



Springfield College  
Interim Sexual and Gender-based Misconduct Policy  
2022-23

## Contents

I.	Introduction	4
II.	Purpose and Scope of Policy	4
A.	Statement of Institutional Values	4
B.	Notice of Non-Discrimination	5
C.	Purpose of Policy	5
D.	Policy Terminology	5
E.	Scope	6
F.	College Statement on Privacy and Confidentiality	7
G.	Communication	8
F.	Modifications to Procedures and Timelines	8
III.	Prohibited Conduct	9
A.	Title IX Sexual Harassment	9
B.	Non-Title IX Sexual Harassment	10
C.	Sexual Assault	10
D.	Sexual Exploitation	11
E.	Domestic Violence as defined by Massachusetts State Law	11
F.	Dating Violence	11
G.	Gender-based Harassment	11
H.	Aiding or Facilitating the Commission of Sexual and Gender-based Misconduct	12
I.	Retaliation	12
J.	Additional Policy Statements	12
IV.	Confidential Resources and Reporting Options	14
A.	Emergency/Immediate Reporting Options	15
B.	Confidential Resources	15
C.	Law Enforcement Reporting Options	17
D.	Campus Reporting Options	19
E.	Additional Reporting Options and Considerations	21
V.	Supportive Measures	24
VI.	Emergency Actions	25
VII.	Initiating a Complaint	26
A.	Filing a Formal Complaint	26
B.	Complaints Against Non-Community Members	27
C.	Notice/Complaint	27
D.	Initial Assessment of Complaint	27
E.	Dismissal of Formal Complaint	28
F.	Withdrawal of Complaint	28
G.	Acceptance of Responsibility	29
H.	Consolidation of Formal Complaints	29
I.	Timeframe for Resolution	29
J.	Effect of Criminal Proceedings	30
K.	Effect of Pending Complaint on Respondent Withdrawing from the College	30
VIII.	Resolution Processes	30
A.	Informal Resolution	30
B.	Formal Resolution	31
i.	Investigation Procedures	31
ii.	Title IX Formal Grievance Process	37

iii.	Formal Resolution of Complaints Against Students	42
iv.	Formal Resolution of Complaints Against Employees	46
C.	Notice of Outcome	46
D.	Sanctioning Process	47
E.	Appeal Process	48
IX.	Records	49
A.	Records Maintained	49
B.	Transcript Notation	49
X.	Policy Questions and Contact	50

## 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 sexual and 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, including MGL Chapter 6, Section 168E, pertinent to preventing sexual violence and 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 Sexual and Gender-based Misconduct Policy (“SGBM policy”) prohibits acts of sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, stalking, and retaliation as well as discrimination on the basis of sex, gender, gender expression, gender identity, and/or sexual orientation (collectively referred to throughout this policy as “sexual and gender-based misconduct”) in all College programs and activities. This policy applies to programs and activities such as recruitment, admissions, financial aid and scholarships, course offerings, athletics, employee hiring and retention, and employee benefits and leave policies.

## II. Purpose and Scope of Policy

### A. Statement of Institutional Values

Sexual and gender-based misconduct is a violation of a person’s rights, dignity, and integrity. Acts of sexual and gender-based misconduct represent a fundamental failure by a community member to recognize and to respect the intrinsic worth and dignity of another. Acts of sexual and 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 sexual and gender-based misconduct in the classroom; the social, recreational, and residential environment; and the workplace. The College seeks to foster a climate free from sexual and gender-based misconduct through a coordinated education and prevention program and clear and effective policies, including investigative and grievance procedures that are prompt, equitable, and accessible to all. In response to any reported sexual and gender-based misconduct, the College will take all appropriate steps to eliminate the misconduct, prevent its recurrence, and address its effects.

To foster a climate of respect for oneself, 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 sexual and gender-based misconduct. Creating a safe campus environment is the responsibility of all members of the College community, both individually and collectively.

To foster a climate that encourages reporting of sexual and gender-based misconduct, the College will actively educate the community, will respond to all allegations promptly, and will provide supportive measures to address the safety, emotional well-being, and academic needs of the individuals involved. Employees responding to reports of sexual and gender-based misconduct will act in a manner that recognizes the inherent dignity of the individuals involved.

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.

#### B. Notice of Non-Discrimination

The College does not discriminate against any person on the basis of race, color, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, disability, veteran status, or any other legally protected basis in admission and access to, and employment and treatment in, its programs and activities.

Inquiries regarding the application of this Notice of Non-Discrimination and the College's non-discrimination policies may be referred to the following:

- The Equal Employment Opportunity coordinator and coordinator of the Age Discrimination Act of 1975 is Mel Gamba, Director of Human Resources, Administration Building, 263 Alden Street, Springfield, MA, 01109-3797, Telephone: (413) 748-3964, Email: [mgamba@springfield.edu](mailto:mgamba@springfield.edu).
- The coordinator of Title IX of the Education Amendment of 1972 and Section 504 of the Rehabilitation Act of 1973 is Erin Leeper, Director of Non-Discrimination Initiatives/Title IX Administrator and 504 Coordinator, Campus Union Suite 325, 263 Alden Street, Springfield, MA, 01109-3797, Telephone: (413) 748-3248, Email: [eleeper@springfield.edu](mailto:eleeper@springfield.edu).
- Office for Civil Rights, U.S. Department of Education, Office for Civil Rights, 400 Maryland Avenue, SW, Washington, D.C., 20202-1100, Telephone: 1-800-421-3481

#### C. Purpose of Policy

The purpose of the SGBM 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, in addition to the resolution options available to address the misconduct. 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, employees, and non-members who have been affected by sexual and gender-based misconduct, whether as a complainant, a respondent, or a third party.

#### D. Policy Terminology

**Complainant:** Any individual who is alleged to be the victim of sexual or gender-based misconduct.

**Respondent:** 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.

**Reporting party:** Any individual that is alleging that misconduct has occurred but was not the complainant.

**Witness:** Any individual who witnessed an incident of misconduct or has information regarding an incident.

**Formal complaint:** A document that initiates the College's grievance process. A formal complaint is not required for the College to have actual knowledge of sexual or gender-based misconduct, which activates the College's legal obligation to respond promptly, including by offering supportive measures to a complainant.

**Report:** 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.

**Student:** Matriculated and non-matriculated students participating or attempting to participate in any College educational programs or activities at all campus locations and online learning. Where a student is also an employee, their primary relationship with the College takes precedence in determining which policies and procedures apply.

**Employee:** Both staff and faculty members at all campus locations and online learning. Where an employee is also a student, their primary relationship with the College takes precedence in determining which policies and procedures apply.

**Advisor of choice:** Any complainant or respondent may be accompanied by an advisor of their choosing to any meetings, hearings, or interviews pertaining to the investigation or resolution of a formal complaint. In most instances, an advisor's role is limited to observing, consulting with, and providing support to the party, unless otherwise expressly written.

## E. 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.

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 programs or activities, including College-owned buildings and College-sponsored trips. 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 College policy.

Any individual may make a report alleging a violation of this policy. The College will provide support options and respond promptly and equitably to all allegations of sexual and 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.

As long as the College has jurisdiction over the respondent, there is no time limit to invoking this policy in cases of alleged sexual and gender-based misconduct. Nevertheless, individuals are encouraged to report alleged sexual and gender-based misconduct as soon as possible in order to maximize the College's ability to respond promptly and effectively.

Behavior that occurred prior to the effective date of this policy shall be subjected to the policy definitions in place at the time of the incident, however, the procedures outlined in this policy shall be used.

Under the 2020 Title IX Regulations, additional jurisdictional limits may exist. Behavior subjected to the 2020 Title IX regulations must have occurred within the United States, on Springfield College campus, or off campus when the location is part of the College's operations and when the College has substantial control over the respondent. Behavior that occurred outside these jurisdictional limits may still be subjected to the SGBM policy, but will not constitute a Title IX violation.

#### ROLE OF THE TITLE IX COORDINATOR

The Title IX coordinator oversees the College review, investigation, and resolution process for reports of sexual and gender-based misconduct and coordinates the College compliance with Title IX and other federal and state laws regarding sexual misconduct. 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 sexual and gender-based misconduct, as well as College policy and procedure.

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 sexual or gender-based misconduct;
- Meet with any individual, whether a complainant, a respondent, or a third party, to discuss supportive measures, resources, and procedural questions;
- 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 sexual and gender-based misconduct allegations on campus; and
- Coordinate all training, education, and prevention efforts.

#### F. 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 is also committed to assisting students, employees, and non-members to make informed choices regarding how they choose to respond or participate in a response to sexual and 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 sexual and 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 sexual and 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 the 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 IV) for both the complainant and respondent.

The College will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment; any complainant; any individual who has been reported to be the perpetrator of sex discrimination; any respondent; and any witness, except as may be permitted by the federal Family Educational Rights and Privacy Act (FERPA) and its implementing regulations or as required by law, or to carry out this policy, including to conduct any investigation, hearing, or judicial proceeding arising thereunder.

#### G. Communication

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

The College’s primary means of communication with all students and employees is through their College-issued email account. A party must notify the Title IX coordinator if another communication method is preferred. The Title IX coordinator, investigator(s), and decision-maker(s) must communicate directly with the parties. If the complainant or respondent would like their advisor of choice to be copied on any communication, they must indicate this in writing to the Title IX coordinator and must also notify the Title IX coordinator if/when they no longer wish to have their advisor of choice copied on any communication.

The College will not release any information regarding a complaint under this policy to any spouse, parent/guardian(s), support person, or other faculty/staff who do not have an educational need to know without written permission from the involved party(ies).

#### F. Modifications to Procedures and Timelines

The College reserves the right to make any modifications to the procedures and/or timelines outlined in this policy. When modifications are made, all parties will be notified in writing.

If any party would like to request an extension of a timeline, they must do so in writing to the Title IX coordinator who will determine the appropriateness of such request. Timeline extensions will generally be provided to all parties when granted.

### III. Prohibited Conduct

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. The SGBM 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.

#### A. Title IX Sexual Harassment

Conduct on the basis of sex that aligns with one or more of the following conditions as defined by the Title IX 2020 Final Rule:

1. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or
3. Sexual assault, dating violence, domestic violence, and stalking as defined below as required by the United States Department of Education:
  - A. Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting (UCR) system of the Federal Bureau of Investigations (FBI).
    1. Rape: The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
    2. Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
    3. Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
    4. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including

instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

5. Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  6. Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent.
- B. Dating Violence: Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the complainant; (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.
- C. Domestic Violence: This includes felony or misdemeanor crimes of violence 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, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction receiving grant monies, 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 the jurisdiction.
- D. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others, or (b) suffer substantial emotional distress.

## B. Non-Title IX Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature. Sexual harassment is further defined as:

1. Hostile Environment Harassment: 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.
2. Quid Pro Quo Harassment: 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.

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.

## C. Sexual Assault

Any non-consensual sexual act or attempts of any non-consensual sexual act, including:

- A. Non-consensual sexual contact: touching of the private body part(s) (eg. breast, buttocks, groin) of another person without the consent of that person, or using private body part(s) (eg. breast, buttocks, groin) to touch another person without the consent of that person.
- B. Non-consensual sexual intercourse: 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 that person. This term includes instances when the person is unable to consent due to being under the legal age of consent in the state when the behavior occurred; if the person was unable to consent due to temporary or permanent mental incapacity, including intoxication; or when the perpetrator has threatened, coerced, or exhibited a use of force against the other person.

#### D. Sexual Exploitation

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.

#### E. Domestic Violence as defined by Massachusetts State Law

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.

#### F. Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant and where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.

#### G. Gender-based Harassment

Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation, gender, gender expression or gender

identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the College's education or work programs or activities.

#### H. Aiding or Facilitating the Commission of Sexual and Gender-based Misconduct

Aiding, facilitating, promoting, or encouraging the commission of a violation under this policy.

#### I. Retaliation

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or the College's SGBM policy.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or the SGBM policy constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or formal complaint of sexual harassment.

#### J. Additional Policy Statements

##### *Consent, Coercion, Incapacitation, and Alcohol and Other Drugs*

**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 body parts or sexual intercourse. An individual must 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. The age of consent may be different in other states in which the College has regional locations. Individuals in those states should ensure they are aware of the minimum age of consent.

**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 their 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 sexual and gender-based misconduct and does not excuse one from the responsibility to obtain consent.

#### *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](#).

#### IV. Confidential Resources and Reporting Options

Members of the Springfield community are strongly encouraged to seek support and information from available reporting resources. Immediate reporting is essential for the protection of all community members.

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 resolution options;
- 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.

The College will endeavor to respect the wishes of the complainant regarding how and if to move forward; however, in some circumstances, the College may have to move forward with reviewing the report and a potential investigation and adjudication. Under these circumstances, the College will weigh the request for confidentiality or that no further action be taken against certain factors, including but not limited to, those described below in the section of this policy titled “Requesting Confidentiality/No Further Action.”

## A. 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 sexual and 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 and employees at all our campus locations and online learning programs can access resources through national hotlines or by contacting any of the Springfield, Mass., campus resources. For emergencies, individuals should contact the 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 individuals to obtain medical attention promptly after an assault.

## B. Confidential Resources

Individuals seeking to talk to someone about an incident of sexual and 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 with 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 allow individuals seeking to talk to someone about an incident of sexual and 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

- For Students: 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.
- National Sexual Assault Hotline – (800) 656-4673
  - A 24/7 confidential crisis hotline that connects individuals with sexual assault service provider in the caller's area.
- National Domestic Violence Hotline – (800) 799-7233
  - A 24/7 anonymous, confidential helpline for individuals experiencing domestic violence.
- For Employees: Employee Assistance Plan - (800) 252-4555

## 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 staff provide health services, including sexually transmitted infection testing and emergency contraception.

- Health Center – (413) 748-3175

## CONFIDENTIAL RESOURCE ADVISOR

Confidential resource advisors are college employees who can provide information regarding: (i) reporting options and effects of each option, (ii) counseling services available on campus and through a local, community-based rape crisis center or domestic violence program, (iii) medical and health services available on campus and off campus, (iv) available academic and residence life accommodations, (v) the disciplinary process of the institution, and (vi) the legal process carried out through local law enforcement agencies. Confidential resource advisors have no requirement to report an incident to the

institution or law enforcement and all information shared about an incident will be kept confidential unless otherwise required by state or federal law.

Individuals may find an updated list of the College's confidential resource advisors on our website: [springfield.edu/titleix/get-help](http://springfield.edu/titleix/get-help).

If requested by the complainant, the confidential resource advisor, using only the complainant's identifying information, shall coordinate with the institutional designee to arrange possible supportive or safety measures to allow the complainant to change academic, living, campus transportation, or working arrangements in response to the alleged assault, stalking, or violence. Confidential resource advisors shall not provide services to more than one student involved in an incident and shall ensure confidentiality is maintained.

The confidential resource advisor shall also notify the complainant of their rights and the institution's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the institution or by a criminal, civil, or tribal court. The confidential resource advisor shall not be required to report an incident to the institution or a law enforcement agency unless otherwise required to do so by state or federal law and shall provide confidential services to students and employees. A request for a possible interim protective measure made by a confidential resource advisor on behalf of a complainant to change an academic, living, campus transportation, or working situation in response to alleged sexual misconduct shall not constitute notice to a responsible employee for Title IX purposes. A confidential resource advisor may attend an administrative or institution-based adjudication proceeding as the advisor or support person of the individual's choice.

Unless otherwise required by state or federal law, a confidential resource advisor shall not disclose confidential information without the prior written consent of the complainant who shared the information; provided, however, that nothing in this section shall be construed to limit a respondent's right of cross examination of the advisor in a civil or criminal proceeding, if the advisor testifies after written consent has been given. A confidential communication shall not be subject to discovery and shall be inadmissible in a criminal or civil proceeding without the prior written consent of the complainant who shared the information. Information provided to the confidential resource advisor shall not be released to a campus official or law enforcement officer or agency unless written consent has been given by the complainant. A confidential resource advisor shall not act as a counselor or therapist unless the confidential resource advisor holds a valid license to do so and the complainant engages the confidential resource advisor in that capacity.

### C. Law Enforcement Reporting Options

It is the complainant's decision whether or not to file a criminal report. In the event an individual chooses to report to law enforcement, they may do so on their own or request assistance from the Title IX coordinator or the Department of Public Safety. Public Safety is a police department that is the primary responder for campus emergencies and reports of criminal activity on the main campus and our regional campuses. Public Safety officers are fully certified by the Commonwealth of Massachusetts with full arrest powers, and they cooperate with the City of Springfield police and Massachusetts state police, resulting in the College's awareness of criminal activity perpetrated beyond the campus.

Public Safety can respond to any location on campus to take a statement and ensure that the complainant is physically safe. Options for speaking with an officer virtually may also be available. The

police will also interview the complainant about what happened. The interview is conducted in private, but the complainant can request to have a friend or another supportive person accompany them if they wish. Public Safety will get as much information as possible about the incident and investigate the case further and can also assist a complainant in the process of obtaining protective restraining orders and abuse prevention orders for sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

Once an investigation is completed by Public Safety, they will refer the case to the district attorney's office. The district attorney's office decides whether or not the case will be prosecuted by considering factors such as the amount of evidence available to prove the charge(s) in court. If the district attorney decides not to prosecute, this does not mean that the district attorney doesn't believe that an assault occurred. It means that based on past experience, the district attorney does not believe that there is sufficient evidence to successfully prosecute the case.

To report to local law enforcement, complainants can contact the following agencies:

- Springfield College Department of Public Safety: (413) 748-5555
- Springfield Police Department: 911 or (413) 787-6302 (non-emergency line)
  - Special Victim's Unit: (413) 787-6352
- Massachusetts State Police, Troop B: (413) 736-8390
- Hampden County District Attorney: (413) 747-1001

When filing a criminal report, complainants 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.

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](#).

#### COORDINATION WITH LAW ENFORCEMENT

Complainants can make both a criminal report and a report to the College and do not have to choose one or the other. 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 sexual and gender-based misconduct has occurred for purposes of this policy. In other words, conduct may constitute sexual and 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 sexual and 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) provide supportive and safety measures to protect the complainant and the College community, if necessary; and/or (iii) implement disciplinary proceedings without regard to any pending criminal proceedings.

While the investigations are separate and the College does not typically 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.

#### D. Campus Reporting Options

The College is committed to providing a variety of welcoming and accessible means to report so that as many instances of sexual and gender-based misconduct will be reported as possible. The College also recognizes that the decision whether or not to report sexual and gender-based misconduct is a personal one 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 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 above, 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. 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.

#### TITLE IX COORDINATORS

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 sexual and gender-based misconduct to the Title IX coordinator or a deputy Title IX coordinator. All of the employees listed below are College administrators 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.

Role	Name	Title	Office Location	Contact Information
Title IX Coordinator	Erin Leeper	Director, Non-Discrimination Initiatives/Title IX Administrator and 504 Coordinator	Campus Union Room 228	(413) 748-3248 <a href="mailto:eleeper@springfield.edu">eleeper@springfield.edu</a>
Deputy Title IX Coordinator (Students)	Sue Nowlan	Dean of Students/Deputy Title IX Coordinator	Campus Union Suite 325	(413) 748-3922 <a href="mailto:snowlan@springfield.edu">snowlan@springfield.edu</a>

Deputy Title IX Coordinator (ROCE/Pregnancy)	Camille Elliott	Associate Director, Student Services	Learning Commons, Room 306	(413) 748-3978 <a href="mailto:celliot@springfield.edu">celliot@springfield.edu</a>
Deputy Title IX Coordinator (Athletics)	Michelle Lee Scecina	Assistant Athletic Director	Physical Education Complex Athletic Office	(413) 748-3334 <a href="mailto:msecina@springfield.edu">msecina@springfield.edu</a>
Deputy Title IX Coordinator (Employees)	Mel Gamba	Director of Human Resources	Administration Building, Second Floor	(413) 748-3195 <a href="mailto:mgamba@springfield.edu">mgamba@springfield.edu</a>

## RESPONSIBLE EMPLOYEES

The College recognizes that a student or employee may choose to report sexual and 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 sexual and gender-based misconduct must share the report with the Title IX coordinator or a deputy Title IX coordinator.

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 sexual and gender-based misconduct they receive or of which they become aware.

Some student employees may also be considered responsible employees and have the responsibility to report information regarding sexual and gender-based misconduct of which they become aware while acting in official capacities, including:

- Resident assistants and community directors
- Graduate fellows 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 sexual and gender-based misconduct to the Title IX coordinator or a deputy Title IX coordinator.

All information reported will be shared only with those College employees who will assist in the investigation and/or resolution of the complaint.

## CAMPUS SECURITY AUTHORITIES

Springfield College has designated certain staff and faculty as Campus Security Authorities (CSA) in recognition that many students, faculty, and staff may be hesitant about reporting crimes to Springfield

College Public Safety, and may be more inclined to report incidents to non-law enforcement administrators and staff instead.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act defines a CSA as “an official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.” A CSA is charged with reporting Clery Act crimes to the appropriate law enforcement personnel, either Public Safety or local police, or to any official or office that should be informed of the crime or complaint due to the nature of the crime or complaint, such as sexual and gender-based misconduct. A CSA is not responsible for determining whether a crime took place as that is the function of law enforcement and its investigatory process.

Additional information regarding CSAs can be found in the College’s Annual Security and Fire Safety Report published by Public Safety annually.

#### E. Additional Reporting Options and Considerations

##### ANONYMOUS REPORTING

Any individual may make an anonymous report concerning an act of sexual and gender-based misconduct. An individual may report the incident without disclosing their 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 found on the [Title IX web page](#). All information provided through this form 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 reporting an incident of sexual and gender-based misconduct, however, individuals are encouraged to report sexual and gender-based misconduct immediately to maximize the ability of the College to respond promptly and equitably. Unless otherwise noted, the College does not limit the timeframe for reporting. Be mindful that the College will not be able to initiate an investigation against an individual who is no longer affiliated with the College.

Under those circumstances, the College will still conduct a review and take appropriate steps depending on the level of control (if any) the College has over the alleged respondent or circumstances that lead to an incident occurring and may implement appropriate remedies to restore a complainant’s access to the education program or activity.

##### REQUESTING CONFIDENTIALITY/NO FURTHER ACTION

Prior to filing a formal complaint, a complainant can request that, even though the College has received actual notice of an incident, no further action be taken by the College and that the incident remains private. The Title IX coordinator and/or designee will review the information received and decide if that

option is available. If this option is available, the incident will remain private and no disciplinary action by the College will be taken, but the College will offer supportive measures to the complainant. The incident will be kept on file with the Title IX Coordinator and may be considered in the event that a future pattern emerges. The College's response to the incident may be re-evaluated if a pattern does emerge. If the Title IX coordinator or designee has information indicating that the College has a duty to respond to the behavior, regardless of the complainant's participation in the process, the Title IX coordinator may move forward with filing and signing a formal complaint

In the event that a complainant does not wish to proceed with an investigation or adjudication process at any point in the process, the Title IX coordinator or designee will determine, based on the available information, including any investigative report, whether the investigation or conduct proceedings should nonetheless go forward.

When weighing an individual's request for confidentiality or that no investigation or discipline be pursued, the Title IX coordinator or designee will consider a range of factors, including, but not limited to, the following:

- The increased risk that the respondent will commit additional acts of sexual and gender-based misconduct or other violence, such as:
  - Whether there have been other sexual and gender-based misconduct complaints about the same respondent;
  - Whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
  - Whether the respondent threatened further sexual and gender-based misconduct or other violence against the complainant or others;
  - Whether the misconduct was committed by multiple perpetrators;
  - Whether the misconduct was perpetrated with a weapon;
  - Whether the victim was a minor at the time of the incident;
  - Whether the respondent has admitted to the conduct;
  - The extent of prior remedial methods taken with the respondent;
- Whether the College possesses other means to obtain relevant evidence of the misconduct (e.g., security cameras or personnel, physical evidence);
- Whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.
- Whether the incident represents escalation in unlawful conduct on behalf of the respondent from previously noted behavior; and
- Whether the respondent is identified as an employee (the College will generally be required to investigate allegations of employee misconduct).

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the complainant's request for confidentiality.

Where the College is unable to take action consistent with the request of the complainant, the Title IX coordinator or designee will communicate with the complainant about the College's chosen course of action, which may include the Title IX coordinator filing a formal complaint and the College choosing to pursue action against a respondent on its own behalf. Alternatively, the course of action may also

include steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

If the College determines that it cannot maintain a complainant's confidentiality, the College will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response.

The College may not require a complainant or respondent to participate in any investigation or disciplinary proceeding. Because the College is under a continuing obligation to address the issue of sexual and gender-based misconduct campus wide, reports of sexual and gender-based misconduct (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual and gender-based misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the College determines that it can respect a complainant's request for confidentiality, the College may nevertheless implement supportive measures as necessary to protect the complainant. If the College honors the request for confidentiality, the complainant must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action, now or at a later time, against the respondent may be limited.

#### TIMELY WARNING

If a report of sexual and gender-based misconduct under this policy or other policies discloses information indicating a serious or continuing threat to the College community, the College may issue a campus-wide timely warning (which can take the form of campus flyers and/or an email/text communication to campus community) to protect the health or safety of the community. The College will make every effort to ensure that a complainant's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

At no time will the College release the name of the complainant to the general public without the express consent of the complainant. The release of the respondent's name to the general public is guided by FERPA and the Clery Act.

#### 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 sexual and gender-based misconduct or provide false information during an investigation or hearing. 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 providing false information under the Student Code of Conduct or other applicable policy, and/or the false information may be considered an aggravating circumstance during the sanctioning phase. No complaint will be considered "false" solely because it cannot be corroborated. A finding of "not responsible" is not the same as an unfounded report or report determined to be a false report.

## SPRINGFIELD COLLEGE REPORTING OBLIGATIONS

The College may have a duty to report certain crimes to the City of Springfield Police Department for federal statistical reporting purposes (as dictated by state or federal law). Personally identifiable information is not provided, but statistical information must be reported regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given). Crimes reported to the City of Springfield will be included in the College's annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

### V. Supportive Measures

Upon receipt of a report, the College will provide supportive measures to prevent further acts of misconduct and to provide a safe educational and work environment. The College may choose to impose other measures at its discretion to restore or preserve equal access to its education programs or activities without unreasonably burdening the other party, including measures designed to ensure the safety of all parties, the broader College community, and/or the integrity of the process, and/or to deter sexual harassment, after an individualized analysis. The College will determine the necessity and scope of any supportive measures.

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, 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 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 supportive measures 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 sexual and gender-based misconduct process may request academic or employment modifications or a change in residence. Individuals who request assistance in changing their academic, working, or living situation 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 Resources listed in this policy. Counseling and emotional support are available to any member of the campus community.

The College will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the College's ability to provide the supportive measures.

While any supportive measure is in place, a party impacted by the supportive measure has the right to request that the supportive measure be reviewed for modification or rescission. Reviews will be conducted promptly, and modifications will be made as warranted. Requests must be submitted, in writing, to the Title IX coordinator and should include the basis and any evidence in support of the request.

## VI. Emergency Actions

The College reserves the right to remove a respondent from the College on an emergency basis if an individualized safety and risk analysis determines that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual and gender-based misconduct to justify the removal. An emergency removal does not assume that the removed student is responsible for the alleged violations.

If such a removal were to take place, the respondent would be provided notice and an opportunity to challenge the decision immediately following the removal.

Emergency removals are imposed after an individualized safety and risk analysis and in consultation with the Title IX coordinator, deputy Title IX coordinator(s), chief of Public Safety, and additional administrators as deemed necessary by the Title IX coordinator based on the allegations known at the time (such as the director of the Counseling Center).

For employees, the College reserves the right to administer an administrative leave consistent with existing policies outside of the scope of this policy, however, for student-employees, such an administrative leave cannot be punitive or disciplinary, such as the loss of wages, salary, or other forms of compensation, pending the outcome of the process. A decision to administer an administrative leave will be determined in consultation with the Title IX coordinator and director of Human Resources.

## 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 Title IX 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. 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.

## VII. Initiating a Complaint

A person, who believes they have experienced an incident of sexual and 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 sexual and 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 processes described in Section VIII, after the conclusion of the underlying allegation.

### A. Filing a Formal Complaint

The filing of a formal complaint typically begins the complaint resolution process. Generally, the complainant files a formal (signed, dated) complaint with the Title IX coordinator, however, in some cases, the College may move forward with a complaint resolution process even if the complainant chooses not to make or move forward with a formal complaint. If the College decides that it has an obligation to move forward with a complaint resolution process, the Title IX coordinator will sign the formal complaint and the College will notify the complainant before proceeding. See Section IV.D. for information regarding when the Title IX coordinator will move forward with signing a formal complaint. The Title IX coordinator signing the formal complaint does not make the Title IX coordinator a party to the complaint resolution process or adverse to the respondent.

The formal complaint should contain sufficient information to permit the Title IX coordinator or the deputy Title IX coordinator to properly determine if and how the report is subject to the College policy and which resolution process is appropriate. The statement may not reflect every detail related to the allegations in the complaint as additional information may be discovered during the investigation but should be as complete as possible.

A formal complaint is required in order for the College to conduct any of the following resolution processes. If no complaint is filed, a complainant is still able to request supportive measures.

#### B. Complaints Against Non-Community Members

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.

At its discretion, the College may determine that the non-community member poses a continued risk to the campus community and issue a letter of no trespass.

#### C. Notice/Complaint

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

The College will respond to an allegation of sexual and 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. Engage in the formal resolution or Title IX grievance process, including an investigation and hearing.

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

#### D. Initial Assessment of Complaint

The College responsibility to review and respond to all allegations of sexual and gender-based 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 sexual and gender-based misconduct, regardless of whether a formal complaint is received, 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.

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

- The Title IX coordinator, or their designee, communicating with the complainant to determine if they wish to make a formal complaint. The coordinator will assist them in doing so, if desired. If the complainant does not wish to do so, the coordinator will determine whether to initiate the complaint without the complainant.
- If a formal complaint is received, the coordinator will assess its sufficiency and will work directly with the complainant to ensure it is correctly completed.
- The coordinator will reach out to the complainant to offer supportive measures.
- 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 resolution or Title IX 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 or within the SGBM policy.

#### E. Dismissal of Formal Complaint

If a formal complaint is filed alleging Title IX sexual harassment and the Title IX coordinator determines the conduct alleged in the formal complaint (i) would not constitute Title IX sexual harassment as defined by this policy, even if proved, (ii) did not occur in the College's education program or activity, or (iii) did not occur against a person in the United States, then the College must dismiss the formal complaint with regard to that conduct for purposes of Title IX sexual harassment under Title IX and this policy, however, a dismissal of a formal complaint that alleges Title IX sexual harassment under this policy for one of the aforementioned reasons does not preclude action under a different process noted in this policy, another College policy or its Code of Conduct.

The College may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: the complainant notifies the Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the College; or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, the College will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties. Any party may appeal the dismissal of a formal complaint, in accordance with the appeal process described in Section VIII.

#### F. Withdrawal of Complaint

If a complainant notifies the Title IX coordinator in writing at any time during the investigation or resolution process that they wish to withdraw their formal complaint, the Title IX coordinator will

determine whether or not to dismiss the complaint or continue the resolution process without the complainant's participation. A withdrawal of a formal complaint does not automatically infer that the complaint was falsely filed or that the respondent is not responsible for the alleged misconduct.

#### G. 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 SGBM policy.

The Title IX coordinator, or their designee, then determines appropriate sanction(s), 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.

#### H. Consolidation of Formal Complaints

The College reserves the right to consolidate formal complaints into one complaint resolution process as to allegations of sexual and gender-based misconduct against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

The College may also use the sexual and gender-based misconduct process to adjudicate non-sexual and gender-based misconduct policy violations that arise out of the same facts or circumstances that are not otherwise covered by the amnesty for minor violations.

All decisions to consolidate complaints are made by the Title IX coordinator, or their designee.

#### I. 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 sexual and 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 sexual and 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.

#### J. Effect of Criminal Proceedings

As stated above, the filing and processing of a complaint of sexual and 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.

#### K. Effect of Pending Complaint on Respondent Withdrawing from the College

If the respondent withdraws from the College while a sexual and gender-based misconduct complaint is pending, the respondent's transcript will reflect a withdrawal and the pending sexual and gender-based misconduct complaint. If a respondent, during an open investigation, should apply for a leave of absence from the College, the College reserves 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.

### VIII. Resolution Processes

Regardless of the College affiliation of the complainant (e.g. student, employee, or third-party), the College will respond to allegations of sexual and gender-based misconduct using the following applicable resolution processes. The Office of Non-discrimination Initiatives is responsible for the oversight of investigations of sexual and 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 investigations of sexual and gender-based misconduct complaints where the respondent is an employee of the College or third-party contractor. The sexual and gender-based misconduct policy allows for multiple methods of resolution, depending on the allegations and the voluntary participation of the parties.

#### A. Informal Resolution

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. 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.

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; or
- When the respondent fully accepts responsibility, as outlined above, for violating the College’s sexual and gender-based misconduct policy and desires to accept a sanction and end the resolution process.

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

The informal resolution process is not appropriate or available for all types of alleged misconduct. 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. Additionally, the information resolution process will not be available in instances where an employee is alleged to have engaged in Title IX sexual harassment against a student. The Title IX coordinator will determine which allegations are eligible for resolution via the informal resolution process.

#### *Informal Resolution Process*

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 process, they should contact the Title IX coordinator to so indicate. The College reserves the right to determine if the informal resolution process is improper for alleged conduct.

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

Prior to implementing the informal resolution process, 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.

## B. Formal Resolution

### i. Investigation Procedures

#### *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 resolution 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 evidence, whether inculpatory or exculpatory, obtained during the review and comment period;
- An instruction to preserve any evidence that is directly related to the allegations;
- 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; and
- Details on how the party may request disability accommodations during the interview process.

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 emailed to the parties' Springfield College-issued email, or designated accounts. The notice may additionally be provided in-person or by mail depending on the circumstances. Once the notice is emailed to the parties, it 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, who serves as support for the party and to advise the party on that process. Advisors are not permitted to advocate for a student or speak on the student's behalf during any of the aforementioned meetings. In the Title IX grievance 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 the Title IX grievance process hearings if they wish to ask any questions of parties or witnesses involved.

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 may 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. The College will ensure any College-assigned advisor is trained and familiar with the College process.

While advisors who 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).

When a complaint will be resolved following the Title IX Formal Grievance Process, if a student cannot or does not wish to self-identify, an advisor will be assigned by the College for the purposes of conducting cross-examination at the live hearing. 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.

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. If a party changes advisors, the party is responsible for notifying the College of the change.

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.

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 own legal counsel present during any meeting.

#### Appointment of Investigators:

Once the decision to move forward with the formal process has been made, the Title IX coordinator will appoint one or more investigators to facilitate the investigation. The investigator(s) 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 investigator(s) assigned to the complaint and the parties to the complaint. The name of the investigator(s) 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):

- 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.
- Provide parties with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Meet with all identified parties and witnesses to conduct an interview and collect any evidence they have.
- 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. If any party would like a specific witness to be present at a live hearing, they must provide their name as part of the investigation process to be interviewed by the investigator(s).
- Provide each interviewed party and witness an opportunity to review and verify the investigator's summary notes (or transcript) of the evidence/testimony from their respective interviews and meetings.
- Conduct follow-up interviews, as necessary.
- 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) a secured electronic or hard copy of a draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation. This could include evidence upon which the investigator(s) may deem to be not relevant and not include in the final investigation report. Parties will have 10 business days to review and comment on the draft report so that each party may meaningfully respond to the evidence. More information about reviewing and responding to evidence is provided below.
- 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.
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices, including all relevant physical or documentary evidence, will be included.

- The investigator(s) submit the report to the Title IX coordinator who will determine which resolution process will occur next.
- Upon confirmation that the investigation process is complete, the Title IX coordinator will disseminate the final investigation report to the parties with information about the next steps in the resolution process.

### Evidence Review

The parties will have an equal and independent opportunity to inspect and review any evidence obtained as part of the investigation process that is directly related to the allegations raised in the formal complaint, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source. The investigator(s) will send such evidence to each party and each party's advisor in electronic format or hard copy. The parties will have a 10-business-day period to review the evidence and prepare a written response to the evidence (the "Evidence Response Statement"). 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) and should not be shared with others in order to preserve the integrity of the investigation process.

While there is no minimum response size, the party's Evidence Response Statement should not exceed 2,000 words in length. The Evidence Response Statement must be submitted to the investigator(s) within the 10-business-day period described above. The Evidence Response Statement may be used as an opportunity to clarify information contained in the directly related evidence, to present the party's viewpoint about whether the evidence directly related to the allegations is relevant and therefore whether it should be included in the investigation report, and to identify evidence previously provided to the investigator that was not included in the directly related evidence which the party believes is directly related and relevant. While the parties may be assisted by their advisors in preparation of the Evidence Response Statement, the Evidence Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Evidence Response Statement.

The parties and parties' advisors may use the evidence reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence with any other individual. Prior to being provided the evidence obtained as part of the investigation that is directly related to the allegations, the parties and parties' advisors may be required to sign a non-disclosure agreement agreeing to such terms.

### 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 investigator(s) and/or Title IX coordinator to be specifically and directly relevant to a pending charge.

## Disciplinary History and History of Previous Complaints

When legally permitted, 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 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.

## Referral for Resolution

Following the completion of the investigation, the investigation report will be submitted to the Title IX coordinator for referral to a resolution process.

If the allegations would constitute an alleged violation of Title IX sexual harassment, the Title IX formal grievance process will be followed, which includes a live hearing and an opportunity for the parties' advisors to cross-examine any party or witness.

If the allegations would constitute a violation of the sexual and gender-based misconduct policy but not Title IX sexual harassment, the Formal Resolution Process for Students or the Formal Resolution Process for Employees will be followed.

If the respondent would like to accept responsibility for the violations of the SGBM policy at this time, they may indicate so in writing to the Title IX coordinator. The Title IX coordinator will follow the procedures in the section above titled "Acceptance of Responsibility" to resolve the case.

If the allegations were not substantiated through the investigation process, the Title IX coordinator reserves the right to dismiss the allegations and not continue the resolution process. In such cases, parties still have an opportunity to appeal this outcome pursuant to the procedures outlined in this policy.

## 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 sexual and gender-based misconduct. The seriousness of sexual and gender-based misconduct is a significant concern for the College and the College does not want any circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual and 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 Title IX coordinator, or designee, 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 of responsibility 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.

### ii. Title IX Formal Grievance Process

When an investigation has been referred to the Title IX formal grievance process, a hearing will be scheduled no earlier 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 Title IX coordinator in writing if they consent to an expedited timeline.

The coordinator, or their designee, will identify a hearing panel of up to three members after completing a check to ensure there is not a conflict of interest. The hearing panel may be either internal (employees of the College) or external (non-College employees) at the discretion of the Title IX coordinator. One of the 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 will be sent via email. The parties are responsible for sharing this notice with any advisor of choice that they would like to have present. Notice will include:

- Date and time of the hearing;
- The charges the respondent is facing and brief summary of the allegations;
- The platform of the hearing (in person, Zoom, FaceTime, or 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; (Parties will be instructed to notify the Title IX coordinator of the identity of their advisor at least seven business days prior to the hearing for the purpose of notifying all parties of who will be in attendance.);
- The names of the panelists who will serve as the decision-makers; and
- An invitation to contact the Title IX coordinator to arrange any disability-related 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 Title IX coordinator will meet individually with the complainant and respondent to go over the hearing procedures. At this meeting, the complainant and respondent will be asked to provide the name of the advisor of their own choosing that will be present for the hearing and the names of any witnesses that they would like to have at the hearing to answer questions from the parties and/or the panelists. The Title IX coordinator will provide the names of all persons who will be participating in the hearing to the parties at least five 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. Any evidence to be presented at the hearing must have first been presented at the investigation phase unless a justification exists to show that it was not reasonably available at that time. Any new witnesses or evidence presented during the pre-hearing timeframe may result in the case being referred back to the investigation phase for proper consideration by the investigator(s).

The parties will be given a list of the names of the panelists in the hearing notice letter. The parties may submit an objection to any panelist in writing, detailing the rationale for the objection, and must be submitted to the Title IX coordinator via email as soon as possible, and no later than seven business days prior to the hearing. Panelists 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 panelists a list of the names of all parties, witnesses, and advisors at least five business days in advance of the hearing. Any panelist 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 panelist 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 Title IX coordinator who will ensure that the information is shared with the hearing panel and all parties.

### *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 parties from submitting questions 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 of questions or information 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.

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.

*Impact Statement:*

Prior to the commencement of the hearing, the parties may submit an impact statement to the Title IX coordinator in a sealed envelope. The impact statement will be reviewed by the hearing panel during deliberations if a respondent is found responsible for violating College policy. If the respondent is found not responsible, the statements will be returned to the parties or destroyed and will not be reviewed by the panel under any circumstances.

*Hearing Procedures:*

At the hearing, the hearing panel 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 SGBM policy.

Participants at the hearing will include the chair, any additional panelists, the Title IX coordinator or their designee to serve as a hearing facilitator, the investigator(s) who conducted the investigation, the parties, advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services. The hearing is otherwise considered closed and private to any other individuals.

The chair will answer all questions of procedure, but may defer to the Title IX coordinator or hearing facilitator as needed for clarification. 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:*

For hearings under the formal resolution process, parties can expect the following:

- The chair explains the procedures and introduces the participants.

- 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.
- 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 cross-examination by the hearing panel and the parties' advisors. The investigator(s) may be present during the entire hearing process, but not during deliberations. Neither the parties nor the hearing panel 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.
- Once the investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn and be subjected to cross-examination from the hearing panel and parties' advisors, beginning with the complainant, and then in the order determined by the chair. All questions are subject to a relevance determination by the chair. The chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.
  - Further information regarding the cross-examination process follows this section.
- Once all parties have had the opportunity to provide a statement and to answer any questions, the chair will allow the parties to make a final closing statement before closing out the hearing.

### *Cross-examination*

All parties/witnesses will submit to questioning by the hearing panel 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 the hearing facilitator 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 a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning or refuse to answer any

question, the hearing panel may not draw any inference from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If a party's advisor of choice refuses to comply with the College established rules of decorum for the hearing, including conducting cross-examination, 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.

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

The hearing panel 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 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.

The hearing panel will use the preponderance of the evidence standard in their determinations regarding responsibility of formal complaints under this policy. This means that the panel will determine whether it is more likely than not that a violation of the policy occurred.

When there is a finding of responsibility on one or more of the allegations, the hearing panel may then consider the previously submitted party impact statements in determining appropriate sanction(s). The hearing panel may – at their discretion – consider the statements, but they are not binding. The hearing panel 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, if applicable, 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 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.

The Title IX coordinator will issue the Notice of the Outcome to the parties following the procedures outlined in the later section.

#### *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 hearing panel, 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.

### iii. Formal Resolution of Complaints Against Students

For allegations against a student of sexual and gender-based misconduct that does not constitute a violation of Title IX sexual harassment, the investigation will be referred to the formal resolution of complaints against students' process. A hearing will be scheduled no earlier 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 Title IX coordinator in writing if they consent to an expedited timeline.

The Title IX coordinator, or their designee, will identify a hearing panel of up to three members after completing a check to ensure there is not a conflict of interest. The hearing panel may be either internal (employees of the College) or external (non-College employees) at the discretion of the Title IX coordinator. One of the 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 will notify the parties of the hearing date no less than 10 business days prior to the hearing. Notice of the hearing date will be sent via email to the parties. The parties are responsible for sharing this notice with any advisor of choice that they would like to have present. Notice will include:

- Date and time of the hearing;
- The charges the respondent is facing and brief summary of the allegations;
- The platform of the hearing (in person, Zoom, FaceTime, or 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; (Parties will be instructed to notify the Title IX coordinator of the identity of their advisor at least seven business days prior to the hearing for the purpose of notifying all parties of who will be in attendance.);
- The names of the panelists who will serve as the decision-makers;
- An invitation to contact the Title IX coordinator to arrange any disability-related 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 Title IX coordinator will meet individually with the complainant and respondent to go over the hearing procedures. At this meeting, the complainant and respondent will be asked to provide the name of their advisor of choice that will be present for the hearing and the names of any witnesses that they would like to have at the hearing to answer questions from the parties and/or the panelists. The Title IX coordinator will provide the names of all persons who will be participating in the hearing to the parties at least five 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. Any evidence to be

presented at the hearing must have first been presented at the investigation phase unless a justification exists to show that it was not reasonably available at that time. Any new witnesses or evidence presented during the pre-hearing timeframe may result in the case being referred back to the investigation phase for proper consideration by the investigator(s).

The parties will be given a list of the names of the panelists in the hearing notice letter. The parties may submit an objection to any panelist in writing, detailing the rationale for the objection, and must be submitted to the Title IX coordinator via email as soon as possible, and no later than seven business days prior to the hearing. Panelists 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 panelists a list of the names of all parties, witnesses, and advisors at least five business days in advance of the hearing. Any panelist 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 panelist 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 Title IX coordinator who will ensure that the information is shared with the hearing panel and all parties.

#### *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 parties from submitting questions 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 of questions or information 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.

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.

#### *Impact Statement:*

Prior to the commencement of the hearing, the parties may submit an impact statement to the Title IX coordinator in a sealed envelope. The impact statement will be reviewed by the hearing panel during deliberations if a respondent is found responsible for violating College policy. If the respondent is found not responsible, the statements will be returned to the parties or destroyed and will not be reviewed by the panel under any circumstances.

### *Hearing Procedures:*

At the hearing, the hearing panel 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 SGBM policy.

Participants at the hearing will include the chair, any additional panelists, the Title IX coordinator or their designee to serve as a hearing facilitator, the investigator(s) who conducted the investigation, the parties, advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services. The hearing is otherwise considered closed and private to any other individuals.

The chair will answer all questions of procedure, but may defer to the Title IX coordinator or hearing facilitator as needed for clarification. 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:*

For hearings under the formal resolution process, parties can expect the following:

- The chair explains the procedures and introduces the participants.
- 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.
- 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 hearing panel and the parties. Questions must be submitted in writing to the hearing chair at the

specified time and the chair will read the questions to the investigator(s) to respond. The chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance. The investigator(s) may be present during the entire hearing process, but not during deliberations. Neither the parties nor the hearing panel 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.

- Once the investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn and be subjected to questions from the hearing panel and parties, beginning with the complainant, and then in the order determined by the chair. Questions must be submitted in writing to the hearing chair at the specified time and the chair will read the questions to the investigator(s) to respond. All questions are subject to a relevance determination by the chair. The chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.
- Once all parties have had the opportunity to provide a statement and to answer any questions, the chair will allow the parties to make a final closing statement before closing out the hearing.

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

The hearing panel 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 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.

The hearing panel will use the preponderance of the evidence standard in their determinations regarding responsibility of formal complaints under this policy. This means that the panel will determine whether it is more likely than not that a violation of the policy occurred.

When there is a finding of responsibility on one or more of the allegations, the hearing panel may then consider the previously submitted party impact statements in determining appropriate sanction(s). The hearing panel may – at their discretion – consider the statements, but they are not binding. The hearing panel 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, if applicable, 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 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.

The Title IX coordinator will issue the Notice of the Outcome to the parties following the procedures outlined in the later section.

### *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 hearing panel, 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.

#### iv. Formal Resolution of Complaints Against Employees

For allegations against an employee of sexual and gender-based misconduct that do not constitute a violation of Title IX sexual harassment, the investigation will be referred to the formal resolution of complaints against employees' process. The investigation report will be submitted to the Human Resources director, or their designee, who must not have served as an investigator for the matter, who will act as the decision-maker. The director may choose to meet with the complainant and/or respondent to review the investigation report and ask any questions in order to render a decision. Within 10 days of the completion of the investigation, the director will issue a notice of the outcome consistent with the procedures outlined in Section VIII.C. of this policy.

In determining appropriate disciplinary measures, the director will review the respondent's prior disciplinary record, if one exists.

#### C. 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. Notice will be made in writing and emailed to the parties' Springfield College-issued email, or designated accounts. The notice may additionally be provided in-person or by mail depending on the circumstances. Once the notice is emailed to the parties, it 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.

## D. Sanctioning Process

Upon determination of responsibility, the hearing panel will confer with the Title IX coordinator regarding potential 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 hearing panel will include the sanction(s) and the rationale for the sanction(s) in the deliberation statement provided to the Title IX coordinator within two business days of the end of the hearing deliberations.

Sanctions are designed to stop the harassing behavior, prevent its reoccurrence, and remedy the effects upon the victim and community. Sanctions preserve individual and institutional safety and integrity and, whenever possible and appropriate, help respondents repair the damage to the individual and community for which they have been found responsible. Respondents found to be responsible for sexual and gender-based misconduct offenses involving penetration, regardless of the genders of the parties involved, will likely face a recommended sanction of suspension, expulsion, or termination. Individuals found to be in repeat violation of sexual and gender-based misconduct offenses will likely face a recommended sanction of suspension, expulsion, or termination.

### *Sanction Guidelines:*

When considering appropriate sanctions for the violation, the hearing panel or adjudicator will consider the following information (in no particular order):

- The nature and violence of the conduct;
- The respondent's prior discipline history;
- The impact of the conduct on the complainant, and their desired sanctions, if known;
- The impact of the conduct on the Springfield community, its members, and/or its property;
- How the College has sanctioned similar incidents in the past;
- Whether the respondent has accepted responsibility; and
- Any other mitigating or aggravating circumstances, including the College's values.

The sanctions available to the hearing panel to assign include, but are not limited to, the following:

1. **Warning of Violation:** An official verbal, written, or final notice of the College's disapproval of a respondent's actions indicating that any future violation will be dealt with more severely.
2. **Intervention:** Educational or informative workshops, events, reflective or research papers, meetings, counseling sessions, or activities related to the violation or incident.
3. **Loss of Housing:** An individual residing in College-owned housing will be required to vacate. Students removed from housing due to disciplinary sanctions will forfeit any refund.
4. **Probation:** Official notice that any further/future violations are likely to result in loss of housing, suspension, or expulsion from the College. A student on probation may not be permitted to serve in select leadership positions in student organizations and may experience additional restrictions and loss of privileges from varying programs and events as specified in the policies of such activities.
5. **Restitution:** Compensation for loss, damage, or injury made payable to the affected party.
6. **Restriction:** Temporary or permanent loss of privileges or the use of or participation in a College facility, program, or service.

7. **Suspension:** A complete separation from all College classes, activities, events, services, facilities, grounds, and campus property (including College-owned houses in the adjacent neighborhoods) for a specific period of time and/or until specific conditions are met. Any violation of these terms will result in additional action up to and including expulsion. Suspensions are immediate regardless of the timing of the academic year, unless otherwise specified. Students removed from housing due to disciplinary sanctions will forfeit any refund.
8. **Suspension (employment):** A disciplinary suspension issued to an employee, with or without pay, depending on the severity of the allegation at the discretion of Human Resources.
9. **Expulsion:** Complete and permanent termination of the student's relationship with the College. This termination pertains to all classes, activities, services, facilities, grounds, and precludes any future enrollment in the College's undergraduate, graduate, and regional and online schools. Students removed from housing due to disciplinary sanctions will forfeit any refund.
10. **Termination:** Complete and permanent termination of the employee's relationship with the College. This termination pertains to all work responsibilities, classes, activities, services, facilities, grounds, and precludes any future employment with the College.

## E. Appeal Process

Both the respondent and the complainant can submit an appeal based on the outcome of the resolution 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 parties' Springfield College email account. An appeal may be made solely on the grounds of:
  - Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow the institution's own procedures);
  - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
    - A summary of this new evidence and its potential impact must be included in the written appeal; or
  - The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

When the respondent is a student, the vice president of Student Affairs, or their designee, shall act as the appeal officer. When the respondent is a faculty member, the vice president of Academic Affairs, or their designee, shall act as the appeal officer. When the respondent is a staff member, a member of the

President's Leadership Team shall act as the appeal officer. The specific appeal officer will typically not be from the staff member's division and will be named in the Notice of Outcome.

The appeal must be made in writing to the Title IX coordinator and must clearly and succinctly outline and explain 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 Title IX coordinator. The other party will have an opportunity to submit a written statement to the Title IX coordinator 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.

The Title IX coordinator will supply the appeal officer with the written appeal(s) and the associated case file and resolution documents.

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.

The complainant and respondent will receive simultaneous written notification of the appeal officer's decision regarding the appeal via their Springfield College email accounts within 30 days of the confirmation of appeal submission. Except where the case is returned to the hearing panel for further consideration, the decision of the appeal officer is final and not subject to further review.

## IX. Records

### A. 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 Office of Non-discrimination Initiatives, and in cases involving College employees, the Department of Human Resources.

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

### B. Transcript Notation

A transcript notation will be made as the result of a finding of responsibility of sexual or gender-based misconduct when the respondent is suspended from, expelled from, or withdraws from the College while under investigation for an offense involving sexual violence.

### *Notation Removal Request*

Notations for suspension will automatically be removed seven years after the conclusion of the suspension timeframe. However, students may request that a transcript notation be removed not less than two years following the suspension timeframe. Students expelled after a finding of responsibility will not be eligible for a transcript notation removal.

Students will be permitted to submit a notation removal request one time every two years and should consider this when choosing when to submit this request.

To file a request to have the transcript notation removed from an academic transcript a student must submit in writing to the Title IX coordinator the following:

- A statement describing the incident, what was learned over your time away from the institution, and why the transcript notation should be removed from the student's record.
- Documentation of successful completion of all other sanction requirements.
- Students who withdrew from the College prior to resolution of the conduct process will need to fulfill the sanctions found in absentia before being permitted to appeal the notation.
- Transcript notations for students expelled are permanent and cannot be appealed.

Requests will be reviewed by the Title IX coordinator, vice president for Student Affairs, and the vice president for Academic affairs, or their designees, and a decision will be provided in writing within 30 days of submission. The decision of this review is final and cannot be appealed. No future requests will be considered

If transcript notation is removed, the College will still maintain the records consistent with the policy noted above. Removal of the transcript notation does not change the finding of responsibility or the sanctions on record with the College.

### **X. Policy Questions and Contact**

Questions regarding this policy should be directed to:

- Director, Non-discrimination Initiatives/Title IX Administrator and 504 Coordinator, 263 Alden St., Springfield, MA, 01109-3797; phone: (413) 748-3248; email: [titleix@springfield.edu](mailto:titleix@springfield.edu).

Individuals seeking information regarding additional protected class discrimination or harassment should seek out the appropriate policy on the Springfield College website and/or PrideNET.