the student's case.

## 14. Suitability of student members

All student candidates for the Review Board, the Student Solicitors, and the Student Defense Advisors must be interviewed by a committee of the Student Conduct Council as constituted by the Student Conduct Council. The committee will seek to determine the suitability of candidates as to their appreciation of the College's Statement of Purpose, their understanding of the Honor Code and Code of Responsibility, and their seriousness of purpose. The committee shall certify candidates for these offices before they stand for election.

## COVID-19 Shared Responsibilities

Davidson College students have agreed to abide by shared responsibilities for the 2021-2022 academic year including health and safety protective measures which may include but are not limited to wearing face coverings, physical distancing, and limiting gathering sizes. Guidelines will be adjusted if the health environment on campus changes. Current campus guidelines can be found on the Davidson College Fall 2021-Spring 2022 website (<https://www.davidson.edu/fall-2021-spring-2022>). Students who fail to adhere to the health and safety measures will be referred directly to the Dean of Students Office and not to an Honor Code or Code of Responsibility process. Guidelines on these websites supersede any policies in this Student Handbook. The Dean of Students Office may determine that repeated and/or egregious behavior may result in a mandatory personal leave as outlined in the Protocols to accompany personal leave which can be found on the Personal Leave website (<https://www.davidson.edu/offices-and-services/registrar/academic-regulations/personal-leave>).

## 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, relationship abuse and violence, and stalking, 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, relationship abuse and violence, or stalking. 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 determine 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, relationship abuse and violence, or stalking 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 action of sexual misconduct, relationship abuse and violence, or stalking 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 and violence, the College will use the procedures outlined in this Policy to take reasonable, prompt, and appropriate action to respond.

This Policy has been developed consistent with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), its implementing regulations, 34 C.F.R. Part 106, and significant guidance documents published by the U.S. Department of Education Office for Civil Rights; and with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) ("The Clery Act") and its implementing regulations, 34 C.F.R. Part 668. Please note that the definitions and standard of review in this Policy differ from North Carolina criminal law.

**(Refer to the College's Annual Security Report for the North Carolina criminal law definitions for sex offenses, stalking, domestic violence, and dating violence.)**

## **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 Student Health and Well-Being (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 also contact other on- and off-campus resources to assist you including the Dean of Students On-Call representative.

#### **STUDENT HEALTH AND WELL-BEING**

**Main Phone: 704-894-2300 (weekdays 7:30 am to 4:30 pm)**

**Nurse or Counselor on Call: 704-337-7047 (after hours and weekends)**

Student Health and Well-Being 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**

The Health is a confidential resource who can help you understand your options and resources. Additionally, the Health Educator can provide guidance and support.

## **RESIDENCE LIFE STAFF**

The Residence Life staff can help connect you with on- and off-campus resources.

## **CHAPLAINS' 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 can also 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: 704-332-9034**  
**(Victim Assistance and Rape Crisis) 704-375-9900 (24 hour)**

**Shelter for Battered Women/Crisis Hotline: 704-332-2513 (24 hour)**

**Victim & Legal Assistance: 704-336-4126**  
**(Domestic Violence)**

**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: 704-446-3999**  
**(Based at Carolinas Medical Center)**

**Project Safe: 704-614-7212**  
**(Based at Presbyterian Hospital)**

**Sexual Trauma Resource Center: 704-332-9034**

### ***Servicios en Español:***

**Shelter for Battered Women Crisis Hotline Victim & Legal: 704-332-2513 (24 hour)**  
**Assistance – Domestic Violence: 704-336-4126**

**Programa Confianza: 704-336-3210**

<b>Safe Alliance:</b> (Victim Assistance & Rape Crisis)	<b>704-332-9034</b> <b>704-375-9900 (24 hour)</b>
<b>Time Out Youth:</b> (Shelter & LGBTQ+ Resource Referrals Ages 11-20)	<b>704-344-8335</b>
<b>Mecklenburg County Women’s Commission:</b> (Partner Violence Resources)	<b>704-336-3210</b>

**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 do 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 do 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, 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.

The definitions are divided into two sections. Section A states prohibited conduct as defined by the 2020 amendments to the implementing regulations, 34 C.F.R. Part 106, of Title IX of the Education Amendments Act of 1972 (“Title IX”). Section B provides definitions of offenses prohibited by the College’s sexual misconduct policy that are outside of the requirements stated in Title IX.

#### **Section A: Prohibited conduct as defined by Title IX of the Education Amendments Act**

**Jurisdiction and Scope** Section A of this Policy applies to student conduct that occurs on campus or in a College’s Education Program or Activity. Section A states the definitions of prohibited conduct as promulgated by Title IX. Section A does not apply to conduct that

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

Section A applies to all Formal Complaints of sexual misconduct. Therefore, all Formal Complaints will be reviewed under Section A of this policy to determine if the alleged conduct is a potential violation under Section A. If the alleged conduct does not meet the requirements for a Formal Complaint under Section A of this policy, then the alleged conduct will be reviewed under Section B of this policy.

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

- a. Quid Pro Quo: An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct, or

- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's Education Programs or Activities.

Sexual Harassment, as a broad category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

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

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

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

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

**Stalking** Engaging in a "course of conduct" directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or "suffer substantial emotional distress." Under this section, "course of conduct" is defined as two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; and "substantial emotional distress" is defined as a significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

## **Section B: Prohibited conduct as defined by Davidson College**

**Jurisdiction and Scope** Section B of this Policy applies to the on-campus conduct of all students. Section B provides definitions of offenses prohibited by the College's sexual misconduct policy that are outside of the requirements stated in Title IX. It also applies to off-campus conduct of students that, in the College's judgement, 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.

Section B of 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.

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

1. **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."
2. **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.
3. **Non-Consensual Sexual Contact** "Non-Consensual Sexual Contact" is defined as touching of intimate body parts such as genitalia, groin, breast, buttocks, 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.
4. **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 while knowingly infected with a sexually transmitted infection (STI) or Human Immunodeficiency Virus (HIV) without informing the other person of the infection.
5. **Sexual Harassment** "Sexual Harassment" is defined as unwelcome conduct that has the effect of substantially interfering with a person's work or educational opportunity; and
  - i. conduct is sufficiently severe, pervasive, and objectionably offensive to create an intimidating, hostile, or offensive work or educational environment such that the person is effectively denied equal access to institutional resources and opportunities; or
  - ii. the submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment, education, or participation in College Programs or Activities.

Sexual harassment denies an individual dignity and respect and may take on different forms. It includes, but is not limited to the following examples when the conduct meets the standards of the definition above:

- a. 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);
- b. Unwelcome threats, derogatory comments, jokes, innuendos, insults, slurs, epithets, negative stereotyping, and other similar conduct that relates to gender or gender identity; or
- c. 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 when the conduct meets the standards of the definition above and the following conditions are present:

- a. 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;
- b. 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;
- c. The conduct has the purpose or effect of substantially interfering with an individual's work or academic, athletic, or other educational performance; or
- d. 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.

All relevant circumstances are examined as a part of a sexual harassment determination including, but not limited to, whether the conduct is verbal, physical, or electronic; the frequency of the conduct; the severity of the conduct; the relationship of the individuals involved; whether the conduct was physically or psychologically threatening or humiliating; whether the conduct unreasonably interfered with work performance (for employees) or academic performance (for students). Through this examination potential harassment is distinguished from behavior that may be disagreeable or uncomfortable, but, is protected by the College's Constitution or is related to the appropriate facilitation of academic instruction and advising or the responsibilities of supervisors.

6. **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.
7. **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.
8. **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.
9. **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:
  - a. "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.
  - b. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the individual being stalked.
  - c. "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

1. **Consent** "Consent" means the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter.
  - a. 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.
  - b. 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.
  - c. An individual who is asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, is not able to consent. An individual who is under the age of 16 is not able to consent. Indications of consent are irrelevant if the person is not able to consent.
2. **Coercion** "Coercion" is the use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including harassment, intimidation, manipulation, threats, or blackmail. A person's words or conduct are sufficient to constitute coercion if they impair another individual's ability to choose whether or not to engage in sexual activity.
3. **Incapacitation** "Incapacitation" is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., the understand the who, what, when, where, why, or how of the sexual activity) and/or is physically helpless. Incapacitation can result from sleep, unconsciousness, mental or physical helplessness, ingestion of substances, or lack of awareness that sexual activity is taking place.
  - a. Incapacitation may result from the use of alcohol or drugs, but consumption of alcohol or drugs alone is not sufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's decision-making ability; awareness of consequences; ability to make informed judgements; and capacity to appreciate the nature and the quality of an act.
  - b. Evaluating incapacitation also requires an assessment of whether the Respondent knew or should have known that the Complainant was incapacitated. In determining whether the Respondent should have known that the Complainant was incapacitated, the standard is whether a reasonable sober person should have known that the Complainant was incapacitated. Indicators of incapacitation may include the following: bloodshot or unfocused eyes; concern expressed by others about the individual; memory loss or disorientation; outrageous or unusual behavior; slurred speech; unsteady gait; vomiting, unconsciousness, and going in or out of consciousness.
4. **Clear and Convincing Standard of Evidence** The Hearing Officer considers the greater weight of the credible evidence to determine whether a Policy violation occurred. This standard, referred to as the "clear and convincing standard," means the Hearing Officer, after considering all evidence, must find that the alleged violation is highly and substantially more likely to be true than untrue.
5. **Education Program or Activity** Locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned and controlled by the College or by a student organization that is officially recognized by the College.



6. **Bias** 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.
7. **Reporting Party** An individual who reports an experience of sexual misconduct, relationship abuse and violence, or stalking. An individual who is a Reporting Party has either chosen not to file a Formal Complaint or is still considering whether to file a Formal Complaint regarding their experience.
8. **Formal Complaint** A document filed by a Complainant or the Title IX Coordinator alleging sexual misconduct against a Respondent and requesting that the College investigate the allegation of sexual misconduct.
9. **Days** When computing time periods for actions in this Policy, the following rules apply: (a) Exclude the day of the event that begins the period (b) Exclude any intermediate Saturdays, Sundays, and college holidays (i.e., only business days are counted) (c) When an act must be done within a specified time, the act must be completed by 5 p.m. on the last day of the period.
10. **Complainant** The "Complainant" is the individual who files a Formal Complaint of sexual misconduct, relationship abuse and violence, or stalking. In the case of complaints that are pursued when the affected individual is unable or unwilling to participate in the process, the College may pursue the complaint in which case the College shall be the Complainant.
11. **Respondent** The "Respondent" is the individual whose conduct is alleged to have violated this Policy and whose conduct is being investigated.
12. **Investigator** The "Investigator" is an individual who has received specialized training in conducting sexual misconduct investigations and has been assigned by the Title IX Coordinator to investigate an alleged violation of this Policy. Investigators are neutral fact finders who, during the course of the investigation, typically conduct interviews with the Complainant, the Respondent, and third-party witnesses; take custody of any physical or electronic records or documents to be included in an investigation report; and, where applicable, coordinate with Campus Police or other law enforcement agencies. Investigators prepare a written investigation report for the Dean of Students to use to determine whether to charge the Respondent with a violation of this Policy.
13. **Advisor** An "Advisor" is an individual who provides the Complainant or Respondent support, guidance, or advice. The Complainant and Respondent may have the Advisor of their choice present during any meeting or proceeding related to complaint resolution under this Policy. The College will provide a list of trained Advisors available to provide guidance and support to the student. Students are not required to choose an Advisor from the list of trained Advisors.
14. **Support Person** The Complainant and Respondent may each have one Support Person present at any meeting or proceeding related to a complaint resolution under this Policy, to provide support. A Support Person may be in addition to an Advisor. A Support Person cannot be a party to the complaint (i.e. a witness, co-complainant, or co-respondent). The Support Person has no formal role in the investigation process. The Support Person's role in any meeting or proceeding during the complaint resolution process is limited to requesting reasonable breaks to confer privately with the Complainant or Respondent. Support Persons may not record the meetings, take notes, ask questions, or otherwise actively participate in meetings. While the College will make reasonable efforts to accommodate the schedule of a party's Support Person in scheduling meetings, a Support Person's inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding. The College will provide a list of trained Support Persons available to provide guidance and support to the student. Students are not required to choose a Support Person from the list of trained Support Persons.
15. **Hearing Officer** The "Hearing Officer" is a trained individual selected by the College to facilitate hearings under this Policy. Upon the completion of a hearing, the Hearing Officer shall determine whether the Respondent is responsible for the alleged prohibited act(s). If the Hearing Officer finds that the Respondent is responsible, the Hearing Officer will determine sanctions.
16. **Appeal Board** The "Appeal 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 Appeal Board, and membership normally will be limited to full-time faculty and staff members. The Title IX Coordinator shall arrange for the Appeal Board members to receive annual training.

17. **Appeal Chair** The "Chair" of the Appeal Board shall preside over any meeting of the Appeal Board but shall not have a vote in the Appeal Board's deliberations. The Chair shall receive appeals, facilitate the appeal process for the Complainant and Respondent, and gather all relevant materials for the Appeal Board.
18. **Title IX Coordinator** As a recipient of Federal funds, Davidson College is required to comply with Title IX of the Education Amendments of 1972, 20 USC § 1681 et seq. ("Title IX"). Title IX prohibits discrimination on the basis of sex in Education Programs or Activities. Sexual harassment is a form of sex discrimination prohibited by Title IX. The "Title IX Coordinator" is responsible for overseeing the College's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The Title IX Coordinator also has responsibility for weighing a student's request for confidentiality and determining whether supportive measures are appropriate. The Title IX Coordinator is available to advise all parties about the courses of action available at the College and action available externally, including reports to law enforcement. Davidson College's Title IX Coordinator is:

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

#### **IV. REPORTING**

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

**How to Report** The College provides the following options for reporting an act of sexual misconduct, relationship abuse and violence, or stalking. 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 supportive measures that are appropriate. Incident reports also provide information to help the College provide a safe and non-discriminatory environment for all members of the College community.

All non-confidential reports may be reported to the Title IX Coordinator, who will reach out to schedule a meeting 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 Title IX Coordinator** Davidson College has a designated Title IX Coordinator to oversee compliance with Title IX, which prohibits discrimination on the basis of sex in Education Programs or Activities. Sexual harassment is a form of sex discrimination prohibited by Title IX. All reported incidents of sexual harassment involving 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 supportive measures, and an explanation of the College's internal complaint resolution procedures. The Title IX Coordinator also will report the alleged incident to Campus Police for Clery Act purposes but may refrain from disclosing personally identifiable information about you to Campus Police at your request.
2. **Report to Campus Police** The Davidson College Public Safety Office has staff trained in how to respond to a report of sexual 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-campus and off-campus resources to assist you. Campus Police will record the report for Clery Act purposes but shall do so without disclosing any personally identifiable information about the Complainant. Although the College strongly encourages all members of its community to report violations of this Policy to law

enforcement, it is your choice whether or not to make such a report and you have the right to decline involvement with the police.

**Campus Police Main Phone: 704-894-2178**

**Campus Police Officer on Duty: 704-609-0344**

3. **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:

- a. The counselors, doctors, and nurses at Student Health and Well-Being
- b. 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 Health Educator. Ordinarily, reports made directly to the 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 reported or if the 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, relationship abuse and violence, or stalking 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 Title IX Coordinator requesting that the College initiate its internal complaint procedures;
3. Requesting supportive measures (e.g., a no communication order, alteration of class schedules or housing arrangements); and/or
4. 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:

1. Access support resources, such as counseling or, in appropriate cases, academic relief; and/or
2. Request supportive measures

## **V. COLLEGE RESPONSE TO REPORTS**

The College is committed to taking appropriate action to resolve incidents of sexual misconduct, relationship abuse and violence, or stalking 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 Reporting Party wishes to pursue resolution of any kind. The specific steps in the College's inquiry will vary depending on the nature of the allegations; the information available to the College; whether the Reporting Party elects to pursue criminal charges, files a Formal Complaint, or requests the College not to pursue actions; and other factors. A full investigation occurs only if a Formal Complaint is filed.

As a general rule, the College will not conduct an investigation or take any action without first obtaining the Reporting Party's consent and will conduct any investigation and respond to a report consistent with the Reporting Party's request for confidentiality or request not to pursue action. The College's ability to respond to a report, to prevent its recurrence, or to address its effects may be severely limited if the Reporting Party requests confidentiality, does not provide the name of the Responding Party, or asks that the report not be pursued.

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

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

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

However, the Title IX Coordinator or 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 Reporting Party will be informed of this determination before the College takes action in response to the report. The College's response will depend on the circumstances of the report, but could include: filing a Formal Complaint on behalf of the affected individual, in which case the College will be the Complainant.

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

**Supportive Measures** Upon receipt of a report of an alleged Policy violation, the College may determine that supportive measures are necessary to ensure a safe and nondiscriminatory environment for students. Supportive measures may include adjustments and preventative measures. Adjustments are changes made to a Reporting Party's class or work schedule, academics, or housing. Preventative measures may include resources, conversations, and agreements that assist students with working through challenges and preventing future challenges. Adjustments and preventative measures are voluntary and may be modified or discontinued at any time at the request of the Reporting or Responding Party.

Supportive measures are separate from any sanctions the Hearing Officer may impose during complaint resolution procedures and are not disciplinary in nature. They are imposed by the Title IX Coordinator in

consultation with the Dean of Students and may be imposed at any time, regardless of whether formal disciplinary action is sought by the Reporting Party or the College. They may be extended beyond and/or imposed after complaint resolution procedures are completed.

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

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

### **Supportive Measure Options**

#### **Possible adjustments:**

1. Alteration of class schedules
2. Alteration of on-campus housing arrangements
3. Removal from on-campus housing
4. Changing work schedules or job assignments
5. Rescheduling of exams, papers, or other assignments
6. Taking an incomplete in a class
7. Authorized withdrawal from a class
8. Alternative course completion options
9. Voluntary leave of absence
10. Access to counseling services
11. Providing an escort to ensure safe movement between classes and activities
12. Providing academic support services
13. Any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy

#### **Possible preventative measures**

1. Conflict Coaching – Students may seek guidance and resources from the Title IX Coordinator or trained staff person to navigate conflict productively and independently.
2. No Communication Order – A No Communication Order is an order sent to both the Reporting Party and Responding Party by the Dean of Students Office restricting the parties from communicating with each other through any format. This order does not require that parties leave physical spaces on campus if the other person is present. The order only requires that parties refrain from communicating with each other. Failure to abide by a No Communication Order may be a violation of the Code of Responsibility and will be referred to the Dean of Students for further review.
3. Shared Expectations Agreement – A Shared Expectations Agreement is a voluntary agreement between two students specifying how the Reporting Party and Responding Party will navigate certain areas, organizations, or activities on campus. Shared Expectations Agreements may be put in place after the issuing of a No Communication Order. Shared Expectations Agreements are facilitated by the Title IX Coordinator. Before an agreement is finalized the Title IX Coordinator must speak with the Responding Party to understand how the Responding Party engages with that area, organization, or activity in order to determine if it is reasonable to restrict the Responding Party's access. Requests or agreements that are unreasonably burdensome on either party will not be approved by the Title IX Coordinator. Additions and edits to the Shared Expectations Agreement may be requested by either party. Shared Expectation

Agreements are agreements between two students, therefore, failure to abide by a No Contact Agreement may result in a renegotiation of the agreement or referral to the Dean of Students Office if actions violated the No Communication Order. Failure to abide by aspects of a Shared Expectation Agreement that are not part of a No Communication Order will not be referred to the Dean of Students Office.

4. Educational Discussion – Educational discussions are a meeting with the Title IX Coordinator or Dean of Students Office to discuss behavior concerns that have been reported to the Title IX Coordinator in which the Reporting Party has requested educational intervention. The purpose of the meeting is to provide the Responding Party with information and guidance allowing the Responding Party to move forward positively with individually identified support and resources.

**Reporting Violations of Supportive Measures** All individuals are encouraged to report concerns about failure of another individual to abide by restrictions imposed by a supportive measure. Failure to abide by restrictions imposed by a supportive measure may be a violation of the Code of Responsibility.

## VI. FORMAL COMPLAINT RESOLUTION PROCESS

**Filing a Formal Complaint** To initiate the College’s internal complaint procedures, the Complainant must file a Formal Complaint with the Title IX Coordinator. A Formal Complaint must include, at a minimum, the time, place, and type of Prohibited Act(s) alleged, a summary of the alleged incident(s), and the name of the Respondent.

**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 Formal Complaint on behalf of an affected individual who has requested confidentiality or is otherwise unable or unwilling to participate in the process, the College shall be the Complainant and the affected individual shall be considered a witness. The affected individual will be entitled to receive all notifications due to a Complainant under this Policy, including notifications regarding the outcome of the complaint resolution procedures.

**Review of Complaint** Upon receipt of a Formal Complaint, the Title IX Coordinator will first determine whether the allegations in the Formal Complaint, if proven, would constitute a violation of Section A of this Policy. Section A encompasses definitions of charges as stated by Title IX of the Education Amendments Act. The Title IX Coordinator will review the complaint for the following requirements:

1. If proven would the conduct alleged in the Formal Complaint constitute a prohibited act under this policy;
2. Was the Complainant, at the time of filing a Formal Complaint, participating in or attempting to participate in the Education Programs or Activities of Davidson College;
3. Did the conduct occur in a Davidson College Program or Activity;
4. Did the conduct occur between parties while in the United States.

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

Such a dismissal does not preclude action under Section B of this policy. Section B encompasses definitions of prohibited conduct as stated by the Davidson College Sexual Misconduct Policy. The Title IX Coordinator will then determine whether the allegations in the Formal Complaint, if proven, would constitute a violation of Section B of this Policy. If not, the Title IX Coordinator will dismiss the complaint and no further action will be taken on the allegations through the College’s Formal Complaint procedures.

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

written Notice of Investigation and will also provide the parties with a copy of this Policy, and a list of trained Advisors.

**Role of an Advisor** The Complainant and Respondent may have the Advisor of their choice present during any meeting or proceeding related to complaint resolution procedures under this Policy, including meetings related to investigation of the Formal Complaint. The Advisor's role is to provide support, guidance, or advice to Complainant or Respondent. Notices and information related to complaint resolution under this Policy will be provided to the parties and their Advisors. Advisors are required to keep such materials confidential unless the Advisor is otherwise authorized to disclose the information contained therein.

The Advisor has no formal role in the investigation process. The Advisor's role in any meeting during the investigation is limited to requesting reasonable breaks to confer privately with the advisee. Advisors may not record the meetings, take notes, ask questions, or otherwise actively participate in meetings.

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

The College will provide a list of trained Advisors available to provide assistance and support to the student. Students are not required to choose an Advisor from the list of trained Advisors. Parties must provide the Title IX Coordinator with notice of the identity of their Advisor of choice prior to the Advisor attending a meeting or proceeding under this Policy, at least one (1) day in advance.

## **FORMAL RESOLUTION OPTIONS**

### **A. 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 Hearing Officer, and appeal on the ground of procedural error. In such cases, the Dean of Students, in consultation with the Title IX Coordinator, will determine the sanction(s) and will notify Respondent.

### **B. Adaptable Resolution**

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

Adaptable resolution for Formal Complaints is available only in appropriate cases. The Title IX Coordinator has the discretion to determine if it is appropriate to use an adaptable resolution for a sexual misconduct complaint. The complaint will be resolved by the Title IX coordinator or a trained individual appointed by the Title IX Coordinator. If the Title IX Coordinator believes that they or the trained individual cannot fairly facilitate the process due to bias or a conflict of interest, the Title IX Coordinator will appoint another trained individual. Complainant and Respondent may report any concerns about bias or conflict of interest to the Title IX Coordinator who will determine whether another trained individual should be assigned.

Requirements for Participation in an Adaptable Resolution Process:

1. Both Complainant and Respondent must consent in writing to engage in adaptable resolution, and either party may end the adaptable resolution process at any time, for any reason, prior to the signing of a resolution agreement.

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

### **Adaptable Resolution Process**

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

After both the Complainant and Respondent have met with the Title IX Coordinator to review the adaptable resolution process and discuss their options, the Complainant and Respondent may voluntarily consent to participate in adaptable resolution. The Complainant and Respondent must agree on the process option that best meets their needs and resolution goals. Parties may choose one or more of the following options:

1. **Shuttle Negotiation** - In a shuttle negotiation, the facilitator shuttles between parties to assist in negotiating an agreement. This process allows parties the space to discuss concerns, address conflict, and share their perspective without having to directly interact with each other.
2. **Facilitated Dialogue** - The purpose of a facilitated dialogue is to provide a space where parties can share their perspectives in structured manner with the assistance of a trained facilitator. Parties may engage in a facilitated dialogue with the intent of working towards an agreement, but this is not a required outcome.

### **Adaptable Resolution Agreement**

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

- Training and education for the Respondent;
- Referral to substance abuse counseling;
- Alterations to campus class or work schedules;
- Education plan for Respondent including scheduled meetings with appropriate campus resources;
- Restriction from participation in certain clubs, organizations, athletics or College events;
- Respondent taking a personal leave from the College for a semester or more;
- Any other appropriate measures agreed to by the parties.

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

Once the agreement has been reviewed and approved by all parties, the agreement will be finalized, and the Formal Complaint will be resolved. Once finalized, the Respondent is required to comply with the agreement and complete any actions required within the time period specified by the agreement. The complaint will be closed when the Respondent completes all actions stated within the agreement. If the Respondent does not complete all actions stated within the agreement, the original Formal Complaint may move forward with investigation and adjudication of the Formal Complaint. In addition, if the Respondent does not comply with restrictions stated in the agreement, the Respondent will be referred to the Dean of Students to determine if there has been a violation of the Code of Responsibility.

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



## C. Formal Resolution

### Investigation into a Formal Complaint

- 1. Investigators** Investigators are individuals who have received specialized training in conducting sexual misconduct investigations. Investigators are neutral fact finders who, during the course of the investigation, typically conduct interviews with the Complainant, the Respondent, and third-party witnesses; gather any physical or electronic records or documents to be included in an investigation report; and, where applicable, coordinate with Campus Police or other law enforcement agencies. Investigators prepare a written investigation report for the Dean of Students who will then make a determination about whether to proceed with adjudicating the alleged policy violations.

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

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

- 2. Investigation Timeframe** The length of the investigation depends on the circumstances of each case, but the College will make every effort to complete an investigation in thirty (30) days.
- 3. Investigation Procedures** The investigation will be conducted in a prompt, fair, thorough, and impartial manner. The investigation will be free from presumptions of conduct or responsibility for either party. At a minimum, it will include obtaining information from the Complainant and Respondent and pertinent witnesses and soliciting and reviewing documentation relevant to the investigation including available police reports.

The Complainant and Respondent will be asked to identify all information they would like the Investigator to review, including any witnesses they would like to be interviewed. Complainant and Respondent must identify all witnesses during the investigation process. Parties will not be able to present information from witnesses during the hearing, if those witnesses were not identified and interviewed during the investigation process. Decisions about interviews and collection and evaluation of information are at the discretion of the Investigator. The Investigator may need to interview the Complainant and Respondent multiple times during the Investigation.

- 4. Investigation Report** The Investigator will prepare a written investigation report, including as exhibits any relevant documentation. The Investigator shall submit the investigation report and exhibits to the Title IX Coordinator for review. The Title IX Coordinator will redact (remove) the following information from the investigation report and exhibits:
  - a. Irrelevant information concerning sexual history, unrelated sexual activity, character, or incidents not directly related to the complaint (subject to the Title IX Coordinator's determination that the information demonstrates a pattern of behavior);
  - b. Information that violates an individual's privacy rights or that constitutes an unwarranted invasion of privacy; or
  - c. Information related to the longer-term impact of the alleged incident on Complainant or Respondent (which may be submitted as a separate impact or mitigation statement.)
- 5. Notice to Proceed and Option for Resolution Agreement** At the conclusion of the investigation, the Dean of Students will issue a written Notice to Proceed to Complainant and Respondent with a copy to the Title IX Coordinator. Where warranted, the Notice to Proceed will include any additions or revisions to the Policy violations alleged based on information gathered in the investigation. In rare circumstances, when the investigation finds no factual basis for the allegation, the Dean of Students, in consultation with the Title IX Coordinator, may dismiss the allegations prior to resolution by the Hearing Officer and shall notify Complainant and Respondent of the dismissal in writing. Parties may

appeal this dismissal. The appeal must be sent to the Chair of the Appeal Board within five (5) days of receiving the notice of dismissal.

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

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

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

### **Formal Resolution Procedures**

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

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

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

If a party or witness does not submit to cross-examination at the live hearing, the Hearing Officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the Hearing Officer will not draw an inference regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions. The College will make reasonable efforts to accommodate the availability of a party's witnesses when scheduling the hearing date. However, if after reasonable efforts have been made, a witness is unable to attend the hearing, this does not constitute an unavoidable conflict that would necessitate postponing the hearing.

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

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

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

- 4. Imposition of Sanctions** If the Hearing Officer determines a Policy violation occurred, the Hearing Officer will impose sanctions and in determining sanctions, the Hearing Officer 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 Title IX Coordinator shall distribute to the Hearing Officer:

- a. Any written impact statement or mitigation statement; and
- b. Any items from the Respondent's files deemed appropriate by the Dean of Students for the Hearing Officer's consideration of the appropriate sanction(s), if any, to be imposed. These items could include, but not be limited to:
  - i. Disciplinary records;
  - ii. Criminal records;
  - iii. Police reports; and/or
  - iv. Supportive measures imposed.

5. **Notice of Action** The Title IX Coordinator shall distribute to the Respondent a notice of the Hearing Officer's determination of whether a Policy violation occurred (including the specific prohibited acts alleged and the Hearing Officer's determination of responsibility for each alleged prohibited act), the rationale for the decision, and the sanctions imposed, if any. In addition, the Notice of Action shall include a record of procedural steps taken during the Formal Complaint process and the procedures for filing an appeal. The Title IX Coordinator shall concurrently provide a copy of the Notice of Action to the Complainant, with any redactions as required by federal law. The Title IX Coordinator will make every effort to conclude the complaint resolution process and distribute the Notice of Action within two (2) weeks of the Hearing.
6. **Record of Hearing** The Title IX Coordinator shall maintain a record of the hearing proceedings including a recording of the hearing and any materials distributed to the Hearing Officer prior to a determination on sanctions (that is, any written impact statement or mitigation statement; and a copy of the items from the Respondent's file considered by the Hearing Officer in determining appropriate sanctions, if any). The Title IX Coordinator shall provide an opportunity for the Complainant and Respondent to access the hearing record separately in a private setting at least two (2) days prior to the deadline for filing an appeal. The parties may not make copies or take photographs of the hearing record.
7. **Final Determination** The determination by the Hearing Officer both as to the fact of violation and as to any 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. In the event the Hearing Officer determines the Respondent is not responsible for the alleged Policy violation, the College may continue to provide supportive measures for the Complainant so long as those measures do not unduly burden or prejudice the Respondent.
8. **Sanctions** If the Hearing Officer determines no Policy violation occurred, then no sanction will be recommended. If the Hearing Officer determines a Policy violation occurred, the Hearing Officer will impose sanction(s), and in determining sanctions the Hearing Officer will attempt to fairly fit the sanction to the violation seen in total context.

**List of Sanctions** Possible sanctions include:

- I. **Loss of Status in Housing Lottery**
- II. **Eviction** Removal from on-campus housing.
- III. **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.
- IV. **Restricted Access** Limiting campus access to certain areas of campus and/or specific times of day.
- V. **Suspension\* for a defined period of time:** Exclusion from classes and other privileges of activities with forfeiture of academic credit, as set forth in the notice of suspension, for a definite time, beginning immediately. If the suspension is for more than one term, the suspension typically begins immediately and shall be served in consecutive terms. 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 Honor Council or Code of Responsibility Council. When students are suspended, they shall ordinarily leave the campus within forty-eight hours after the conclusion of the disciplinary process. A suspended student shall not come on campus without the permission of the Dean of Students.
- VI. **Indefinite Suspension** Termination of student status, typically immediately, subject only to formal readmission, with no right to petition for readmission before the expiration

of one calendar year from the date of suspension. 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 Hearing Officer. When students are suspended, they shall ordinarily leave the campus within forty-eight (48) hours after the conclusion of the disciplinary process. A suspended student shall not come on campus without the permission of the Dean of Students.

- VII. **Warning** Notice, oral or in writing, that continuation or repetition of conduct in violation of this Policy may be cause for more severe disciplinary sanctions.
- VIII. **Mandatory Educational Programming** May include but is not limited to alcohol and/or drug abuse awareness/prevention programming and sexual harassment prevention training.

\*If a Code of Responsibility violation is not sanctioned until after the semester in which the violation occurred, and the sanction includes suspension for the semester in which the violation occurred, authorized withdrawals (W/A) will be assigned for all courses for that semester nullifying any earned grades.

When students are suspended, they shall ordinarily leave campus within forty-eight (48) 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, which may include suspension.

**Stay of Sanctions Pending Appeals** If the decision of the Hearing Officer is appealed, sanctions are stayed until the matter has been finally disposed of within these procedures; provided, however, that:

- a. 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 Board;
- b. If a sanction of suspension is appealed and the sanction is upheld, the effect of the suspension shall be as of the date imposed by the Hearing Officer;
- c. If a sanction of social probation is appealed and the sanction is upheld, the term of the probationary period shall begin when the appeal concludes.

## VI. APPEALS

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

1. Procedural irregularity that had a material impact on the outcome of the complaint resolution process; or
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Title IX Coordinator, Investigator(s), or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter, and
4. The sanction is substantially disproportionate to the findings.

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

Upon receipt of a written appeal, the Chair of the Appeal Board will forward the appeal and the record on appeal to the Appeal Board. The record on appeal comprises all materials reviewed by the Hearing Officer, the record of the hearing, and the Notice of Action. The Chair 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 the Appeal Board. The Appeal Board is composed of five members, including the Chair. The Appeal Board ordinarily will decide within five (5) days of receiving the record on appeal whether the appeal states sufficient grounds to be considered. If it does not, the Appeal Board will dismiss the appeal.

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

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

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

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

1. Uphold the determination of the Hearing Officer;
2. Adjust the sanction(s) to one(s) deemed more appropriate than those imposed;
3. Remand the matter to the Hearing Officer where a procedural irregularity could be corrected by the Hearing Officer;
4. Remand the matter to the Hearing Officer where newly available information could be considered by the Hearing Officer; or
5. Remand the matter to a new Hearing Officer. This action will only be taken in extraordinary cases, when the Appeal Board determines the matter would be best addressed by a newly appointed Hearing Officer.

**Notice of Outcome** The Appeal Board ordinarily will provide a written Notice of Outcome within two (2) weeks of the decision to consider the appeal, and this decision is finally dispositive of the matter. The Notice of Outcome will be distributed to the Complainant, Respondent, and Title IX Coordinator with any redactions as required by federal law.

## **VII. RETALIATION**

No person shall be subject to restraints, interference, coercion, or reprisal for action taken in good faith to seek advice concerning an alleged violation of this Policy, to file a report, to initiate the College's internal complaint resolution process, to be a Complainant or Respondent in a complaint resolution process, to serve or refuse to serve as a witness, Appeal Board member, or representative in the investigation and resolution of a complaint. It is prohibited for any member of the College to intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy.

Prohibited acts of retaliation also include charges against an individual for Code of Responsibility violations that are outside of this Policy but arise out of the same facts or circumstances stated in a complaint or

report of sex discrimination or sexual harassment when done for the purpose of interfering with any right or privilege secured by this Policy.

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

## **VIII. ADDITIONAL POLICY AND PROCEDURE INFORMATION**

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

1. A prompt, fair, and impartial complaint resolution process; meaning a process that:
  - a. Is completed within reasonably prompt timeframes;
  - b. Is conducted in a manner that is consistent with this Policy;
  - c. Is free from presumptions of conduct or responsibility for either party;
  - d. Includes timely notice of meetings at which the parties may be present;
  - e. Provides timely and equal access to information that will be used during the complaint resolution process; and
  - f. Is conducted by individuals who do not have a conflict of interest or bias for or against the Complainant or Respondent.
2. Equal opportunities to have the Advisor and Support Person 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;
3. Written notification of the result of the complaint resolution process (subject to any redactions required by federal law);
4. An outcome based solely on information presented as part of the complaint resolution process;
5. To not be subject to acts or threats of retaliation for action taken in good faith as part of the complaint resolution process;
6. To receive supportive measures including putting academic adjustments in place to assist with completing any reviews or examinations during the complaint resolution process (from the receipt of the Notice of Investigation until two (2) days after the Notice of Action is delivered);
7. To decline to make statements, provide testimony, or attend meetings or proceedings related to the complaint resolution procedure under this Policy; however, failure to appear at the Hearing Officer hearing or Appeal Board conference is deemed a waiver to the right to timely and equal access to information used during the complaint resolution process;
8. Preservation of privacy, to the extent possible and allowed by law; and
9. Access to support from Student Health and Well-Being staff and the College Chaplain's Office.

The **Complainant** has the following additional rights:

1. Implementation of supportive measures that reduce the burden on Complainant but do not unduly burden or prejudice the Respondent;
2. To request that the Title IX Coordinator evaluate the need for supportive measures;
3. 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.

The **Respondent** has the following additional rights:

1. Implementation of supportive measures that reduce the burden on Respondent but do not unduly burden or prejudice the Complainant;
2. To waive Hearing Officer 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 Hearing Officer.

**Honesty; Malicious and False Accusations** All witnesses to an investigation, including the parties, shall confirm in writing to present honest testimony. A student who does not present honest testimony may be formally referred for the Honor Code violation of lying. 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 Hearing Officer's determination of whether a Policy violation occurred. An allegation which is both false and brought with malicious intent is a violation of the Honor Code.

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

1. The College is authorized to disclose information as set forth in this Policy;
2. Parties may disclose information to their Advisors and other personal support persons (e.g., family members, counselors or physicians, spiritual Advisors) and legal counsel; and
3. Confidentiality does not extend to information that an individual has a legal right to disclose.

**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 Hearing Officer, the Investigators assigned to the complaint, the Appeal Board, the President, and 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 Formal Complaints filed with the Title IX Coordinator, 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 supportive measures imposed will be reported in the aggregate.

### **Summary of Timelines for Complaint Resolution Procedures**

1. The Title IX Coordinator provides Notice of Investigation to the Complainant and Respondent ordinarily within three (3) days of receiving a Formal Complaint.
2. The parties provide notice of the identity of their Advisor at least one (1) day in advance of the Advisor attending a meeting or proceeding under this Policy.
3. The College will make every effort to complete an investigation in thirty (30) days. At the conclusions of the investigation, the Dean of Students will notify the parties whether, based on information gathered in the investigation, there are any additions or revisions to the Policy violations alleged.
4. Upon receipt of the Notice to Proceed, the Title IX Coordinator shall provide the Complainant, Respondent, and their Advisors access the investigation information. The parties and their Advisors will have access to the information for ten (10) days. If the parties wish to respond to the information provided, they must send a written response to the Investigator(s) by the end of the 10-day review period.



5. Typically, within three (3) days of the end of the review and response period, the Title IX Coordinator notifies the parties that the final investigation packet has been issued to the Hearing Officer and provides an opportunity for the parties to access the information in the final investigation packet.
6. The Complainant, Respondent and their Advisors will have at least ten (10) days, before the scheduled complaint hearing, to review the final investigation packet. The Complainant and Respondent shall submit their impact and mitigation statements to the Title IX Coordinator no later than ten (10) days after the Title IX Coordinator issues the final investigation packet.
7. The Hearing Officer will schedule the hearing for a date that is at least ten (10) days after the release of the final investigation packet.
8. The Hearing Officer will make every effort to conclude the complaint resolution process and distribute the Notice of Action within two (2) weeks of the hearing.
9. Appeals must be filed within five (5) days of receiving the written Notice of Action. The Appeal Board Chair shall provide an opportunity for the parties to access the record of the hearing and exhibits (if any) at least two (2) days prior to the deadline for filing an appeal.
10. The Appeal Board ordinarily will decide within five (5) days of receiving the record on appeal whether the appeal states sufficient grounds to be considered.
11. The Appeal Board ordinarily will provide a written notice of outcome within two (2) weeks 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 Hearing Officer's determination of 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.

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

In the event that 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 supportive measures and resources to the parties. 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 the 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 Section 504/ADA Coordinator. The Section 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.

**Training** College officials and all others involved in the complaint resolution process shall receive annual training on this Policy including the definitions of prohibited conduct, the scope of the College's education programs and activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially.

## **IX. PROCEDURES FOR SPECIFIC CIRCUMSTANCES**

**Information Concerning Unrelated Sexual Activity** Information concerning the unrelated sexual activity of the Complainant is irrelevant and shall not be considered in the complaint resolution process except in the case that the Title IX Coordinator determines there is relevant information regarding sexual activity between the Complainant and Respondent.

Information concerning the unrelated sexual activity of the Respondent is irrelevant and shall not be considered in the complaint resolution process except in the case that the Title IX Coordinator 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 the Respondent was formally charged with a violation of this Policy; except if the Respondent was formally charged and the Hearing Officer 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 the Respondent before the complaint resolution process for the initial complaint has been completed, the Title IX Coordinator 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 Title IX Coordinator shall have the discretion to determine the process for resolving the complaint against multiple Respondents.

**Conflicts of Interest** Investigators, Hearing Officers, and Appeal 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:

1. A student-party currently enrolled in a course taught by a faculty member of the Appeal Board;
2. A student-party is in a formal advising relationship with an Investigator or Appeal Board member; or
3. Where an Investigator or Appeal Board member currently supervises the student-party's academic work, College student employment, or athletic or other educational programming.

Investigators, Hearing Officers, and Appeal Board members deeming themselves disqualified for reasons of conflict of interest shall remove themselves from the matter or may be removed by the Title IX Coordinator. A party may petition the Title IX Coordinator for removal of an Investigator or any member of the Appeal Board on the basis of a conflict of interest or demonstrated bias.

Any vacancies occurring on the Appeal 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 faculty or staff without a conflict of interest 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 conflict (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 Title IX Coordinator. Upon review of the information, the Title IX Coordinator 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 Title IX Coordinator may dismiss the matter prior to resolution by the Hearing Officer.

**Jurisdiction over Related Charges** The Hearing Officer 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 Hearing Officer pursuant to these procedures or by disciplinary proceedings under the Code of Responsibility.

**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 of time 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 the Hearing Officer who heard the student's case.

**Emergency Removals and Restrictions** In circumstances where it has been determined via an individualized safety and risk analysis that an immediate threat to physical health or safety of any student or other individual has arisen from allegations of sexual harassment, the President and/or Dean of Students may consider removal from campus or restrictions while on campus via the procedures stated under the *Extraordinary Disciplinary Powers of the President* in the College's Code of Responsibility.

## Extraordinary Disciplinary Powers of The President

### A. Declaration of Emergency

The President may declare a state of emergency in the event of disruption on the campus of an order which threatens the minimal internal security of the campus or the continuation of its normal educational processes. In doing so the President may initially suspend these procedures in whole or in part for a period of three (3) days in their sole discretion. Thereafter the President may extend the suspension for additional periods not exceeding five (5) days after consultation with the Student Conduct Council. The initial declaration and any continuations shall be publicized by all appropriate means.

### B. Provisional Indefinite Suspensions

During the continuation of any such declared emergency, the President may on their sole initiative provisionally suspend for an indefinite period any student whose continued presence on campus is judged by him/her to constitute a specific and immediate threat to the physical well-being of other members of the College community or to the continuation of its normal educational processes. The student may, in writing, petition the Review Board to end the suspension. Such a petition may be no sooner than three (3) days after the provisional suspension was enacted. If the student is not re-instated by the Board, the student may only be reinstated through the normal procedures for re-admission to the College.