

# **Springfield College**

## **Gender-based Misconduct Policy**

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## **I. INTRODUCTION**

The Springfield College mission calls our community “to educate the whole person in spirit, mind, and body for leadership in service to others.” To maintain an environment that is consistent with our mission and values, Springfield College (the “College”) is committed to the prevention of and response to gender-based misconduct, which unreasonably interferes with the academic and professional experiences of any member of the Springfield College community. Consistent with this commitment, the College complies with Title IX of the Education Amendments of 1972 (“Title IX”), which prohibits the discrimination on the basis of sex in the education programs and activities, Title VII of the Civil Rights Act of 1964 (“Title VII”), which prohibits sex discrimination in employment, as well as relevant and applicable state laws pertinent to preventing discrimination in education and employment. The College also complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by provisions of the Violence Against Women Reauthorization Act of 2013 (“VAWRA”).

The Springfield College Gender-based Misconduct Policy (“policy”) protects students and employees against acts of sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, and stalking (collectively “gender-based misconduct”) in College programs and activities as well as from retaliation for advocating a right secured by the College Gender-based Misconduct Policy. This policy applies to applies to programs and activities such as recruitment, admissions, financial aid and scholarships; course offerings and access; athletics; hiring and retention; and benefits and leave.

The College also prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Sex and gender-based discrimination can be perpetrated by someone of any sex or gender and can occur between people of the same or different sex or gender.

The College prohibits discrimination on the basis of sex in employment as well as in admission, enrollment, and in the provision of all services, programs, and activities.

## **II. PURPOSE AND SCOPE OF POLICY**

### **1. STATEMENT OF INSTITUTIONAL VALUES**

Gender-based misconduct is a violation of a person's rights, dignity, and integrity. An act of gender-based misconduct represents a fundamental failure by a community member to recognize and to respect the intrinsic worth and dignity of another. Acts of gender-based misconduct are harmful to our community as a whole and will not be tolerated at the College. Such acts corrupt the integrity of the educational process, and are contrary to the Humanics philosophy, upon which the College mission is built.

All members of the College community should be free from any gender-based misconduct in the classroom; the social, recreational, and residential environment; and the workplace. The College seeks to foster a climate free from gender-based misconduct through a coordinated education and prevention program and clear and effective policies, as well as investigative and grievance procedures that are prompt, equitable, and accessible to all. In response to any reported gender-based misconduct, the College will take all appropriate steps to eliminate the misconduct, prevent its recurrence, and address its effects.

In order to foster a climate of respect for oneself and for one another and to provide for the safety and security of our community, the College expects all community members to take action to prevent acts of gender-based misconduct. Creating a safe campus environment is the responsibility of all members of the College community, both individually and collectively.

In order to foster a climate that encourages reporting of gender-based misconduct, the College will actively educate the community, will respond to all allegations promptly, and

will provide support services to address the safety, emotional well-being, and academic needs of the individuals involved. Employees responding to reports of gender-based misconduct will act in a manner that recognizes the inherent dignity of the individuals involved.

In order to achieve equitable results, the College will carefully review and/or investigate all reports with an earnest intent to understand the perspective and experiences of each individual involved and provide for fair and impartial evaluation and resolution.

## **2. PURPOSE OF POLICY**

The purpose the Gender-based Misconduct Policy is to provide the College community with a clearly articulated set of behavioral standards, common understandings of definitions, and key concepts and descriptions of prohibited conduct. This policy applies to all community members, including students, employees, and non-members, regardless of sexual orientation, gender identity, or gender expression. It is intended to protect and guide students, faculty, staff, and non-members who have been affected by gender-based misconduct, whether as a complainant, a respondent, or a third party.

When used in reference to conduct violating Title IX, “complainant” means any individual who is alleged to be the victim of sexual harassment, and “respondent” means any individual who is reported to be the perpetrator of sexual harassment. A person may be a complainant or respondent, even where no formal complaint has been filed and no grievance process is pending. Under Title IX, a “formal complaint” is a document that initiates a recipient’s grievance process. But a formal complaint is not required in order for the recipient to have actual knowledge of sexual harassment, or allegations of sexual harassment, that activates the recipient’s legal obligation to respond promptly, including by offering supportive measures to a complainant.

When used in reference to actions or behaviors deemed to be gender-based misconduct by the College, “complainant” refers to the reporting party serving as the primary witness in a complaint alleging that gender-based misconduct has occurred;

and “respondent” refers to the individual who has been accused of gender-based misconduct.

“Third party” refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else. “Report” refers to any incident or concern regarding gender-based misconduct that is disclosed to the Title IX coordinator, one of the deputy Title IX coordinators, or any other College employee. A “complaint” is an allegation of gender-based misconduct filed against a student, employee or non-member that initiates the appropriate process.

Every employee at Springfield College is considered a “responsible employee” and has the duty to report, unless they fall under “confidential resources.” Student workers are generally not “responsible employees” except for a few select categories (see Section VI). Responsible employees must share appropriate details of a disclosure of gender-based misconduct to the Title IX coordinator or one of the deputy Title IX coordinators sufficient to provide support services.

This policy will define terms related to gender-based misconduct as well as:

- Identify resources and support for all members of the College community;
- Identify the Title IX coordinator, deputy Title IX coordinators, and their roles;
- Provide information about where a College community member can obtain support or access confidential resources;
- Provide information about how a College community member can make a report on campus or off campus; and
- Provide information about how the College can/will respond to, investigate, evaluate, and resolve a report against a College community member.

### **3. SCOPE**

As stated above, this policy applies to all members of the College community, including all employees, students, visitors, and independent contractors, regardless of sexual

orientation, gender identity, or gender expression. When used in this policy, “student” generally refers to matriculated and non-matriculated students participating or attempting to participate in any College educational program. The process for student respondents can be found in Section X. When used in this policy, “employee” generally refers to both staff and faculty members at all campus locations. There is a separate complaint, investigative, and resolution process for employees; the process for employee reports can be found in Section XI. When the policy uses “non-member,” this may include independent contractors, vendors, visitors, and others who conduct business with the College or on College property, and also are expected to comply with this policy. The process for non-member respondents can be found in Section XII.

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

As a result, this policy applies both to on-campus and off-campus conduct that occurs in educational activities, including college-owned buildings and college-sponsored trips within the United States. Off-campus behaviors that have an actual or potential adverse impact on any member of the College community or the College may fall under this policy, or constitute a violation of another student conduct policy.

Any individual may make a report alleging a violation of this policy. The College will provide resource options and respond promptly and equitably to all allegations of gender-based misconduct. The College is committed to maintaining fairness for all parties as well as balancing the needs and interests of the individuals involved with the safety of the community as a whole.

### **III. COORDINATION WITH NON-DISCRIMINATION**

In compliance with Title IX, Title VII, and other state and federal non-discrimination

laws, the College prohibits discrimination on the basis of sex in employment as well as in admission, enrollment, and in the provision of all services, programs, and activities. The College is committed to providing an environment free from discrimination, including discrimination that is based upon sex, sexual orientation, gender identity, and gender expression. Targeting individuals on the basis of these characteristics also is a violation of the College community standards. Under these circumstances, the College will coordinate the investigation and resolution efforts to address discrimination related to the targeted individual's sex, sexual orientation, gender identity, or gender expression. View the [Springfield College Notice of Non-Discrimination](#).

### **1. Notice of Non-Discrimination for Title IX**

As noted above, members of the Springfield College community, and guests and visitors, have the right to be free from all forms of gender and sex-based discrimination, examples of which can include, but are not limited to, acts of sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, and stalking. It is an expectation that all members of our community conduct themselves in a manner that does not infringe upon the rights of others. View the [Springfield College Title IX Notice of Non-Discrimination Policy](#).

### **2. College Statement on Privacy and Confidentiality**

The College is committed to protecting the privacy of all individuals involved in reporting and resolution procedures and processes under this policy. The College also is committed to assisting students, employees, and non-members to make informed choices regarding how they choose to respond or participate in a response to gender-based misconduct. With respect to any report under this policy, the College will take reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report to take steps to eliminate gender-based misconduct, prevent its recurrence, and remedy its effects.

Privacy and Confidentiality have distinct meanings under this policy:

**Privacy:** Privacy means that information related to a report of gender-based misconduct will be shared with a limited number of College employees who “need to know” in order to assist in support of the complainant, respondent, or witnesses in the assessment, investigation, and resolution of the report. Only employees of the College who are essential to functions of this policy are notified of any or all of elements of a report or formal complaint.

**Confidentiality:** Confidentiality exists in the context of laws that protect certain relationships, including medical and clinical care providers, mental health providers, counselors, and ordained clergy (but not those who provide administrative services related to the provision of those services), all of whom may engage in confidential communications under Massachusetts law. The College provides a number of confidential resources, both on and off campus (see Section V) for both the complainant and respondent.

The College has designated its Title IX coordinator and deputy Title IX coordinators as the individuals responsible for evaluating requests for confidentiality. When weighing a complainant’s request for confidentiality, or that no investigation or discipline be pursued, the Title IX coordinator or deputy Title IX coordinator will consider the following:

- The risk that the respondent will commit additional acts of gender-based misconduct, such as:
  - Whether there have been other reports of gender-based misconduct against the same respondent;
  - Whether the respondent has a history of arrests or records from a prior school indicating a history of comparable violence;
  - Whether the respondent threatened further gender-based misconduct or other violence against the complainant or others;



- Whether the gender-based misconduct was committed by multiple respondents;
- Whether the gender-based misconduct involved the use of a weapon;
- Whether the complainant is under 18 years of age;
- Whether the College possesses other means to obtain relevant evidence of the gender-based misconduct (e.g., security cameras, physical evidence); and
- Whether the complainant's report reveals a pattern of gender-based misconduct (e.g., via illicit use of drugs or alcohol, at a particular location, or by a particular group).

The presence of one or more of these factors could lead the College to investigate and, if appropriate, to pursue disciplinary action. If none of these factors are present, the College will likely respect the complainant's request for confidentiality, but may nonetheless be prompted to consider broader remedial action, such as: increased monitoring, supervision or security at locations where the gender-based misconduct occurred; increased education and prevention efforts, including to targeted-population groups; conducting climate surveys; and/or revisiting its policies and practices. All resolution proceedings are conducted in compliance with the requirements of Family Educational Rights and Privacy Act (FERPA), the Clery Act, Violence Against Women Act (VAWRA), Title IX, and College policy.

At all times, the College will seek to respect the request of the complainant, and where it cannot do so, the College will advise the complainant and keep them informed about the chosen course of action, and, to the extent possible, share information with only those people responsible for handling the College response. The College may not require a complainant to participate in any investigation or disciplinary proceeding.

## **IV. DEFINITIONS OF GENDER-BASED MISCONDUCT**

### **1. FORMS OF PROHIBITED SEXUAL HARASSMENT**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. The Springfield College Gender-based Misconduct Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that also are prohibited under the Springfield College policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Springfield College policy, though supportive measures will be offered to those impacted.

View the [Springfield College Discrimination/Harassment Policy](#).

#### **A. Title IX Sexual Harassment:**

The Department of Education Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Massachusetts regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. Springfield College has adopted the following definition of sexual harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

- 1) **Quid Pro Quo:** an employee of the recipient conditions the provision of an aid, benefit, or service of the recipient, on an individual's participation in unwelcome sexual conduct; and/or
- 2) **Sexual Harassment:** unwelcome conduct determined by a reasonable person, to be so severe, and pervasive, and objectively offensive, that it effectively denies a person equal access to Springfield College's education program or activity.
- 3) **Dating Violence:** violence on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i) The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - ii) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii) Dating violence does not include acts covered under the definition of domestic violence.
- 4) **Domestic Violence:** violence on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common; or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the Commonwealth of Massachusetts; or 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 Massachusetts.

- 5) **Stalking:** engaging in a course of conduct on the basis of sex, 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 the purposes of this definition—
- i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.
  - ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
  - iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- 6) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30):
- a) **Sex Offenses, Forcible:** any sexual act directed against another person without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
  - b) **Forcible Rape:** 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.
  - c) **Forcible Sodomy:** oral or anal sexual intercourse with another person, forcibly, and/or against that person’s will (non-consensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- d) **Sexual Assault with an Object:** the use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- e) **Forcible Fondling:** the touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- f) **Sex Offenses, Non-forcible:**
  - i) **Incest:** non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by the Commonwealth.
  - ii) **Statutory Rape:** non-forcible sexual intercourse, with a person who is under the statutory age of consent within the Commonwealth of Massachusetts.

Sexual harassment, under Title VII and this policy, is further defined as any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature. Definitions of sexual harassment include:

*Hostile environment harassment* is unwelcome conduct of a sexual nature that is sufficiently severe, persistent, or pervasive as to limit a person's ability to work or participate in a program or activity.

*Quid pro quo harassment* occurs when a person with authority uses submission to or rejection of unwelcome sexual conduct as the basis for making academic or employment decisions affecting a subordinate or a student. This kind of harassment

usually involves explicit or implicit threats of retaliation for refusing to submit to sexual advances.

**Examples of harassment include the following:**

- The use of physical force or violence to restrict the freedom or movement of another person, or to endanger the health or safety of another person based on the person's race, color, etc.;
- Any type of conduct that has the effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile, or offensive working or learning environment;
- Epithets, slurs, or derogatory comments based on a person's race, color, etc.
- Unwelcome sexual propositions, invitations, solicitations, and flirtations; leering;
- Unwelcome and inappropriate touching, patting, fondling, pinching, or obscene gestures;
- Sexually suggestive objects, pictures, videotapes, audio recording, or literature, or computerized transmissions placed in a viewable area that may embarrass or offend individuals.

In the case of coworkers or individuals in positions of authority, conduct of the nature set forth above when the effect unreasonably interferes with the ability of a person to perform his or her employment or academic responsibility, or when the effect is to create an offensive, intimidating and/or hostile working or learning environment for that person is considered harassment.

Such unwelcome behavior has the potential to severely alter the condition of the victim's employment or academic surroundings and results in a work or educational environment that a reasonable person would find abusive or offensive.

It should be emphasized, however, that isolated instances (e.g., a single comment or joke) ordinarily will not constitute harassment unless it is repeated or egregious.

Harassment may not be present if the conduct is welcomed or encouraged. The College will take appropriate remedial action to address any inappropriate conduct, even if it does not meet the legal definition of harassment.

## **2. ADDITIONAL FORMS OF GENDER-BASED MISCONDUCT AT SPRINGFIELD COLLEGE**

Gender-based misconduct can include acts of sexual assault, domestic violence, dating violence, sexual exploitation, and stalking, and may vary in its severity and consists of a range of behaviors. The following descriptions represent sexual behaviors that violate the College community standards and a person's rights, dignity, and integrity.

**Aiding or Facilitating:** This charge is defined as aiding, facilitating, promoting, or encouraging the commission of a violation under this policy. Aiding or facilitating may also include failing to act to prevent an imminent act when it is reasonably prudent and safe to do so. Taking action may include directly intervening, calling the Springfield College Department of Public Safety or local law enforcement, or seeking assistance from a person in authority.

**Intimate Partner Violence:** This is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement, and with 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 generally describes violence or abuse by a person in an intimate relationship, who do not live together, share a child in common, or have an on-going or former partnership.

**Domestic Violence:** This is defined as a pattern of coercive and controlling behaviors and tactics used by one person over another to gain power and control. This may include the following abuses: verbal, financial, emotional, sexual, and physical. Domestic violence occurs in heterosexual, as well as same-sex partnerships, and

crosses all ethnic, racial, and socio-economic lines. Domestic violence describes physical, sexual, or psychological harm by a current or former partner or spouse, and does not require sexual intimacy.

Massachusetts General Laws Chapter 209A Section 1 defines “domestic violence” as the occurrence of one or more of the following acts between family or household members:

- attempting to cause or causing physical harm;
- placing another in fear of imminent serious physical harm; or
- causing another to engage involuntarily in sexual relations by force, threat, or duress.
  
- “Family or household members” are defined as persons who:
  - are or were married to one another,
  - are or were residing together in the same household,
  - are or were related by blood or marriage,
  - have a child in common regardless of whether they have ever married or lived together, or
  - are or have been in a substantive dating or engagement relationship.

**Intimidation:** This is defined as placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the person to actual physical attack.

**Non-consensual sexual contact:** This is defined as the touching of the private body parts of another person without the consent of that person.

**Non-consensual sexual intercourse:** This is defined as the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ on another person, without the consent of the person. This term is used to classify instances where the person was not of the age of consent; if the person was



unable to consent because of temporary or permanent mental incapacity, including intoxication; or when the perpetrator has threatened, coerced, or exhibited a use of force against the other person. This term is used in Title IX cases to describe what is criminally referred to as rape.

**Sexual Exploitation:** This is defined as an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses. Sexual exploitation may involve individuals who are known to one another, such as those engaged in an intimate or sexual relationship, and/or individuals not known to one another. Examples include, but are not limited to:

- Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Any form of non-consensual taking, sharing, showing, or distributing images, photography, video; or audio recording of sexual activity or nudity, without the knowledge and consent of all parties involved;
- Prostituting another individual;
- Knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge; and
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Stalking:** Stalking refers to a clear, repetitive pattern of intentional unwanted, harassing, or threatening behavior directed toward another person that causes fear of personal safety or that of immediate family members.

**Voyeurism:** Surveilling, photographing, videotaping or electronically surveilling partially nude or nude person or persons, either in their entirety or in the targeting of the intimate parts of the body without the consent or permission of the subject or subjects.

### **3. STATEMENT ON CONSENT, COERCION, INCAPACITATION, AND ALCOHOL**

**Consent to engage in sexual activity must be knowing and voluntary.** Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to all forms of sexual contact. For example, an individual may agree to kiss, but choose not to engage in touching of intimate parts or sexual intercourse. An individual should obtain consent before moving from one act to another.

**Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.** Each person must obtain individual consent.

**Consent may be withdrawn by any party at any time.** Withdrawal of consent must also be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

**Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity.** Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity.

**A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.** Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs. Consent to previous sexual activity does not

constitute consent in the future. Consent must be obtained each time. In the Commonwealth of Massachusetts, consent can never be given by minors under the age of 16.

**Consent is not effective if it results from the use or threat of physical force, intimidation or coercion, or any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact.** Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm and/or severe and/or pervasive emotional intimidation, which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity.

**An individual who is incapacitated is not able to make rational, reasonable judgments and therefore is incapable of giving consent.** Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if the individual demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate. An individual may experience a blackout state in which they appear to be giving consent but does not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication due to alcohol and/or drug use. The relevant standard that will be applied is whether the respondent knew, or a sober reasonable

person in the same position should have known, that the other party was incapacitated, and therefore could not consent to the sexual activity.

The College considers sexual contact while under the influence of alcohol or drugs to be risky behavior. Alcohol and drug use impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. Being intoxicated or impaired by drugs or alcohol is never an excuse for gender-based misconduct and does not excuse one from the responsibility to obtain consent.

#### **4. CONSENSUAL SEXUAL RELATIONSHIPS BETWEEN EMPLOYEES AND STUDENTS**

The College is committed to maintaining an environment where the education of students is of the greatest importance. Dating, romantic, or sexual relationships between College employees and students, even if consensual, can negatively interfere with the student's pursuit of learning and the educational environment and the integrity of the College. Power differentials, real or perceived, can diminish a student's ability to give meaningful consent to such a relationship. An employee's ability to provide College services without partiality is suspect when the employee and the student have a consensual relationship. Even when the employee and student act with integrity, others may perceive bias, partiality, or influence. Furthermore, the dissolution of these relationships can create discord and significantly impair the normal operations of the College.

For these reasons, consensual relationships between students and employees, including relationships that occur when College is not in session or students are on leave, are prohibited. For more information, view the [College Consensual Relationship Policy](#).

## V. Resources

### OVERVIEW

The College is committed to treating all individuals with dignity, care, and respect. Any individual affected by gender-based misconduct, whether as a complainant, a respondent, or a third party, will have access to support and counseling services through the College. The College recognizes that any individual involved in an incident of gender-based misconduct may have questions and we encourage College community members to seek the support of campus and community resources. The College can provide guidance in making decisions about resources, obtaining information about available resources, and assisting either party in the event that a report and/or resolution is pursued. Individuals are encouraged to use all available resources, regardless of whether the incident occurred recently or in the past.

Complainants, respondents, and third parties can expect the following:

- The opportunity to meet with the Title IX coordinator or a deputy Title IX coordinator to answer questions regarding the College complaint processes for students and employees;
- Notice of Confidential Resources, including health care and mental health counseling services, on campus and/or within the local community;
- Notice of the option to pursue law enforcement action and to be assisted by the Springfield College Department of Public Safety or other College officials in accessing and communicating with such authorities. This notice will include a discussion of the importance of the preservation of evidence.
- The opportunity to request that the College take steps to prevent unnecessary or unwelcome contact or communication with another member of the community.
- The right to be free from retaliation. Any concerns of retaliatory behavior, by or against any party, should be immediately reported to the Springfield College Department of Public Safety, the Title IX coordinator or a deputy Title IX coordinator.

## **1. CONFIDENTIAL RESOURCES**

The College encourages all community members to report an incident of gender-based misconduct. The College recognizes, however, that there are many barriers to reporting, both individual and societal, and not every individual will choose to make a formal report with the College or with local law enforcement. For those individuals who are not prepared to make a report, there are several confidential resources available for students, staff, and faculty.

Individuals seeking to talk to someone about an incident of gender-based misconduct in a confidential manner without making a report to the College or triggering any investigation or action by the College may utilize the following confidential medical and mental health resources. Students, faculty, and staff have access to resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention, and assistance in interfacing with the criminal justice system.

All individuals are encouraged to utilize the resources that are best suited to their needs, whether on or off campus. In general, off-campus resources can provide assistance to individuals wishing to make a report to the College, but will not notify the College without the consent of the complainant. These resources hold a statutorily protected confidentiality that prohibits the release of an individual's information without that individual's express consent (except under limited circumstances that pose an imminent danger to the individual or to others). The following resources are confidential:

### **Confidential Resources On and Off Campus**

#### **Confidential Resources**

These resources allow individuals seeking to talk to someone about an incident of gender-based misconduct to do so in a confidential manner without making a report to the College or triggering any investigation.

## *SUPPORT*

### *On-campus Support*

Counseling Center – (413) 748-3345

- Counselors are available during regular office hours. To reach a counselor after business hours, call Public Safety at (413) 748-5555 and ask for the counselor on call.
  - For Employees: Employee Assistance Plan: (800) 252-4555

### *Off-campus Support*

YWCA of Western Massachusetts – (413) 733-7100

- A 24/7 confidential crisis hotline, including support and advocacy for domestic violence and sexual assault victims, is available.

## *MEDICAL*

To preserve evidence of sexual assault, if you have not already done so, do not take a shower or brush your teeth. Place clothes, sheets, etc. into a paper bag and bring to the hospital.

These local hospitals provide specialized sexual assault exams, including evidence collection, preventative treatment for sexually transmitted infections, and pregnancy:

Baystate Medical Center – (413) 794-3233

Mercy Medical Center – (413) 748-9000

In addition to the area hospitals above, the Springfield College Health Center staff is available for services during regular business hours. The center provides health services, including sexually transmitted infection testing and emergency contraception.

Health Center – (413) 748-3175

## **VI. Reporting**

As noted in Section II, all College employees, including faculty, staff, and administrators, except confidential resources, are identified as “responsible employees,” and have a responsibility for student and employee welfare. Responsible employees are required to share with the Title IX coordinator any report of gender-based misconduct they receive or of which they become aware.

A list of student employees who also are considered responsible employees and who have the responsibility to report information regarding gender-based misconduct of which they become aware while acting in official capacities include:

- Resident assistants and community directors
- Graduate fellows
- Graduate assistants and associates

All College community members, even those who are not obligated by this policy, are strongly encouraged to report information regarding any incident of gender-based misconduct to the Title IX coordinator or a deputy Title IX coordinator.

The College is committed to providing a variety of welcoming and accessible means to report so that as many instances of gender-based misconduct will be reported as possible. The College also recognizes that the decision whether or not to report gender-based misconduct is a personal decision and that there are many barriers to reporting, both individual and societal. Not every individual will be prepared to make a report to the College or to law enforcement, and individuals are not expected or required to pursue a specific course of action.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct that adversely affects the College or the community also falls under this policy.



An individual does not have to decide whether or not to request an investigation at the time the report is made. The College recognizes that choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The College will respect an individual's autonomy in making these important decisions and provide support that will assist each individual in making that determination.

As outlined in the "Resources" section of this policy, there are confidential resources on campus and in the community available to individuals not wishing to make a report to the College. Information shared with these confidential resources will not be reported to the College but may be shared as aggregate data.

As outlined in the College Statement on Privacy and Confidentiality, the College respects the privacy interests of students, faculty, and staff. All information reported will be shared only with those College employees who will assist in the investigation and/or resolution of the complaint.

### **EMERGENCY/IMMEDIATE REPORTING OPTIONS**

The College encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of gender-based misconduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The College will assist any College community member in getting to a safe place and will facilitate transportation to the hospital, coordinate with law enforcement, and/or provide information about the resources available on and off campus as well as the process for filing a complaint. Assistance is available from the College 24 hours a day year-round by calling the Department of Public Safety or local law enforcement. Any individual can request that a member of the Department of Public Safety respond and take a report. Individuals on the main campus can request to speak with a member of the Counseling Center without making a report to public safety. There is no requirement that an individual file a complaint with the Department of Public Safety in order to speak with a member of the Counseling Center.

Students at our regional and online campuses can access [resources on immediate reporting of a gender-based misconduct issue](#) on your campus. For emergencies, please contact your local police department for immediate assistance.

A medical provider can provide emergency and/or follow-up medical services, and has the ability to discuss any health care concerns related to the incident in a confidential medical setting, which may bring peace of mind. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (e.g., sexually transmitted infection or the possibility of becoming pregnant) and, second, if qualified as a sexual assault nurse examiner, to properly collect and preserve evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. To preserve evidence, avoid changing clothes, showering/bathing, or brushing teeth or hair. Taking the steps to gather evidence immediately does not commit an individual to any course of action. The decision to seek medical attention and gather any evidence will remain confidential

and preserve the full range of options to seek resolution through the College complaint processes or through the pursuit of criminal action. The College encourages victims to obtain medical attention promptly after an assault.

### **Reporting Resources**

In addition to the confidential resources listed above, all College community members have access to a variety of resources provided by the College that can provide crisis intervention services, counseling, academic support, and medical services. All of the employees listed below are Title IX professionals who are trained to assist faculty, staff, and students with understanding their rights, resources, and options. While not bound by confidentiality, these resources will nevertheless maintain the privacy of an individual's information within the limited number of those involved in the Title IX resolution process.

### Title IX coordinator and deputy Title IX coordinators

| Name                    | Title                                   | Office Location                                  | Contact Information                        |
|-------------------------|---|--|--|
|                         |   | Campus Union<br>Room 228                         | (413) 748-3248                             |
| Sue Nowlan              | Dean of Students                        | Campus Union<br>Suite 325                        | (413) 748-3795<br>snowlan@springfield.edu  |
| Camille Elliott         | Associate Director,<br>Student Services | Learning<br>Commons,<br>Room 306                 | (413) 748-3978<br>celllott@springfield.edu |
| Michelle Lee<br>Scecina | Assistant Athletic<br>Director          | Physical Education<br>Complex Athletic<br>Office | (413) 748-3334<br>mscecina@springfield.edu |
| Jonathan<br>Howell      | Director of Human<br>Resources          | Administration<br>Building, Second<br>Floor      | (413) 748-3195<br>jhowell@springfield.edu  |

**In the event of an emergency, please contact the Department of Public Safety at (413) 748-5555.**

**Access emergency numbers for the [Springfield College Regional Campuses](#).**

### CAMPUS REPORTING OPTIONS

The College recognizes that a student or employee may choose to report gender-based misconduct to any trusted employee of the College. For example, a student may choose to confide in a resident assistant, faculty member, or a coach, all of whom are considered responsible employees. Under this policy, responsible employees must report the incident to the Title IX coordinator or a deputy Title IX coordinator. An employee may choose to confide in a supervisor, also considered a responsible employee. Under this policy, any employee (who has not been designated as a confidential resource) who receives a report of gender-based misconduct must share the report with the Title IX coordinator or a deputy Title IX coordinator. The Title IX coordinator or a deputy Title IX coordinator is specifically charged with investigating and responding to allegations of gender-based misconduct.

To enable the College to respond to all reports in a prompt and equitable manner, the College encourages all individuals to directly report any incident of gender-based misconduct to the Title IX coordinator or a deputy Title IX coordinator.

### **ANONYMOUS REPORTING**

Any individual may make an anonymous report concerning an act of gender-based misconduct. An individual may report the incident without disclosing his or her name, identifying the respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, however, the ability to respond to an anonymous report may be limited.

The College offers a [public reporting form](#). All information is deemed private until a decision to move forward with a complaint has been made. This form may be submitted online anonymously. You also may fill out a printed reporting form and send it anonymously to the Title IX coordinator or a deputy Title IX coordinator.

### **TIMEFRAME FOR REPORTING**

So long as the respondent is a matriculating student or employee at the College, there is no time limit to filing a complaint to engage the Title IX process. However, individuals are encouraged to report gender-based misconduct immediately to maximize the ability of the College to respond promptly and equitably. The College does not, however, limit the timeframe for reporting. Be mindful that the College will not be able to initiate a gender-based misconduct investigation against an individual who is no longer affiliated with the College.

Under those circumstances, the College will still conduct a Title IX review and take appropriate steps depending on the level of control (if any) the College has over the alleged respondent.

## **COORDINATION WITH LAW ENFORCEMENT**

Because the standards for determining a violation of criminal law are different from the standards for determining a violation of this policy, criminal investigations, reports, or outcomes are not determinative of whether gender-based misconduct has occurred for purposes of this policy. In other words, conduct may constitute gender-based misconduct under this policy, even if a finder of fact in a criminal matter determines there was insufficient evidence to meet the criminal burden of proof or if law enforcement agencies decline to prosecute. The filing of a complaint of gender-based misconduct under this policy is independent of any criminal investigation or proceeding, and the College will not await the conclusion of any criminal investigation or proceedings to: (i) commence its own investigation; (ii) take support services to protect the complainant and the College community, if necessary; and/or (iii) implement disciplinary proceedings without regard to any pending criminal proceedings.

## **BYSTANDER INTERVENTION**

The College encourages all community members to take reasonable and prudent actions to prevent or stop an act of gender-based misconduct. Taking action may include direct intervention or seeking assistance from a person in authority or law enforcement.

## **STATEMENT AGAINST RETALIATION**

It is a violation of this policy to retaliate in any way against an individual or a group because the individual or group of individuals reported an allegation of gender-based misconduct.

The College recognizes that retaliation can take many forms and may be committed by an individual or a group against any individual or a group involved in a gender-based misconduct report or investigation. The College recognizes that a complainant, respondent, or third party can be the subject of retaliation by another party of the report or complaint. The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting

gender-based misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the case concludes without a finding of responsibility.

Allegations of retaliation should be reported directly to the Title IX coordinator or the deputy Title IX coordinator assigned to the complaint.

## **VII. Support Services**

Upon receipt of a report, the College will provide support services to prevent further acts of misconduct and to provide a safe educational and work environment. The College will determine the necessity and scope of any support services. Even when a person involved with the Title IX process does not specifically request that protective action be taken, the College may choose to impose support services at its discretion to monitor the safety of any individual, the broader College community, or the integrity of the review process.

Individuals seeking such assistance should speak with the Title IX coordinator or a deputy Title IX coordinator, who will coordinate such requests on the behalf of the individual. The College will maintain contact with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed directly to the Title IX coordinator or the assigned deputy Title IX coordinator. The College will take immediate and responsive action to enforce services or restrictions previously ordered or implemented by the College.

The College may impose any remedy that can be tailored to the involved parties to achieve the goals of this policy, even if not specifically listed here. The range of support services may include:

**No-Contact Order:** An individual may request, or the College may impose, communication and contact restrictions to prevent further potentially harmful interaction. These communications and contact restrictions generally preclude in-person, telephone, electronic, or third-party communications. In some cases, an individual may also wish to consider a restraining order, which can be obtained from the local courts. This is a civil proceeding independent of the College. If a court order is issued the College will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and also will facilitate on-campus compliance with the order. The College also may limit an individual or organization's access to certain College facilities or activities as part of the no-contact order.

**Academic, Employment, or Residence Modifications:** An individual involved with the Title IX process may request academic or employment modifications or a change in residence after a report of gender-based misconduct. Individuals who request assistance in changing their academic or living situation after an incident of gender-based misconduct will receive appropriate and reasonably available modifications.

These may include:

- Academic modifications, including a change in class schedule, taking an incomplete, dropping a course without penalty, attending a class remotely or other alternative means, providing an academic tutor, or extending deadlines for assignments;
- Change of housing assignment;
- Change in work assignment or schedule; or
- Access to an escort to ensure safe movement between work or academic activities.

**Emotional Support:** The College will provide counseling services through the Counseling Center or will assist in providing a referral to off-campus agencies as

needed at regional campuses. For campus and community resources, please see the “Confidential Resource” section of this policy. Counseling and emotional support are available to any member of the campus community.

**Interim Action:** Where the report of gender-based misconduct poses an ongoing risk of harm to the safety or well-being of an individual or members of the campus community, the College may place an individual or organization on interim suspension or impose leave for an employee. Pending resolution of the complaint, the individual or organization may be denied access to campus. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

## **VIII. Title IX Review**

### **1. ROLE OF THE TITLE IX COORDINATOR**

The Title IX coordinator oversees the College review, investigation, and resolution process for reports of gender-based misconduct and coordinates the College compliance with Title IX. The Title IX coordinator is supported by several College administrators who serve as deputy Title IX coordinators. Each is knowledgeable and trained in state and federal laws that apply to matters of gender-based misconduct, as well as College policy and procedure.

The Title IX coordinator and deputy Title IX coordinators can be contacted by telephone, email, or in person.

The duties and responsibilities of the Title IX coordinator and deputy Title IX coordinators include training, education and climate checks as well as the oversight of procedures that promptly and equitably eliminate sexual harassment, prevent its recurrence, and address its effects on individuals and our community. The Title IX coordinator and deputy Title IX coordinators will:



- Oversee the investigation and resolution of all reports of gender-based misconduct;
- Meet with any individual, whether a complainant, a respondent, or a third party, to discuss support services, resources, and procedural options on and off campus;
- Ensure prompt and equitable resolutions that comply with all requirements and timeframes specified in the complaint procedures;
- Conduct ongoing and annual climate checks, tracking and monitoring of gender-based misconduct allegations on campus; and
- Coordinate all training, education, and prevention efforts.

## **2. NOTICE/COMPLAINT**

Upon receipt of a complaint or notice to the Title IX coordinator of an alleged violation of this policy, Springfield College will initiate assessment to determine the next appropriate steps considering any requests of the complainant, the College's responsibility to the Springfield College community, and policy implications.

The College will respond to an allegation of gender-based misconduct by either:

- A. offering supportive measures because the complainant does not wish to proceed formally; and/or
- B. engage in an informal resolution; and/or
- C. proceed to the formal grievance process, including an investigation and hearing.

The formal grievance process will determine whether the respondent is found responsible or not responsible for violating the College policy. If the respondent is found responsible for a policy violation, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment, discrimination, or gender-based misconduct, its potential recurrence, or its effects.

### **3. INITIAL ASSESSMENT**

The College will address all reports of gender-based misconduct. The Title IX coordinator will oversee the College Title IX review process.

The College responsibility to review and respond to all allegations of misconduct exists regardless of whether that review culminates in an investigation under this policy or referral to another College procedure, if appropriate.

The Title IX coordinator or deputy Title IX coordinator will review any reports of alleged gender-based misconduct and will evaluate if the conduct described within the report is subject to Title IX, Title VII, or the College community standards as described in this policy. If a formal complaint is filed with the College, the Title IX coordinator or deputy Title IX coordinator will document their determination to dismiss the complaint, or refer the conduct to another process, or dismiss the complaint under Title IX and pursue the complaint under the College policy, or dismiss the complaint under Title IX and pursue the complaint under Title VII.

Steps in the initial assessment can include, but are not limited to:

- The Title IX coordinator communicating with the person impacted to determine if they wish to make a formal complaint. The coordinator will assist them to do so, if desired. If the person impacted does not wish to do so, the coordinator will determine whether to initiate a complaint after conducting a threat assessment to determine if there is a competing threat to health and/or safety.
- If a formal complaint is received, the coordinator will assess its sufficiency and will work directly with the impacted party to ensure it is correctly completed.
- The coordinator will reach out to the complainant to offer support services.
- The coordinator will review the available processes and ensure that the complainant is aware of their rights and will work with the complainant to determine if they prefer a supportive or remedial response, an informal resolution, or if they wish to move forward with the formal grievance process, which includes an investigation and hearing.

- If an informal resolution option is preferred, the Title IX coordinator will assess whether the complaint is suitable for informal resolution, which informal mechanisms may best serve the situation, and may seek to determine if the respondent is willing to engage in informal resolution, if applicable.
- If a formal grievance process is preferred, the Title IX coordinator will determine if the misconduct allegations fall within the scope of Title IX:
  - If it does, the Title IX coordinator will initiate the formal investigation and grievance process during the investigation to address:
    - An incident, and/or
    - A pattern of alleged misconduct, and/or
    - A culture/climate issue, based on the nature of the complaint.
  - If it does not, the Title IX coordinator will “dismiss” any aspect of the complaint outside of the scope of Title IX harassment and determine if the alleged conduct falls within the scope of the conduct defined to be a violation of the College community standards as described within this policy. If the complaint is dismissed under Title IX, but will proceed under the Gender-based Misconduct Policy, the Title IX coordinator or their designee will document the dismissal and provide notice to parties as to how the complaint will proceed.

#### **4. THREAT ASSESSMENT**

The Title IX coordinator or their designee may determine that a threat assessment should be conducted by the Students of Concern (S.O.C.) Team as a part of the initial assessment. The S.O.C. Team can aid in determining some or all of the following:

- Whether emergency removal of a respondent on the basis of immediate threat to physical health/safety is warranted;
- Whether the coordinator should pursue/sign a formal complaint absent a complainant if a complainant is unwilling or unable to participate.
- Whether the alleged conduct should be assessed in conjunction with a separate incident and/or a pattern of behavior or conduct and/or climate;
- Whether the alleged conduct was predatory in nature or related to potentially predatory conduct;

- Whether grooming behaviors or patterns of conduct were involved in the alleged conduct;
- Whether informal resolution would be possible, and if so, what mechanisms of informal resolution would be most successful;
- Whether to impose a transcript notation to the respondent's transcript;
- Assess appropriateness of sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning, trespass order, and/or no-contact order are warranted.

A threat assessment is not an assessment or evaluation for an involuntary behavioral health hospitalization such as that conducted under Section XII under the law of the Commonwealth. A threat assessment is conducted by internal staff to specifically evaluate the risk of actionable violence with a focus on predatory escalation or targeted behaviors.

## **5. TIMEFRAME FOR RESOLUTION**

The investigation of all reports will be completed promptly and without undue delay. The College strives to complete investigations as quickly as possible while ensuring that all investigations are conducted thoroughly and equitably. Generally, the resolution process will be completed by the College within 60-90 business days. Extenuating circumstances may arise that require the investigation process to extend beyond these timeframes, including, for instance: the complexity and severity of a complaint, if there is a parallel criminal investigation, or if the investigation occurs during school breaks or between school years. In general, a complainant and respondent can expect to receive periodic updates as to the status of the review or investigation.

If a student applies for a leave of absence from the College with the intent of a temporary exit, and that student is involved in a gender-based misconduct matter under investigation, the College may, at its discretion, complete the investigation, even with the student physically absent from the College. Any student involved in a gender-based

misconduct matter who is not physically available because of a temporary leave may be provided with accommodations so far as will allow the student full and equitable participation.

## **6. EFFECT OF CRIMINAL PROCEEDINGS**

As stated above, the filing and processing of a complaint of gender-based misconduct is independent of any criminal investigation or proceeding. The College will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and proceedings outlined herein. Neither law enforcement's determination whether to prosecute a respondent, nor the outcome of any criminal prosecution, are determinative of whether gender-based misconduct under the College policy occurred.

## **7. EFFECT OF PENDING COMPLAINT ON RESPONDENT**

If the respondent is a current student and found responsible for a gender-based misconduct violation, a notation will be placed on the respondent's transcript identifying the complaint. If the respondent withdraws from the College while a gender-based misconduct complaint is pending, the respondent's transcript will reflect a withdrawal and the pending gender-based misconduct complaint. If a respondent, during an open investigation, should apply for a leave of absence from the College, the College may reserve the right to continue the investigation substantially in progress. Should a student be granted a leave of absence, the Title IX coordinator and/or designee shall appropriately accommodate any respondent physically unavailable during the process.

## **8. COMMUNICATIONS**

All communications and notices required by these procedures may be made electronically, in hard copy, or in person.

## **9. FALSE COMPLAINT/FALSE INFORMATION**

The College will not tolerate false reporting and reserves the right to discipline members of the College community who knowingly bring false complaints of gender-based misconduct or provide false information during an investigation or hearing. No complaint

will be considered "false" solely because it cannot be corroborated. If a respondent or complainant is determined to have provided false information during the investigation or sanctioning process, the respondent or complainant may be charged with "false information and misrepresentation" and/or the false information may be considered an aggravating circumstance during the sanctioning phase. A finding of "not responsible" is not the same as an unfounded report or report determined to be a false report.

## **IX. Initiating a Complaint**

### **1. INDIVIDUAL**

A person, who believes they have experienced an incident of gender-based misconduct, as defined in this policy, may file a complaint against the person responsible for that conduct. "Person" may include any member of the College, including students, faculty, administrators, and staff members, or non-member, such as a third-party contractor.

Counterclaims by the respondent of alleged gender-based misconduct may be made in good faith. As counterclaims can be made for purposes of retaliation, the College will assess whether the allegations are made in good faith to prevent any abuse of this policy for retaliatory purposes.

The College will permit the filing of counterclaims but maintains the right to delay the processing of counterclaims if necessary. Some allegations of counterclaims may be resolved through the same investigative process. The Title IX coordinator reserves the right to determine if a separate procedure is necessary to proceed under the resolution process described in Section X, after the conclusion of the underlying allegation.

### **2. FILING REQUIREMENTS**

Under Title IX, "complainant" means any individual who is alleged to be the victim of Title IX sexual harassment. Relative to conduct in violation of the Springfield College community standards, the person bringing the allegation is called the complainant, whether they are the alleged victim of the conduct. A complainant under this policy may

be the Title IX coordinator or their designee, or a third party with knowledge of the alleged misconduct. The complainant will be asked to submit a statement to either the Title IX coordinator or a deputy Title IX coordinator containing the alleged conduct in violation of this policy. The statement should contain sufficient information to permit the Title IX coordinator or the deputy Title IX coordinator to conduct a Title IX evaluation, and properly determine if and how the report is subject to the College policy. The statement may not reflect every detail related to the allegations in the complaint as additional information may be discovered during the investigation.

For a report to undergo an investigation under Title IX, a formal complaint is required. A “formal complaint” under Title IX is a written document filed by a complainant or signed by a Title IX coordinator requesting that the College investigate allegations of Title IX sexual harassment against a respondent.

#### **A. Withdrawal of Complaint**

If a complainant does not wish for their name to be shared does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX coordinator, or their designee, has ultimate discretion over whether the College proceeds when the complainant does not wish to do so. The Title IX coordinator, or their designee, may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX coordinator’s, or their designee’s, decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or

violence. Recipients may be compelled to act on alleged employee misconduct irrespective of a complainant's wishes.

The Title IX coordinator must also consider the effect that non-participation by the complainant may have on the availability of evidence and the ability of the College to pursue a formal grievance process fairly and effectively.

When the Title IX coordinator executes the written complaint, they do not become the complainant. The complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the complainant (or their advisor) may have as much or as little involvement in the process as they wish. The complainant retains all rights of a complainant under this policy irrespective of their level of participation. Typically, when the complainant chooses not to participate, the advisor may be appointed as proxy for the complainant throughout the process, acting to ensure and protect the rights of the complainant.

Note that the ability of the College to remedy and respond to the notice may be limited if the complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the complainant with as much control over the process as possible, while balancing the College obligation to protect its community.

In cases in which the complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies to the complainant and the community, but will not otherwise pursue formal action.

If the complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a complainant has the right, and can expect, to have allegations taken seriously by the



College, and to have the incidents investigated and properly resolved through these procedures.

## **B. Acceptance of Responsibility**

The respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the respondent accepts responsibility, the Title IX coordinator, or their designee, makes a determination that the individual is in violation of the Gender-based Misconduct Policy.

The Title IX coordinator, or their designee, then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the complainant and the community.

If the respondent accepts responsibility for all of the alleged policy violations and the Title IX coordinator, or designee, has determined appropriate sanction(s) or responsive actions, which are promptly implemented, the process is complete. The complainant will be informed of this outcome.

If the respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator, or their designee, has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The complainant will be informed of this outcome. The parties are still able to seek alternate resolution on the remaining allegations, subject to the stipulations above.

**The following sections detail procedures addressing complaints against students, employees, and non-members.**

When a complaint is filed against a community member who embodies more than one status at the College (i.e., the community member is a student and an employee), the Title IX coordinator, or their designee, has the authority to determine the investigation process (student or employee) for the reported incident. The selected process shall have the authority to make final determinations affecting all of a respondent's statuses at the College.

## **X. Procedures for Addressing Complaints Against Students**

The Office of Non-discrimination Initiatives is responsible for the oversight of investigations of gender-based misconduct complaints where the respondent is a student or student group. The Title IX coordinator will work in coordination with the Office of Human Resources to coordinate the investigations of gender-based misconduct complaints where the respondent is an employee of the College or third-party contractor.

### **RESOLUTION PROCESSES:**

#### **INFORMAL RESOLUTIONS**

Informal resolution can utilize several different approaches including:

- When the parties agree to resolve the matter through an alternative resolution mechanism, such as mediation or restorative practices, and the mechanism is determined to be appropriate for the alleged conduct by the Title IX coordinator or their designee;
- When the respondent fully accepts responsibility, as outlined above, for violating the College community standards and desires to accept a sanction and end the resolution process; or
- When the complainant indicates that support services provided by the College would sufficiently remedy the situation, and that they do not wish to proceed with the formal grievance process.

The informal resolution process is a structured resolution, facilitated by the Office of Non-discrimination Initiatives, which can be used at the request of the complainant or at the discretion of the Title IX coordinator or a designee. The intent of the informal resolution process is to resolve concerns at the earliest stage possible and in the best interest of all parties involved. The process is intended to be flexible while also providing for a full range of possible outcomes.

### **Circumstances in Which the Informal Resolution Process May be Used**

The informal process is not appropriate or available for all types of alleged conduct. Specifically, it is not appropriate when there is a risk of a hostile environment in the community or when the alleged actions are so egregious as to create significant concern for the life and/or bodily safety of others. The Title IX coordinator or deputy coordinator will determine which allegations are eligible for resolution via the informal resolution process.

### **Informal Resolution Procedure**

To initiate the informal resolution process, a complainant needs to submit a formal complaint, as defined above. If a respondent wishes to initiate the informal resolution, they should contact the Title IX coordinator to so indicate. The College reserves the right to determine if the informal resolution procedure is improper for alleged conduct.

It is not necessary to pursue informal resolution first in order to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process.

Prior to implementing informal resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

The College will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding and will not pressure the parties to participate in informal resolution.

## **FORMAL GRIEVANCE PROCESS**

Notice of Investigation and Allegations (NOIA):

The Title IX coordinator or deputy Title IX coordinator will provide written notice of the investigation and allegations (NOIA) to the respondent upon commencement of the formal grievance process. This facilitates the respondent's ability to prepare for the interview and to identify and choose an advisor to accompany them. The written notice also is copied to the complainant, who is to be given advance notice of when the NOIA will be delivered to the respondent.

The written notice will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the College presumes the respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the College policy on retaliation,
- Information about the privacy of the process,

- Information on the need for each party to have an advisor of their choosing and suggestions for ways to identify an advisor,
- A statement informing the parties that the College policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official College records, or emailed to the parties' Springfield College-issued email, or designated accounts. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

**Advisors:**

An advisor is any person chosen by a party or appointed by the College to accompany the party to meetings related to the resolution, grievance, or appeals processes, whom serves to advise the party on that process. Advisors also are responsible for conducting the cross-examination on behalf of the party they are advising at any hearing. Students must utilize an advisor during hearings if they wish to ask any questions of parties or witnesses involved.

**Right to an Advisor:**

Each party has the right to have an advisor of their choosing present for all meetings, interviews, and hearings within the resolution process. An advisor may be whoever the party wishes as long as they are eligible and available. While the College will assign an

advisor if a party is unable to identify one, the College will not compel a particular individual into serving as an advisor, and employees of the College reserve the right not to serve as advisors.

While advisors that are witnesses to a case are not strictly prohibited, it creates potential for bias and conflict-of-interest if a hearing is necessary. Parties should be aware that the issue of potential bias may be subject to exploration by the decision-maker(s).

If a student cannot or does not wish to self-identify, an advisor will be assigned by the College. If a student selects to use a College-assigned advisor, the College will ensure the College-assigned advisor is trained and familiar with the College process.

The College will share all related materials directly with the parties and will solicit written consent to share information with advisors identified by the parties. The College may request renewed consent for information sharing at each phase of the resolution process. If a party changes advisors, the party is responsible for notifying the College of the change.

**Role of Advisors:**

Advisors may accompany parties to all meetings and interviews at which the party is entitled to be present, including pre-hearing meetings, outcome meetings, intake meetings, and interviews. advisors are expected to act ethically, with integrity, and in good faith.

The College reserves the right to remove an advisor, either from an individual setting or the proceedings as a whole, if the advisor fails to act appropriately and in accordance with the communicated expectations. Harassment of a party by an advisor will not be tolerated. Advisors are expected to advise their advisees without disrupting the proceedings. Advisors must understand that their role is not to speak on behalf of or represent their advisee within the proceedings. Advisors should speak during the

proceedings only when directly invited by College administrators. Parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process, and to answer questions on their own behalf during the hearing procedures, if any.

The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney. The College is responsible for training only College-appointed advisors. Advisors identified or hired by the parties are responsible for understanding the processes related to this policy.

**Appointment of Investigators:**

Once the decision to move forward with the formal grievance process has been made the Title IX coordinator will appoint one or more investigators to facilitate the investigation. The investigators may either be internal (employees of the College) or external (non-College employees) at the discretion of the coordinator. The Title IX coordinator is responsible for ensuring that a conflict check is completed and that there are no conflicts of interest between the investigators assigned to the complaint and the parties to the complaint. The names of the investigators will be provided to the parties as a part of this conflict check.

**Steps in the Investigation Process:**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence.

The investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the complainant.
- In coordination with campus partners (e.g., the Title IX coordinator), initiate or assist with any necessary supportive measures.
- Identify all policies implicated by the alleged misconduct and notify the complainant and respondent of all of the specific policies implicated.
- Assist the Title IX coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Meet with the complainant to finalize their interview/statement, if necessary.
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations.
  - Notice should inform the parties of their right to have the assistance of an advisor, who could be a member of the pool or an advisor of their choosing present for all meetings attended by the party.
- Provide each interviewed party and witness an opportunity to review and verify the investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews, as necessary.
- Allow each party the opportunity to suggest witnesses and to provide questions they wish the investigator(s) to ask of the other party and witnesses, and



document in the report which questions were asked, with a rationale for any changes or omissions.

- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding.
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices, including relevant physical or documentary evidence, will be included.
- The investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct. This could include evidence upon which the recipient does not intend to rely in reaching a determination, for a 10-business-day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full 10 days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., complainant, respondent, complainant's advisor, respondent's advisor).
- The investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- The investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The

investigator(s) should document all rationales for any changes made after the review and comment period.

- The investigator(s) submit the report to the Title IX coordinator who will provide feedback on form, but not content.
- The investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their advisors through secure electronic transmission or hard copy at least 10 business days prior to a hearing. The parties also are provided with a file of any directly related evidence that was not included in the report.

### **Evidentiary Considerations in the Investigation:**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

### **Referral for Hearing:**

Provided that the complaint is not resolved through informal resolution, once the final investigation report is shared with the parties, the Title IX coordinator will refer the matter for a hearing.

The hearing cannot be less than 10 business days from the conclusion of the investigation, which is marked by the final investigation report being transmitted to the parties and the decision-maker(s), unless all parties and the decision-maker(s) agree to an expedited timeline. The parties will notify the coordinator in writing if they consent to an expedited timeline.

The coordinator, or their designee, will identify a three-member hearing panel after completing a conflict check. One of the three members of the panel will be appointed as the chairperson. Neither the panelists nor the chair may have any previous involvement with the investigation. The Title IX coordinator reserves the right to replace panelists or the chairperson should a conflict of interest arise.

**Notice of Hearing:**

The Title IX coordinator or chairperson will notify the parties of the hearing date no less than 10 business days prior to the hearing. Notice of the hearing date may be sent via mail, email, and/or received in person. Notice will include:

- The platform of the meeting (in person, Zoom, FaceTime, other similar digital platform),
- Instructions for accessing the hearing,
- Information about the audio and/or visual recording of the hearings,
- Information regarding the permissible use of an advisor of their choosing and information about their requirement to have one present for any questions they desire to ask. Parties will be instructed to notify the Title IX coordinator if they do not have an advisor, and information about the College appointing an advisor if necessary.
- An invitation to contact the Title IX coordinator to arrange any accommodations, language assistance, and/or interpretation services that may be needed at the hearing at least seven business days prior to the hearing.

**Pre-Hearing Preparation:**

The chair, after any necessary consultation with the parties, investigator(s), and/or Title IX coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least 10 business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the investigator(s) or have proffered a written statement or answered written questions,

unless all parties and the chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and chair do not assent to the admission of evidence newly offered at the hearing, the chair will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the decision-maker(s) at least five business days in advance of the hearing. All objections to any decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX coordinator as soon as possible, and no later than seven business days prior to the hearing. Decision-makers will only be removed if the Title IX coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX coordinator will give the decision-maker(s) a list of the names of all parties, witnesses, and advisors at least five business days in advance of the hearing. Any decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and advisors in advance of the hearing. If a decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX coordinator as soon as possible.

During the 10-business-day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the chair.

### **Pre-Hearing Meetings:**

The chair may convene a pre-hearing meeting(s) with the parties and/or their advisors to invite them to submit the questions or topics they (the parties and/or their advisors) wish to ask or discuss at the hearing, so that the chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide

recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The chair must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.

The chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their advisor, the chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related, but not relevant by the investigator(s), may be argued to be relevant. The chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The chair may consult with legal counsel and/or the Title IX coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded, but a record of the meetings and any supporting documentary materials will be included in the case file.

### **Hearing Procedures:**

At the hearing, the decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation, and also may hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing will include the chair, any additional panelists, a hearing facilitator at the discretion of the Office of Non-discrimination Initiatives, the

investigator(s) who conducted the investigation, the parties (or three organizational representatives when an organization is the respondent), advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

The chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the decision-maker(s) and the parties and will then be excused.

### **Joint Hearings:**

In hearings involving more than one respondent, or in which two or more complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX coordinator may permit the investigation and/or hearings pertinent to each respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each respondent with respect to each alleged policy violation.

### **The Order of the Hearing – Introductions and Explanation of Procedure:**

The chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the decision-maker(s) on the basis of bias or conflict of interest. The chair will rule on any such challenge unless the chair is the individual who is the subject of the challenge, in which case the Title IX coordinator will review and decide the challenge.

The chair and/or hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are

managed by a non-voting hearing facilitator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

### **Investigator Presents the Final Investigation Report:**

The investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the decision-maker(s) and the parties (through their advisors). The investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the decision-maker(s) should ask the investigator(s) their opinions on credibility, recommended findings, or determinations, and the investigators, advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the chair will direct that it be disregarded.

### **Testimony and Questioning:**

Once the investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the complainant, and then in the order determined by the chair. The parties/witnesses will submit to questioning by the decision-maker(s) and then by the parties through their advisors (“cross-examination”).

All questions are subject to a relevance determination by the chair. The advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the chair upon request or agreed to by the parties and the chair), the

proceeding will pause to allow the chair to consider it, and the chair will determine whether the question will be permitted, disallowed, or rephrased.

The chair may explore arguments regarding relevance with the advisors, if the chair so chooses. The chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The chair has final say on all questions and determinations of relevance, subject to any appeal. The chair may consult with legal counsel on any questions of admissibility. The chair may ask advisors to frame why a question is or is not relevant from their perspective, but will not entertain argument from the advisors on relevance once the chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an investigator or decision-maker at the hearing, the chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the chair should not permit irrelevant questions that probe for bias.

**Refusal to Submit to Cross-Examination and Inferences:**

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.



If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission.

The decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions. If charges of policy violations other than sexual harassment are considered at the same hearing, the decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's advisor of choice refuses to comply with the College established rules of decorum for the hearing, the College may require the party to use a different advisor. If a College-provided advisor refuses to comply with the rules of decorum, the College may provide that party with a different advisor to conduct cross-examination on behalf of that party.

### **Recording Hearings:**

Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The decision-maker(s), the parties, their advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Title IX coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX coordinator.

**Deliberation, Decision-making, and Standard of Proof:**

The decision-maker(s) will deliberate in closed session to determine whether the respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the chair, but is there only to facilitate procedurally, not to address the substance of the allegations. The facilitator may help answer questions related to matters of law or policy application but may not provide guidance or answer questions in relation to the findings of the hearing or investigation.

When there is a finding of responsibility on one or more of the allegations, the decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s). The chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The decision-maker(s) will review the statements and any pertinent conduct history and will determine the appropriate sanction(s).

The chair will then prepare a written deliberation statement and deliver it to the Title IX coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.

This report typically should not exceed three to five pages in length and must be submitted to the Title IX coordinator within two 2 business days of the end of deliberations, unless the Title IX coordinator grants an extension. If an extension is granted, the Title IX coordinator will notify the parties.

**Notice of Outcome:**

Using the deliberation statement, the Title IX coordinator will work with the chair to prepare a Notice of Outcome. The Title IX coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s), with the parties and their advisors within five business days of receiving the decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the College that the College is permitted to share according to state or federal law; and any remedies provided to the complainant designed to ensure access to the College educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the respondent unless the remedy directly relates to the respondent).

The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

**SANCTIONING PROCESS**

Upon determination of responsibility, the chair will confer with the Title IX coordinator regarding potential sanctions. The Title IX coordinator also reserves the right to meet with other relevant parties, including but not limited to, the investigator(s) or witnesses, if

the Title IX coordinator believes doing so will assist in determining appropriate sanctions.

Before determining sanctions, the chair may review the case file and investigators' conclusions, the respondent's prior disciplinary record, if one exists, and any impact statements submitted by either party.

The Title IX coordinator has five business days from the last meeting with a relevant party to issue a written decision letter, detailing outcomes of the process, including sanctions if the respondent is found responsible for one or more of the charges, to both parties. Decision letters will be sent via email.

All sanctions are enacted immediately, unless otherwise stated, regardless of status of an appeal.

## **SANCTION GUIDELINES**

Any student found responsible for violating the policy provisions on non-consensual sexual touching (where no penetration has occurred), sexual exploitation, voyeurism, sexual harassment, domestic or dating violence, or stalking, will receive a sanction up to and including expulsion, depending on the severity of the incident and considering any prior disciplinary history. Recommended sanctions for violation of the policy relative to any charge of gender-based misconduct, including but not limited to those previously mentioned, include but are not limited to: disciplinary probation, loss of privileges, relocation of residence, restriction from facilities or activities, temporary or permanent residence hall suspension, mandated assessment and/or counseling, educational project, withholding of degree, suspension and/or expulsion. The standard sanction for non-consensual sexual penetration is suspension or expulsion. The chair, as the decision maker, reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating or aggravating circumstances. Neither the initial decision-maker nor the appeal officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

## **APPEAL PROCESS**

Both the respondent and the complainant can submit an appeal based on the outcome of the investigation and/or the sanction as set forth below.

Guiding principles of the appeal process:

- Appeals are confined to a review of the case file based on one or more pertinent grounds for appeal described below. Appeals are not intended to re-hear the allegations.
- Absent clear and material error, appeal determinations are intended to be deferential to the original decision-maker. Findings should be revised by an appeal officer only when remanding for further investigation or granting a new investigation would be insufficient, impractical, or unnecessary. Sanctions should be revised by the appeal officer only if there is a compelling justification to do so.
- An appeal must be submitted within five business days after the decision letter is delivered to the student's Springfield College email account. An appeal may be made solely on the grounds of:
  - Error in the charge and/or investigation or sanctioning process that materially affected the outcome;
  - New information that could not have been discovered prior to the investigation or sanctions meeting through the exercise of reasonable diligence and that would have materially affected the outcome;
  - A summary of this new evidence and its potential impact must be included in the written appeal; or
  - The sanctions imposed fall outside of the range of sanction guidelines and/or are grossly disproportionate to the violations committed.

The vice president of Student Affairs, or their designee, shall act as the appeal officer.

The appeal must be made in writing to the appeal officer and must clearly and succinctly outline and explained how the specific grounds listed above have been met.

The party submitting the appeal has the burden of demonstrating how the grounds listed above have been met.

When one party submits an appeal, a copy of the appeal will be provided to the other party by the appeal officer. The other party will have an opportunity to submit a written statement to the appeal officer within three business days to be considered with the original appeal. The written statement shall be limited to a response to the content of the original appeal.

After reviewing the written appeal(s), written statements, and associated case file, the appeal officer will take one of the following actions:

1. Reject the appeal as untimely or improper based on the grounds articulated above;
2. Uphold the original decision and/or sanction(s);
3. Grant the appeal and:
  - a. Return the case with specific instructions to the hearing panel for further consideration.
  - b. Modify the sanctions by reducing or enhancing the sanction(s). A rationale will be provided by the appeal officer if a sanction is modified.

## **NOTICE OF RIGHTS**

The complainant and the respondent will receive simultaneous written notification of the appeal officer's decision regarding the appeal via their Springfield College email accounts. Except where the case is returned to the deputy Title IX coordinator for further consideration, the decision of the appeal officer is final and not subject to further review.

### **Rights of the Complainant**

The complainant has a number of rights under this policy and with respect to a resolution of a complaint. If the College initiates an investigation, the complainant will retain the rights below. They include both those outlined above and the following:

- The right to an investigation and appropriate resolution of all credible complaints of gender-based misconduct made in good faith to the College;

- The right to be treated with respect by College employees throughout the process;
- The right to have one advisor of their choice to support them in this process in accordance with the policy (see “Other Provisions”);
- The right to be notified of available counseling and mental and physical health services, on and off-campus;
- The right to be informed of and to report the incident to off-campus authorities and/or law enforcement, and to be assisted by College employees in doing so;
- The right to be provided with a written explanation of rights and options with respect to the matter;
- The right to have the investigation and resolution process fully explained;
- The right to receive written notice of all allegations for which the respondent is charged;
- The right to be notified of possible sanctions that may result if the respondent is found responsible of violating the policy(ies) in question;
- The right to an outcome based on information the decision-maker finds credible, relevant, and convincing by a preponderance of the evidence (i.e., it is more likely than not that a policy violation occurred);
- The right to appeal the outcome of the investigation and/or sanction, in accordance with the appeal guidelines established in this policy;
- The right to privacy, and the assurance that information regarding the complaint will be shared only with those necessary and in accordance with applicable law.

### **Rights of the Respondent**

The respondent has a number of rights under this policy and with respect to a resolution of a complaint. They include both those outlined above and the following:

- The right to an investigation and appropriate resolution of all credible complaints of gender-based misconduct made in good faith to the College;
- The right to be treated with respect by College employees throughout the process;

- The right to have one advisor of their choice to support them in this process in accordance with the policy;
- The right to be notified of available counseling and mental and physical health services, on and off the campus;
- The right to be provided with a written explanation of rights and options with respect to the matter;
- The right to have the investigation and resolution process fully explained;
- The right to receive written notice of all charges;
- The right to be notified of possible sanctions that may result if found responsible for violating the policy(ies) in question;
- The right to an outcome based on information the decision-maker finds credible, relevant, and convincing by a preponderance of the evidence (i.e., it is more likely than not that a policy violation occurred);
- The right to appeal the outcome of the investigation and/or sanction, in accordance with the appeal guidelines established in this policy;
- The right to privacy, and the assurance that information regarding the complaint will be shared only with those necessary and in accordance with applicable law.

## **OTHER PROVISIONS**

### **ADVISORS**

Advisors serve as a support person for the parties during the process, including investigative meetings, meetings with the Title IX coordinator or deputy Title IX coordinator, and sanction meetings. The advisor's name and relationship to a party (e.g., student, faculty member, family member, attorney, etc.) must be disclosed to the Title IX coordinator or investigator(s) prior to the meeting for which they will serve as the advisor. Students who are witnesses to the incident or are otherwise involved in the matter may not typically serve as advisors. Advisors are not permitted to advocate for a student or speak on the student's behalf during any of the aforementioned meetings.



The advisor's role shall be to support the complainant or respondent. They may quietly and unobtrusively communicate with their advisee or by written note during the meeting. The College reserves the right to remove an advisor from any meeting should these expectations and guidelines be violated. Meetings are not generally delayed or rescheduled due to an advisor's schedule or availability. The Title IX coordinator will consider requests made to delay or reschedule a meeting and will make the final determination at the coordinator's sole discretion. The College reserves the right to have its legal counsel present during any meeting.

### **AMNESTY FOR MINOR VIOLATIONS**

The College will extend amnesty for minor violations of policy, including but not limited to, the possession and/or consumption of drugs or alcohol, when the violation is related to a report of gender-based misconduct. The seriousness of gender-based misconduct is a major concern for the College and the College does not want any circumstances (e.g., drug or alcohol use) to inhibit the reporting of gender-based misconduct or cooperation with an investigation. When amnesty is granted for minor violations of policy, the College may refer students to resources such as alcohol and/or drug education, but there will be no disciplinary record or sanction regarding the violation for which amnesty was granted. The deputy Title IX coordinator will determine what policy violations will be considered "minor" and therefore eligible for amnesty in this context. Amnesty for minor policy violations may be extended to all parties involved in the case, including but not limited to, the complainant, the respondent, and witnesses.

### **ATTENDANCE EXPECTATIONS**

To enable the most accurate and fair review of the facts, the respondent is expected to attend and participate in meetings during an investigation under this policy. If an individual chooses not to attend one or more meetings, the charges will be reviewed based on the information and evidence available, and a decision will be made. Although no inference may be drawn against a student for failing to attend a meeting or remaining silent, the process will proceed, and the conclusion will be based on the evidence

presented. No decision shall be based solely on the failure of the respondent to attend one or more meetings, to participate in such meeting(s), or to answer the charges.

### **EFFECT OF CRIMINAL PROCEEDINGS**

Because the standards for determining a violation of criminal law are different from the standards for determining a violation of this policy, criminal investigations, reports, or outcomes are not determinative of whether gender-based misconduct has occurred for purposes of this policy. In other words, conduct may constitute gender-based misconduct under this policy, even if there is insufficient evidence of a crime or if law enforcement agencies decline to prosecute. The filing of a complaint of gender-based misconduct under this policy is independent of any criminal investigation or proceeding, and the College will not await the conclusion of any criminal investigation or proceedings to: (i) commence its own investigation; (ii) take interim measures to protect the complainant and the College community, if necessary; and/or (iii) implement disciplinary proceedings without regard to any pending criminal proceedings.

### **HISTORY OF THE PRINCIPAL PARTIES**

#### **Sexual History**

Neither the past sexual history nor sexual character of either party will be considered in the investigation or any other proceeding unless such information is determined by the deputy Title IX coordinator to be specifically and directly relevant to a pending charge.

## **XI. Procedures for Addressing Complaints Against Employees**

Reports concerning faculty, staff, and/or vendors of the College, have two means of resolution. When an employee of the College is named as a respondent in a Title IX complaint, the matter may be resolved through the informal resolution process or, alternatively, through a formal investigation. All Title IX complaints, or personnel complaints, which include instances of gender-based misconduct, will be reviewed by

the Title IX coordinator and the director of Human Resources. The director of Human Resources is designated as the deputy Title IX coordinator for all matters involving College employees, and will conduct, along with the Title IX coordinator, a preliminary assessment of each complaint. During this preliminary intake, the formal rules of process and evidence, such as those applied in criminal or civil courts, are not applicable, nor in the resolution process described below.

## **INFORMAL RESOLUTIONS**

### **Informal Resolution Process**

The informal resolution process is a structured resolution, facilitated by the Title IX Office, which can be used at the request of the complainant or at the discretion of the Title IX coordinator or a designee. The intent of the informal resolution process is to resolve concerns at the earliest stage possible, in the best interest of all parties involved. The process is intended to be flexible while also providing for a full range of possible outcomes.

### **Circumstances in Which the Informal Resolution Process May be Used**

The informal resolution process is not appropriate or available for all types of alleged conduct. Specifically, it is not appropriate when there is a risk of a hostile environment in the community or when the alleged actions are so egregious as to create significant concern for the life and/or bodily safety of others. The Title IX coordinator or deputy coordinator will determine which allegations are eligible for resolution via the informal resolution process.

### **Informal Resolution Procedure**

An initiating party may make a request, either orally or in writing, for informal resolution to the Title IX coordinator or a deputy coordinator. The request should identify the alleged respondent, if known, and describe the allegations as specifically as possible. The Title IX officer will assess the allegation and potential risk for a hostile environment for others in the community to determine whether informal resolution may be

appropriate. Such a request can be made at any time before, during, or after the start of an investigation, but prior to the production of written findings in a formal investigation. Alternatively, a formal investigation may be initiated at any time.

In the case of a reluctant complainant, the Title IX coordinator, or deputy coordinator, may initiate the informal procedures at her or his sole discretion.

The informal resolution process may result in a broad range of resolutions and will include necessary follow up. Such mechanisms may include: targeted or broad-based educational training, facilitating an agreement between parties, separating the parties, referring the parties to counseling programs, delivery of an impact statement, and mediation (when appropriate), and only upon agreement by both parties.

If the involved parties fail to reach a mutually agreeable outcome for the alleged conduct, the allegation may be resolved via formal investigative process. Agreements reached in the informal resolution process cannot be appealed absent new and relevant material, or significant circumstance.

## **FORMAL INVESTIGATION**

If the director of Human Resources and Title IX coordinator determine that there is reasonable cause to pursue the complaint, a formal investigation will be initiated. The formal investigation under this policy will be conducted as promptly and equitably as possible without compromising thoroughness. Absent extenuating circumstances, the College investigation process for sexual misconduct complaints will be completed within 60 days. This time period may be shorter or longer depending on the circumstances, including, but not limited to, the complexity of the case and the availability and number of witnesses. Should this process last longer than 60 days, the director of Human Resources and Title IX coordinator will communicate the reasons and expected timelines for completion to all parties.

At the initiation of the formal investigation, the director of Human Resources and Title IX coordinator will:

1. Notify the respondent and complainant of the investigation and provide an explanation of the investigation process;
2. Provide the respondent and complainant with a written notice of the charges, identifying the specific portion(s) of the gender-based misconduct policy alleged to have been violated; and
3. Either appoint himself or herself as the designated investigator(s) or appoint an investigator(s) who may be either an internal and/or external investigator, to conduct the investigation. Concerns relating to any potential bias or conflict of interest of the appointed investigator(s) should be promptly addressed to the director of Human Resources and Title IX coordinator who shall have sole discretion to remove or reappoint investigator(s) as necessary.

At reasonable intervals throughout the investigation, the director of Human Resources and/or Title IX coordinator will maintain communication with the complainant and the respondent regarding the status of the investigation and overall process.

The appointed investigator(s) will:

1. Commence a thorough and impartial investigation by developing an investigation plan, including a witness list, intended investigation timeframe, and order of interviews for all witnesses and the respondent;
2. If the investigator(s) is not the director of Human Resources and/or Title IX coordinator, they will provide regular updates on the investigation to the director of Human Resources and Title IX coordinator, and determine whether or not one or more specific portions of the policy were violated based on the preponderance of evidence. Under this standard, the respondent is presumed not to have violated this policy unless a preponderance of the evidence supports a finding that a violation occurred. A preponderance of the evidence indicates that it is more likely than not that the identified portion of the policy was violated by the respondent.

At the conclusion of the investigation, the investigator will submit written conclusions as to whether or not the respondent violated the gender-based misconduct policy based on a preponderance of evidence standard and citing the evidence on which the decision was based. The director of Human Resources and Title IX coordinator will review the investigator's factual findings and proposed conclusion, to ensure the following:

- a. The investigation was thorough, reliable, and impartial;
- b. The conclusions were based on the evidence collected; and
- c. The conclusions were based on the preponderance of evidence standard.

If the director of Human Resources and Title IX coordinator determine that any further steps are necessary to meet any of these requirements, they will inform the investigator(s). The investigator(s) will take the necessary steps and update their investigative report accordingly.

When the director of Human Resources and Title IX coordinator receive an investigative report that they determine is final, (or the director of Human Resources and Title IX coordinator acting as the investigators reach their determination), the Title IX coordinator will separately inform both the complainant and the respondent of the outcome of the investigation and the next steps in the process. Those next steps are the appeal process and discipline process if there was a finding of responsibility.

In addition to sharing the outcome with the parties, the director of Human Resources and the Title IX coordinator also will determine whether additional remedies are necessary for the complainant and/or community, if any, to address the incident. The director of Human Resources and Title IX coordinator may offer the parties conflict resolution options when appropriate based on the facts and circumstances and regardless of the outcome of the preliminary or formal investigation. Such conflict resolution may include mediation, restorative justice, or other options and will only be used when both parties consent to the option. Mediation will not be used in cases involving sexual assault.

## **Disciplinary Process**

When an employee has been found responsible for violating this policy, the following discipline process will be followed:

- a. The director of Human Resources and Title IX coordinator reserve the right to meet with the complainant, the respondent, and other relevant parties, including but not limited to, the investigator(s) or witnesses as well as the responding employee's divisional vice president if they believe doing so will assist in determining the appropriate disciplinary measures.
- b. Before determining disciplinary measures, the director of Human Resources and Title IX coordinator (if applicable) will review the case file and investigators' conclusions, and the respondent's prior disciplinary record, if one exists.
- c. When a decision about disciplinary measures has been made, the director of Human Resources and the Title IX coordinator (if applicable) will send both parties a written decision letter, informing the respondent of all measures imposed and informing the complainant of any disciplinary measures that directly impact them (i.e., whether the respondent will be restricted from the community).

All disciplinary measures are enacted immediately, unless otherwise stated, regardless of status of an appeal. A finding by College officials that any employee has violated this policy is considered just cause for College officials to take disciplinary action under any employment contract, agreement, or other policy of the College. College officials reserve sole discretion and right to determine appropriate disciplinary measures for employees who are found to have engaged in gender-based misconduct. Employees who are found to have engaged in gender-based misconduct may face discipline up to and including termination of employment, or otherwise in accordance with the applicable College policy. If College officials determine that there is insufficient evidence to find a respondent employee engaged in gender-based misconduct, they still retain all rights

they otherwise have to take employment action against the individual under other applicable policies.

## **APPEAL PROCESS**

Both the respondent and the complainant can submit an appeal based on the outcome of the investigation and/or the disciplinary measures that have been set forth below.

Guiding principles of the appeal process:

- Appeals are confined to a review of the case file based on one or more pertinent grounds for appeal described below. Appeals are not intended to re-hear the allegations or constitute a de novo review of the investigation.
- Absent clear and material error, appeal determinations are intended to be deferential to the original decision-maker. Findings should be revised by an appeal officer only when returned for further investigation or granting a new investigation would be insufficient, impractical, or unnecessary. Sanctions should be revised by the appeal officer only if there is a compelling justification to do so.
- An appeal must be submitted within three business days after the decision letter is delivered. An appeal may be granted solely on the grounds of:
  1. Error in the charge and/or investigation that materially affected the outcome;
  2. New information that could not have been discovered prior to the investigation or disciplinary meeting through the exercise of reasonable diligence and that would have materially affected the outcome. A summary of this new evidence and its potential impact must be included in the written appeal; or
  3. The disciplinary measures imposed fall outside of the range of sanction guidelines and are grossly disproportionate to the violations committed.

When a staff member is found responsible for engaging in gender-based misconduct, the vice president for Inclusion and Community Engagement, or his/her designee, shall act as the appeal officer. When a faculty member is found responsible for engaging in gender-based misconduct, the provost and vice president for Academic Affairs, or his/her designee, shall act as the appeal officer. Appeals must be made in writing to the appeal officer and must clearly and succinctly explain how the specific grounds



described above have been met. The party submitting the appeal has the burden of demonstrating how those grounds have been met.

When one party submits an appeal, a copy of the appeal will be provided to the other party by the appeal officer. The other party will have the opportunity to submit a written statement to the appeal officer within three business days to be considered with the original appeal. The written statement shall be limited to a response to the content of the original appeal.

After reviewing the written appeal(s), written statement(s), and associated case file, the appeal officer will take one of the following actions:

1. Reject the appeal as untimely or improper based on the grounds articulated above.
2. Uphold the original decision and/or disciplinary action.
3. Grant the appeal and:
  - a. Return the case with specific instructions to the director of Human Resources and Title IX coordinator for further consideration or, in the rare circumstances in which it would be impractical, improper, or infeasible to return the case, grant a new investigation.
    - i. If remanded for further investigation, any resulting disciplinary action may be appealed.
    - ii. If the appeal officer remands to the director of Human Resources and Title IX coordinator for review of the discipline, the reconsideration of the director of Human Resources and Title IX coordinator is final.
  - b. Modify the disciplinary action(s) by reducing or enhancing the discipline. A rationale will be provided by the appeal officer when a disciplinary action is modified.
  - c. In rare circumstances, revise the outcome of the investigation from a “not responsible” to a “responsible” finding, or from a “responsible” to a “not responsible” finding.

- i. If the outcome of the investigation is revised from a “not responsible” to a “responsible” finding, the appeal officer will either determine the final discipline or return the case to the director of Human Resources and Title IX coordinator to determine the appropriate disciplinary action. If remanded to the director of Human Resources and Title IX coordinator, the resulting discipline may be appealed.

The complainant and respondent will receive simultaneous written notification of the appeal officer’s decision regarding the appeal(s). The decision of the appeal officer is final and not subject to further review unless the case is returned to the director of Human Resources and Title IX coordinator for further consideration.

## **NOTICE OF RIGHTS**

Employees involved in a gender-based misconduct complaint with the College have a number of rights, including the following:

### **Rights of the Complainant**

Complainants have a number of rights under this policy and with respect to a resolution of a complaint. If the College initiates an investigation, complainants will retain the rights outlined previously and the following:

- The right to an investigation and appropriate resolution of all credible complaints of gender-based misconduct made in good faith to the College;
- The right to be treated with respect by College employees throughout the process;
- The right to have one advisor of their choice to support them in this process in accordance with the policy (see “Other Provisions”);
- The right to be notified of available counseling and mental and physical health services, on and off campus;
- The right to be informed of and to report the incident to off-campus authorities and/or law enforcement, and to be assisted by College employees in doing so;

- The right to be provided with a written explanation of rights and options with respect to the matter;
- The right to have the investigation and resolution process fully explained;
- The right to receive written notice of all allegations for which the respondent is charged;
- The right to be notified of possible sanctions that may result if the respondent is found responsible of violating the policy(ies) in question;
- The right to an outcome based on information the decision-maker finds credible, relevant, and convincing by a preponderance of the evidence (i.e., it is more likely than not that a policy violation occurred);
- The right to appeal the outcome of the investigation and/or sanction, in accordance with the appeal guidelines established in this policy;
- The right to privacy, and the assurance that information regarding the complaint will be shared only with those necessary, and in accordance with applicable law.

### **Rights of the Respondent**

The respondent has a number of rights under this policy and with respect to a resolution of a complaint. They include both those outlined previously and the following:

- The right to an investigation and appropriate resolution of all credible complaints of gender-based discrimination and/or harassment made in good faith to the College;
- The right to be treated with respect by College employees throughout the process;
- The right to have one advisor of their choice to support them in this process in accordance with the policy (see “Other Provisions”);
- The right to be notified of available counseling and mental and physical health services, on and off-campus;
- The right to be provided with a written explanation of rights and options with respect to the matter;
- The right to have the investigation and resolution process fully explained;
- The right to receive written notice of all charges;

- The right to be notified of possible sanctions that may result if found responsible for violating the policy(ies) in question;
- The right to an outcome based on information the decision-maker finds credible, relevant, and convincing by a preponderance of the evidence (i.e., it is more likely than not that a policy violation occurred);
- The right to appeal the outcome of the investigation and/or sanction, in accordance with the appeal guidelines established in this policy;
- The right to privacy, and the assurance that information regarding the complaint, will be shared only with those necessary and in accordance with applicable law.

### **Disciplinary History and History of Previous Complaints:**

Previous disciplinary history or previously filed complaints may be considered in the course of the investigation only if: 1. The facts related to the previous disciplinary history or complaints are substantially similar to the facts related to the present charge(s); 2. the information indicates a pattern of behavior and substantial conformity with that pattern by the respondent; or 3. There are other reasons deemed by the deputy Title IX coordinator to be specifically and directly relevant to the present charge(s). If any previous disciplinary history or complaints are considered during the investigation, the relevant party will be notified of such and will be permitted to review the information that is to be considered.

## **OTHER PROVISIONS**

### **Advisors**

Both the respondent and the complainant have the right to one advisor of their choice. Advisors serve as a support person for the parties during the process, including investigative meetings, meetings with the director of Human Resources and Title IX coordinator, or sanction meetings. The advisor's name and relationship to a party (e.g., student, faculty member, family member, attorney, etc.) must be disclosed to the director of Human Resources and Title IX coordinator prior to the meeting for which they will serve as the advisor. Individuals who are witnesses to the incident, or are otherwise

involved in the matter, may not typically serve as advisors. Advisors are not permitted to speak or answer questions during any of the aforementioned meetings—except to quietly and unobtrusively advise their advisee or by written note. The College reserves the right to remove an advisor from any meeting if the expectations and guidelines are violated. Meetings are not generally delayed or rescheduled due to an advisor’s schedule or availability. The director of Human Resources and Title IX coordinator will consider requests made to delay or reschedule a meeting and will make the final determination at his or her sole discretion. The College reserves the right to have legal counsel present during any meeting.

### **Attendance**

To enable the most accurate and fair review of the facts, the respondent is expected to attend and participate in meetings during an investigation under this policy. If an individual chooses not to attend one or more meetings, the charges will be reviewed based on the information and evidence available, and a decision will be made. Although no inference may be drawn against a student for failing to attend a meeting or remaining silent, the process will proceed and the conclusion will be based on the evidence presented. No decision shall be based solely on the failure of the respondent to attend one or more meetings, to participate in such meeting(s), or to answer the charges.

## **HISTORY OF THE PRINCIPAL PARTIES**

### **Sexual History**

Neither the past sexual history nor sexual character of either party will be considered in the investigation or any other proceeding unless such information is determined by the director of Human Resources and Title IX coordinator to be specifically and directly relevant to a pending charge.

### **Disciplinary History and History of Previous Complaints**

Previous disciplinary history or previously filed complaints may be considered in the course of the investigation only if: 1) The facts related to the previous disciplinary history or complaints are substantially similar to the facts related to the present charge(s); 2) The information indicates a pattern of behavior and substantial conformity with that pattern by the respondent; or 3) There are other reasons deemed by the director of Human Resources and Title IX coordinator to be specifically and directly relevant to the present charge(s). If any previous disciplinary history or complaints are considered in the course of the investigation, the relevant party will be notified of such and will be permitted to review the information that is to be considered.

### **Records Maintained**

The documents, information, and other evidence obtained through the investigative process will serve as the record of the case and will be maintained by the Department of Human Resources.

If the respondent has been found responsible for violating this policy, such records shall be used in reviewing any further conduct issues or developing sanctions, and shall remain a part of a respondent's personnel record.

## **XII. Procedures for Addressing Complaints Against a Non-Member of the Springfield College Community**

### **Response and support**

When the respondent is a non-member of the College community, the complainant will be provided with all available support services both on and off campus, as well as offered support services that will assist them in feeling safe on campus. The complainant will be encouraged to make a complaint to the local law enforcement agency.

## **XIII. Title IX Complaints and Criminal Proceedings**

## **Reporting to law enforcement**

Criminal report may be made by:

- Calling 911,
- Calling the Springfield College Department of Public Safety at (413) 748-5555, or
- Contacting local police in the city where the misconduct took place.

The College will not notify law enforcement when it receives a report of gender-based misconduct unless:

- A primary party of the report is a minor, and such report is required by law and the alleged conduct is of a criminal nature;
- The reported conduct is of a violent and ongoing nature, putting the entire community at risk; or
- The complainant, in reporting an allegation to the College, requests that a copy of the report be relayed to law enforcement.

A person filing a Title IX complaint may elect to go through the process for addressing gender-based misconduct as outlined in this policy, file a report with law enforcement independently, or engage in both processes, either in succession or simultaneously.

When someone chooses to engage in a formal Title IX investigation at the College, that person cannot be required or compelled to report to law enforcement. The College recognizes that the decision to go through one or both processes is highly personal and can be difficult. The College Department of Public Safety will work to communicate ongoing processes for those engaged in a criminal complaint, and support services will be offered by the College to all students involved in a criminal matter, as necessary, even when the criminal matter is not being pursued through the College policy.

## **Investigation and evidence**

The investigation conducted by Springfield College and the College Title IX investigators is independent of any associated criminal process. An outcome in the College process is determined by a preponderance of the evidence standard, whereas

criminal proceedings are determined based on a beyond a reasonable doubt standard. While the investigations are separate and the College does not automatically provide a copy of its investigative report to law enforcement, the applicable law enforcement agency may subpoena all documentation, materials, evidence, or recordings associated with a case file.

The College will adhere to any lawfully issued subpoena received by an appropriate law enforcement agency or body and will comply with state and federal laws relative to evidentiary disclosures.

### **What to expect**

When filing a criminal report, you should expect to speak with a trained sexual assault investigator. Most agencies have specially trained investigators and officers who work specifically on crimes related to dating and domestic violence, and sexual violence, including stalking. Sexual assault response team members will help to coordinate the agency response to your report.

A person reporting a crime, or who has been a victim or witness to a crime, does not need a lawyer. A victim/witness advocate will be assigned to the person reporting the crime and updates are generally communicated through that person.

For more information on what to expect when filing a criminal report, visit the [RAINN web page](#).

### **Limitations**

While the formal investigation process outlined in this policy governs only matriculating students or current employees, the timeline and jurisdiction for criminal reporting to law enforcement is different. Statute of limitation laws vary by state, so one's ability to file criminal charges depends on when the event took place, and how old the individual who was subject to the misconduct was at the time.



In Massachusetts, a criminal complaint must be filed within 15 years of the alleged incident if the individual who experienced misconduct was over the age of 16 at the time the incident occurred. If the individual who experienced the misconduct was under the age of 16 at the time the incident occurred, there is no time limit for reporting to the police. For more information see: [Mass. Gen. Laws ch. 277, § 63.](#)

## **XIV. Pregnancy and Parenting**

The College prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Any rules concerning parental status may not be applied differently based on sex, gender, or orientation, and thus apply to all students.

### **Student Rights**

Under Title IX, students experiencing pregnancy or parenting, or any of the aforementioned conditions, have specific rights related to their educational access. The College must excuse absences due to pregnancy or childbirth for as long as your doctor says it is medically necessary. You have the right to return to the same academic and cocurricular standing. The College has the responsibility to ensure that all faculty members understand the Title IX requirements related to excused absences relative to pregnancy and parenting, including class participation, grades, and delayed due dates for assignments.

If you are experiencing pregnancy or parenting concerns that are affecting your academic schedule or standing, support can be provided by meeting with the College Title IX coordinator or one of the deputy Title IX coordinators.

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