

# **Springfield College**

## **Gender-based Misconduct Policy**

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## **I. INTRODUCTION**

Title IX of the Education Amendments of 1972 (“Title IX”) prohibits discrimination based on sex in the education programs and activities of an institution which receives federal financial assistance. As a recipient of federal financial assistance, Springfield College (the “College”) is required to adhere to Title IX requirements.

Title IX applies to programs and activities such as recruitment, admissions, financial aid and scholarships; course offerings and access; athletics; hiring and retention; and benefits and leave. Title IX also protects students and employees against unlawful acts of sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, and stalking (collectively “gender-based misconduct”) in College programs and activities as well as from retaliation for advocating a right protected under Title IX and secured by the College Gender-based Misconduct Policy. The College also prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Sex and gender-based discrimination can be perpetrated by someone of any sex or gender and can occur between people of the same or different sex or gender.

In compliance with Title IX, the College prohibits discrimination on the basis of sex in employment as well as in admission, enrollment, and in the provision of all services, programs, and activities.

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

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

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

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

recurrence, and address its effects.

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

In order to foster a climate that encourages reporting of gender-based misconduct, the College will actively educate the community, will respond to all allegations promptly, will provide interim remedies to address safety, emotional well-being and academic needs and will act in a manner that recognizes the inherent dignity of the individuals involved.

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

## **2. PURPOSE OF POLICY**

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

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

Every employee at Springfield College is considered a “responsible employee” and has the duty to report, unless they fall under “confidential resources.” Student workers are generally not “responsible employees” except for a few select categories (see Section VI). Reporting parties must share appropriate details to the Title IX coordinator or Deputy Title IX coordinator who can initiate contact and provide information on support, options, and interim remedies.

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

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

### **3. SCOPE**

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

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

As a result, this policy applies both to on-campus and off-campus conduct. In particular, off-campus behaviors that have an actual or potential adverse impact on any member of the College community or the College fall under this policy.

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

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

In compliance with Title IX, the College prohibits discrimination on the basis of sex in employment as well as in admission, enrollment, and in the provision of all services, programs, and activities. The College is committed to providing an environment free from discrimination, including discrimination that is based upon sex, sexual orientation, gender identity, and gender expression. Targeting individuals on the basis of these characteristics is also a violation of the College's community standards. Under these circumstances, the College will coordinate the investigation and resolution efforts to address discrimination related to the targeted individual's sex, sexual orientation, gender identity, or gender expression. To view the Springfield College Notice of Non-Discrimination, click on the following link: <https://springfield.edu/sites/default/files/Notice-of-Non-Discrimination.pdf>

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

As noted above, members of the Springfield College community, and guests and visitors have the right to be free from all forms of gender- and sex-based discrimination, examples of which can include, but are not limited to, acts of sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, and stalking. It is an expectation that all members of our community conduct themselves in a manner that does not infringe upon the rights of others. To view Springfield College's Title IX Notice of Non-Discrimination Policy, click on the following link: <https://springfield.edu/sites/default/files/Title-IX-Notice.pdf>

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

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this policy. The College also is committed to providing assistance in helping students, employees, and non-members make informed choices. 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 and to take steps to eliminate gender-based misconduct and prevent its recurrence, and remedy its effects.

Privacy and Confidentiality have distinct meanings under this policy.

**Privacy:** Privacy means that information related to a report of gender-based misconduct will be shared with a limited number of College employees who “need to know” in order to assist in support of the complainant and in the assessment, investigation, and resolution of the report.

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

When the College has received a gender-based misconduct report through a non-confidential resource, but the complainant requests that his or her identity remain confidential, or that the College not pursue an investigation, the College must balance this request in the context of its responsibility to provide a safe and non-discriminatory environment for all college community members, including the complainant. The College will take all reasonable steps to investigate and to respond to the complaint consistent with the request for confidentiality, or request not to pursue an investigation, but its ability to investigate may be limited by the request for confidentiality. Although rare, there are times when the College may not be able to honor a complainant's request in order to provide a safe, non-discriminatory environment for all students.

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

- The increased risk that the respondent will commit additional acts of gender-based misconduct, such as:

- Whether there have been other reports of gender-based misconduct against the same respondent;
- Whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the respondent threatened further gender-based misconduct or other violence against the complainant or others;
- Whether the gender-based misconduct was committed by multiple respondents
- Whether the gender-based misconduct involved the use of a weapon;
- Whether the complainant is under 18 years of age;
- Whether the College possesses other means to obtain relevant evidence of the gender-based misconduct (e.g., security cameras, physical evidence); and
- Whether the complainant's report reveals a pattern of gender-based misconduct (e.g., via illicit use of drugs or alcohol, at a particular location, or by a particular group).

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

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

## IV. DEFINITION OF GENDER-BASED MISCONDUCT

### 1. FORMS OF PROHIBITED SEXUAL HARASSMENT

Sexual harassment is prohibited. In some cases, sexual harassment is obvious and may involve an overt action, a threat, or reprisal. In other instances, sexual harassment is subtle and indirect, with a coercive aspect that is unstated. The Springfield College Discrimination/Harassment Policy is available here:

<https://springfield.edu/sites/default/files/inline-files/HarassmentPolicy.pdf>

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature. Definitions of sexual harassment include:

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

*Quid pro quo harassment* occurs when a person with authority uses submission to or rejection of unwelcome sexual conduct as the basis for making academic or employment decisions affecting a subordinate or a student. This kind of harassment usually involves explicit or implicit threats of retaliation for refusing to submit to sexual advances.

#### **Examples of harassment include the following:**

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



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

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

It should be emphasized, however, that isolated instances (e.g., a single comment or joke) ordinarily will not constitute harassment unless it is repeated or egregious. Harassment may not be present if the conduct is welcomed or encouraged. The College will take appropriate remedial action to address any inappropriate conduct, even if it does not meet the legal definition of harassment.

## **2. ADDITIONAL FORMS OF GENDER-BASED MISCONDUCT**

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

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

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

**Domestic Violence:** This is defined as a pattern of coercive and controlling behaviors and tactics used by one person over another to gain power and control. This may include verbal abuse, financial abuse, emotional, sexual, and physical abuse. Domestic violence

occurs in heterosexual, as well as same-sex partnerships, and crosses all ethnic, racial, and socio-economic lines. Domestic violence describes physical, sexual, or psychological harm by a current or former partner or spouse, and does not require sexual intimacy.

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

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

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

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

**Non-consensual sexual intercourse:** This is defined as the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ on another person, without the consent of the person. This term is used to classify instances where the person was not of the age of consent; if the person was unable to consent because of temporary or permanent mental incapacity, including intoxication; or when the perpetrator has threatened, coerced, or exhibited a use of force against the other person. This term is used in Title IX cases to describe what is criminally referred to as rape.

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

- Observing another individual’s nudity or sexual activity or allowing another to

observe consensual sexual activity without the knowledge and consent of all parties involved;

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

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

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

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

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

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

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

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

**A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.** Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs. Consent to previous sexual activity does not constitute consent in the future. Consent must be obtained each time. In the state of Massachusetts, consent can never be given by minors under the age of 16.

**Consent is not effective if it results from the use or threat of physical force, intimidation or coercion, or any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact.** Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm and/or severe and/or pervasive emotional intimidation, which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if he or she 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 for any reason. An individual may experience a blackout state in which he or she appears 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 impairs a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. Being intoxicated or impaired by drugs or alcohol is never an excuse for gender-based misconduct and does not excuse one from the responsibility to obtain consent.

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

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

For these reasons, consensual relationships between students and employees, including relationships that occur when College is not in session or students are on leave, are prohibited. For more information on the College Consensual Relationship Policy, review the following link: <https://springfield.edu/sites/default/files/inline-files/cons-relationship-policy.pdf>

#### **V. Resources**

##### **1. OVERVIEW**

The College is committed to treating all individuals with dignity, care and respect. Any individual affected by gender-based misconduct, whether as a complainant, a respondent, or a third party, will have access to support and counseling services through the College. The College recognizes that any individual involved in an incident of gender-based misconduct may have questions and we encourage College community members to seek the support of campus and community resources. The College can provide guidance in making decisions, 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 or a deputy Title IX coordinator to answer questions regarding the College complaint processes for students and employees;
- Notice of Confidential Resources, including health care and mental health counseling services, on campus and/or 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 should be immediately reported to the Springfield College Department of Public Safety, the Title IX coordinator or a deputy Title IX coordinator.

## **1. CONFIDENTIAL RESOURCES**

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

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

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

## Confidential Resources On and Off Campus

### Confidential Resources

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

#### *SUPPORT*

##### *On Campus Support*

Counseling Center – (413) 748-3345

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

##### *Off-Campus Support*

YWCA of Western Massachusetts – (413) 733-7100

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

#### *MEDICAL*

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

Baystate Medical Center – (413) 794-3233

Mercy Medical Center – (413) 748-9000

- These centers provide specialized sexual assault exams, including evidence collection, preventative treatment for sexually transmitted infections, and pregnancy.

Health Center – (413) 748-3175

- Services are available during regular office hours. The center provides health services, including sexually transmitted infection testing and emergency contraception.

For Springfield College's PCS Regional Campuses Resources click this link:

<https://springfield.edu/titleix/get-help>

## **VI. Reporting**

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

A list of student employees who are also considered “responsible employees” and have the responsibility to report information regarding gender-based misconduct of which they become aware at any time include:

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

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

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

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

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



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

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

## **EMERGENCY/IMMEDIATE REPORTING OPTIONS**

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

Members of the School of Professional and Continuing Studies regional campuses, should review the following link: <https://springfield.edu/titleix/get-help> to find resources on immediate reporting of a gender-based misconduct issue on your campus. For emergencies, please contact your local police department for immediate assistance.

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

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

### **A. Reporting Resources**

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

#### **Title IX coordinator and deputy Title IX coordinators**

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

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

**For emergency numbers for the Springfield College Regional Campuses click on this link: <https://springfield.edu/titleix/get-help>**

## **CAMPUS REPORTING OPTIONS**

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

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

## **ANONYMOUS REPORTING**

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

The College offers a public reporting form that can be found at the below link. [https://publicdocs.maxient.com/reportingform.php?SpringfieldCollege&layout\\_id=40](https://publicdocs.maxient.com/reportingform.php?SpringfieldCollege&layout_id=40). All information is deemed private until a decision to move forward with a complaint has been made. This form may be submitted online anonymously. You may also fill out a printed reporting form and send it anonymously to the Title IX coordinator or a deputy Title IX coordinator.

## **TIME FRAME FOR REPORTING**

So long as the respondent is a student or employee at the College, there is no time limit to filing a complaint to engage the Title IX process. However, individuals are encouraged to report gender-based misconduct immediately in order to maximize the College's ability to respond promptly and equitably. The College does not, however, limit the timeframe for reporting. Be mindful that the College will not be able to pursue disciplinary action against an individual who is no longer affiliated with the College. Under those circumstances, the College will still conduct a Title IX review and take appropriate steps depending on the level of control (if any) the College has over the alleged perpetrator.

## **COORDINATION WITH LAW ENFORCEMENT**

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

## **BYSTANDER INTERVENTION**

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

## **STATEMENT AGAINST RETALIATION**

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

The College recognizes that retaliation can take many forms and may be committed by an individual or a group against an individual or a group and that a respondent can also be the subject of retaliation by the complainant or a third party. The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting gender-based misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the case concludes without a finding of responsibility.

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

## **VII. Interim Remedies**

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

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

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by interim remedies. The College will take immediate and responsive action to enforce remedies 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 interim remedies 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 communication 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 will also facilitate on campus compliance with the order. The College may also limit an individual or organization's access to certain College facilities or activities as part of the no-contact order.

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

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

**Emotional Support:** The College will provide counseling services through the Counseling Center or will assist in providing a referral to off-campus agencies as needed at regional campuses. For campus and community resources please see the "Confidential Resource" section of this policy. Counseling and emotional support are available to any member of the campus community.

**Interim Action:** Where the report of gender-based misconduct poses an ongoing risk of harm to the safety or well-being of an individual or members of the campus community, the College may place an individual or organization on interim suspension or impose leave for an employee.

Pending resolution of the complaint, the individual or organization may be denied access to campus. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

## **VIII. Title IX Review**

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

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

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

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

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

### **2. INITIAL ASSESSMENT**

The College will address all reports of gender-based misconduct. The Title IX coordinator will oversee the College Title IX review process. If the individual makes a formal complaint the Title IX coordinator or a deputy Title IX coordinator will make an initial assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. These steps will include interim remedies to provide for the safety of the individual and the campus community.

The College responsibility to review and respond to all allegations of misconduct exists regardless of whether that review culminates in an additional investigation or goes forward in the process.

### **3. INVESTIGATION**

The Title IX coordinator or a deputy Title IX coordinator may determine if an investigation of the report of gender-based misconduct should be conducted. This determination is based on a variety of factors, such as the complainant's wish to pursue disciplinary action or the risk posed to any individual or the campus community by not proceeding and the nature of the allegation. The Title IX coordinator or deputy Title IX coordinator may designate an investigator(s) of his or her choosing.

The investigator(s) will coordinate the gathering of information from the complainant, the respondent and any other individuals who may have information relevant to the determination. The investigator(s) will also gather any available physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate. The investigator(s) may also consider prior allegations of, or findings of responsibility for, gender-based misconduct by the respondent. In gathering such information, the investigator(s) will comply with applicable laws and College policies. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect.

As described in the College **Statement on Privacy and Confidentiality** section, all College investigations will respect individual privacy concerns.

Information gathered during the investigation will be used to evaluate the responsibility of the respondent, to provide for the safety of the individual and the College campus community, and to impose remedies as necessary to address the effects of the alleged conduct. Any investigative report will serve as the foundation for all related resolution processes.

### **4. TIME FRAME FOR RESOLUTION**

The investigation of all reports will generally be completed within 60 days. Extenuating circumstances may arise that require the investigation process to extend beyond these time frames, 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 such student is involved in a Title IX 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 Title IX 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.

## **5. EFFECT OF CRIMINAL PROCEEDINGS**

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

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

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

## **7. COMMUNICATIONS**

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

## **8. FALSE COMPLAINT/FALSE INFORMATION**

The College will not tolerate false reporting and reserves the right to discipline members of the College community who knowingly bring false complaints of gender-based misconduct or provide false information during an investigation or hearing. No complaint will be considered "false" solely because it cannot be corroborated. If a respondent or complainant is determined to have provided false information during the investigation or sanctioning process, the respondent or complainant may be charged with "false

information and misrepresentation” and/or the false information may be considered an aggravating circumstance during the sanctioning phase.

## **IX. Initiating a Complaint**

### **1. INDIVIDUAL**

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

If a person named in a complaint wishes to file a cross-complaint, alleging incidents of gender-based misconduct, the respondent/complainant must file the incident report within 14 days from the time he or she was notified of the first complaint. Cross-complaints received after 14 days, without an extenuating change in circumstance or significant facts, may be evaluated as a retaliatory measure. Cross-complaints should be filed with the Title IX coordinator or the deputy Title IX coordinator assigned to the initial complaint.

### **2. ADMINISTRATIVE**

In exceptional cases, such as cases threatening community safety, the College may initiate a complaint through the deputy Title IX coordinator against a student, employee, or non-member of the College. As set forth in this policy, reports of gender-based misconduct will initiate a Title IX review to determine the appropriate response.

### **3. FILING REQUIREMENTS**

The person bringing the allegation is called the complainant. The complainant will be asked to submit a statement to either the Title IX coordinator or a deputy Title IX coordinator. The statement should contain sufficient information to permit the respondent to understand the charges being brought and to be able to adequately respond. The statement may not reflect every detail related to the allegations in the complaint as additional information may be discovered during the investigation.

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

Prior to the completion of the investigation, the complainant may withdraw the gender-based misconduct complaint. Withdrawal of the complaint will, in most circumstances, end the Title IX process. The College reserves the right to move forward with the complaint, even after the complainant withdraws it, in order to protect the interests and safety of the College community.

## **B. Acceptance of Responsibility**

After reviewing the complaint and meeting with the Title IX coordinator or deputy Title IX coordinator, the respondent may choose to end the Title IX process by accepting responsibility for the conduct alleged in the complaint. If the respondent accepts responsibility for the conduct alleged in the complaint, the process may, but will not necessarily, proceed to the investigation phase. The Title IX coordinator or deputy Title IX coordinator will determine an appropriate sanction for the respondent. If the respondent disputes the allegations of the complaint, the matter will proceed to an investigation.

At any point in the process, the respondent may accept responsibility for the conduct alleged in the complaint. In such cases, the process will immediately move to the Title IX coordinator or deputy Title IX coordinator for a decision regarding sanctioning.

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

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

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

The deputy Title IX coordinator, in coordination with the College Title IX coordinator, is responsible for the oversight of investigations of gender-based misconduct complaints where the respondent is a student or student group.

### **PRELIMINARY INVESTIGATION**

When made aware of a potential violation of the College gender-based misconduct policy, the deputy Title IX coordinator or his or her designee, will open and conduct a preliminary investigation. The preliminary investigation will be conducted as soon as possible and within 10 business days from the time of initial report. This time period may be shorter or longer depending on the circumstances, including the availability of witnesses and preliminary evidence.

The preliminary investigation will consist of the deputy Title IX coordinator or his or her designee working to determine the identity and contact information of the complainant, identifying what, if any, portion(s) of the policy were allegedly violated, meeting the complainant, if feasible, to inquire about and finalize the complaint, and determining if there is cause to proceed with a formal investigation.

If the deputy Title IX coordinator determines that there is no reasonable cause to pursue a complaint (e.g. if the information received does not present any potential violation of the sexual misconduct policy, or if it is so vague or incomplete that no further investigation is possible), the matter will be closed with no further action and that decision will be communicated to the reporting party as appropriate.

## **INFORMAL RESOLUTIONS**

### **Informal Resolution Process**

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

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

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

### **Informal Resolution Procedure**

An initiating party may make a request, either orally or in writing, for informal resolution to the Title IX coordinator or a deputy coordinator. The request should identify the alleged respondent, if known, and describe the allegations as specifically as possible. The Title IX officer will assess the allegation and potential risk for a hostile environment for others in the community to determine whether informal resolution may be appropriate. Such a request can be made at any time before, during, or after the start of an investigation, but prior to the production of written findings in a formal investigation. Alternatively, a formal investigation may be initiated at any time.

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

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

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

## **FORMAL INVESTIGATION**

If the Title IX coordinator determines that there is reasonable cause to pursue the complaint, a formal investigation will be initiated. The formal investigation under this policy will be conducted as promptly and equitably as possible without compromising thoroughness.

Absent extenuating circumstances, the College's investigation and resolution process for gender-misconduct complaints will be completed within 60 days (not including the appeal process). This time period may be shorter or longer depending on the circumstances including, but not limited to, the complexity of the case and the availability and number of witnesses. Should this process last longer than 60 days, the deputy Title IX coordinator will communicate the reasons and expected timelines for completion to all parties.

At the initiation of the formal investigation, the Title IX coordinator or his or her designee will: 1) notify the respondent and complainant of the investigation and provide an explanation of the investigation process; 2) provide the respondent and complainant with a written notice of the charges, identifying the specific portion(s) of the policy alleged to have been violated; and 3) appoint a trained, two- person team of investigators to lead the investigation. Concerns relating to any potential bias or conflict of interest of the appointed investigator(s) should be promptly addressed to the Title IX coordinator who shall have sole discretion to remove or reappoint investigator(s) as necessary.

At reasonable intervals throughout the investigation, the Title IX coordinator, or his or her designee, will maintain communication with the complainant and the respondent regarding the status of the investigation and overall process.

The appointed investigators will: 1) commence a thorough and impartial investigation by developing an investigation plan, including a witness list, intended investigation timeframe, and order of interviews for all witnesses and the respondent; 2) provide regular updates on the investigation to the Title IX coordinator; and, 3) determine whether or not one or more specific portions of the policy were violated based on the preponderance of evidence. Under this standard, the respondent is presumed not to have violated the policy unless a preponderance of the evidence supports a finding that a violation occurred. A preponderance of the evidence indicates that it is more likely than not that the identified portion of the policy was violated by the respondent.

Investigations shall proceed generally as follows:

1. The investigator(s) will conduct interviews with the complainant, respondent and any witnesses deemed appropriate by the investigator(s). The investigator(s) may elect to use a recording device during any or all interviews. The recording or a written summary will be included in the case file for review by the applicable party or parties.
2. All parties will be asked to provide names of relevant witnesses. The investigator(s) will, in their sole discretion, determine which witnesses to interview. Witnesses are typically limited to people with first-hand knowledge of the events being reviewed. Character witnesses and/or statements are not permitted.
3. All interviewed parties will be asked to submit relevant documentary evidence (e.g. photographs, video recordings, text messages, reports, phone records, etc.) to the investigators. The investigator(s) will gather and review available documents, materials, or other identified evidence relevant to the investigation. The investigator(s), in consultation with the Title IX coordinator, will use their discretion about what evidence and information will be included in the case file. Redactions may be made as deemed necessary at the sole discretion of the investigators.
4. After each interview, the investigator(s) will provide the interviewed party with a written interview summary. The interviewed party will be afforded a reasonable opportunity to review the summary to confirm its accuracy or to provide written clarifications, comments, and/or corrections. The investigator(s) shall review any written clarifications or comments that are submitted and incorporate those deemed relevant and appropriate into the interview summary. Comments that conflict significantly with information previously submitted by the interviewed party will be documented and evaluated by the investigative team.

5. During the investigation, the investigator(s) will afford the complainant and respondent an opportunity to respond to information provided by other parties, including witnesses. This information may be shared verbally or in writing during the interview. Either party may request an opportunity to review the written summaries and/or documentary information. Such request will be granted if deemed appropriate and at the discretion of the investigator(s).
6. At the conclusion of the investigation, but before any determinations are made by the investigator(s), the investigator(s) will schedule separate meetings with the complainant and respondent to review the information included in the case file (including all written interview summaries and documentary evidence deemed relevant by the investigators). The complainant and respondent will have the opportunity to provide corrections, clarifications, comments, new relevant information or documentation, and/or suggest new witnesses who possess material information.
  - a. The complainant and respondent will be given two business days after their meeting to provide any additional documentation or written clarifications or comments. The investigator(s) shall review any written clarifications or comments that are submitted and incorporate those deemed relevant and appropriate to the case file. Comments that conflict significantly with information previously submitted by the interviewed party will be documented and evaluated by the investigative team.
7. If the complainant and/or respondent identify additional relevant evidence, that evidence shall be gathered by the investigators to the extent reasonably possible and will also be included in the case file. Depending on the nature of the new evidence, it may be shared with the complainant and/or the respondent for comment.
8. The investigator(s) will complete the case file to include all relevant information gathered during the investigation.
9. The investigator(s) will review the case file and author findings of fact pertaining to the alleged violation of gender-based misconduct.
10. The investigator(s) will send the case file and written findings to the Title IX coordinator for review.
11. The Title IX coordinator will review the case file, and written recommendations, to ensure the following:
  - a. The investigation was thorough, reliable, and impartial;
  - b. The recommendations were based on the evidence collected; and
  - c. The recommendations were based on the preponderance of evidence standard.



12. If the Title IX coordinator determines that any further steps are necessary to meet any of these requirements, he or she will so inform the investigators. The investigator(s) will take the necessary steps and return the case file to the Title IX coordinator for second review.
13. Upon approval of the case file, as the decision-maker in this process, the Title IX coordinator will meet separately with the complainant and the respondent to deliver the outcome. These meetings will be arranged as contemporaneously as possible. At the outcome meetings, the Title IX coordinator will make the case file available to both parties for their review (necessary redactions may be made at the sole discretion of the Title IX coordinator), and explain the next steps in the process (appeal process and sanction process, if the outcome is responsible). In addition to sharing the outcomes with the parties, the Title IX coordinator will also work directly with the Title IX deputy coordinator to determine whether additional remedies are necessary for the complainant and/or community, if any, to address the incident.

## **CONFLICT RESOLUTION OPTIONS**

The Title IX coordinator or deputy Title IX coordinator may offer conflict resolution options when appropriate based on the facts and circumstances, and regardless of the outcome of the preliminary or formal investigation. Such conflict resolution may include mediation, restorative justice, or other options, and will only be used when both parties consent to the option. Either party may, at any time, end the conflict resolution process. Mediation will not be used in cases involving sexual assault.

## **SANCTIONING PROCESS**

The Title IX coordinator will confer with the deputy Title IX coordinator regarding potential sanctions. The Title IX coordinator also reserves the right to meet with other relevant parties including but not limited to the investigator(s) or witnesses, if the Title IX coordinator believes doing so will assist in determining appropriate sanctions.

Before determining sanctions, the Title IX coordinator, along with the deputy Title IX coordinator, will review the case file and investigators' conclusions, the respondent's prior disciplinary record, if one exists, and any impact statements submitted by either party.

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

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

## **SANCTION GUIDELINES**

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

## **APPEAL PROCESS**

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

Guiding principles of the appeal process:

- Appeals are confined to a review of the case file based on one or more pertinent grounds for appeal described below. Appeals are not intended to re-hear the allegations.
- Absent clear and material error, appeal determinations are intended to be deferential to the original decision-maker. Findings should be revised by an appeal officer only when remanding for further investigation or granting a new investigation would be insufficient, impractical, or unnecessary. Sanctions should be revised by the appeal officer only if there is a compelling justification to do so.
- An appeal must be submitted within five business days after the decision letter is delivered to the student's Springfield College email account. An appeal may be made solely on the grounds of:

- Error in the charge and/or investigation or sanctioning process that materially affected the outcome;
- New information that could not have been discovered prior to the investigation or sanctions meeting through the exercise of reasonable diligence and that would have material affected the outcome;
- A summary of this new evidence and its potential impact must be included in the written appeal; or
- The sanctions imposed fall outside of the range of sanction guidelines and/or are grossly disproportionate to the violations committed.

The vice president for Student Affairs, or his or her designee, shall act as the appeal officer. The appeal must be made in writing to the appeal officer and must clearly and succinctly outline and explain how the specific grounds above have been met. The party submitting the appeal has the burden of demonstrating how the above grounds have been met.

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

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

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

## **NOTICE OF RIGHTS**

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

## **Rights of the Complainant**

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

## **Rights of the Respondent**

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

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

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

## **OTHER PROVISIONS**

### **ADVISERS**

Advisers serve as a support person for the parties during the process, including investigative meetings, meetings with the Title IX coordinator or deputy Title IX coordinator, and sanction meetings. The adviser'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 adviser. Students who are witnesses to the incident or are otherwise involved in the matter may not typically serve as advisers. Advisers are not permitted to advocate for a student or speak on the student's behalf during any of the aforementioned meetings. The adviser's role shall be to support the complainant or respondent. They may quietly and unobtrusively communicate with their advisee in whispers or by written note during the meeting. The College reserves the right to remove an adviser from any meeting should these expectations and guidelines be violated. Meetings are not generally delayed or rescheduled due to an adviser's schedule or availability. The Title IX coordinator will consider requests made to delay or reschedule a meeting and will make the final determination at the coordinator's sole discretion. The College reserves the right to have its legal counsel present during any meeting.

## **AMNESTY FOR MINOR VIOLATIONS**

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

## **ATTENDANCE EXPECTATIONS**

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

## **EFFECT OF CRIMINAL PROCEEDINGS**

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

## **HISTORY OF THE PRINCIPLE PARTIES**

### **Sexual History**

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

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

Reports concerning faculty, staff, and/or vendors of the College, have two means of resolution. When an employee of the College is named as a respondent in a Title IX complaint, the matter may be resolved through the informal resolution process or, alternatively, through a formal investigation. All Title IX complaints, or personnel complaints, which include instances of gender-based misconduct will be reviewed by the Title IX coordinator and the director of Human Resources. The director of Human Resources is designated as the deputy Title IX coordinator for all matter involving College employees, and will conduct, along with the Title IX coordinator, a preliminary assessment of each complaint. During this preliminary intake, the formal rules of process and evidence, such as those applied in criminal or civil courts, are not applicable, nor in the resolution process described next.

## **INFORMAL RESOLUTIONS**

### **Informal Resolution Process**

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

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

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

## **Informal Resolution Procedure**

An initiating party may make a request, either orally or in writing, for informal resolution to the Title IX coordinator or a deputy coordinator. The request should identify the alleged respondent, if known, and describe the allegations as specifically as possible. The Title IX officer will assess the allegation and potential risk for hostile environment for others in the community to determine whether informal resolution may be appropriate. Such a request can be made at any time before, during, or after the start of an investigation, but prior to the production of written findings in a formal investigation. Alternatively, a formal investigation may be initiated at any time.

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

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

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

## **FORMAL INVESTIGATION**

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

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



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

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

The appointed investigator(s) will:

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

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

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

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

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

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

### **Disciplinary Process**

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

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

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

## **APPEAL PROCESS**

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

Guiding principles of the appeal process:

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

When a staff member is found responsible for engaging in gender-based misconduct, the vice president for Inclusion and Community Engagement, or his/her designee, shall act as the appeal officer. When a faculty member is found responsible for engaging in

gender-based misconduct, the provost and vice president for Academic Affairs, or his/her designee, shall act as the appeal officer. Appeals must be made in writing to the appeal officer and must clearly and succinctly explain how the specific grounds described above have been met. The party submitting the appeal has the burden of demonstrating how those grounds have been met.

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

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

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

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

## **NOTICE OF RIGHTS**

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

### **Rights of the Complainant**

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

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

- The right to privacy, and the assurance that information regarding the complaint will be shared only with those necessary, and in accordance with applicable law.

### **Rights of the Respondent**

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

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

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

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

## **OTHER PROVISIONS**

### **Advisers**

Both the respondent and the complainant have the right to one adviser of their choice. Advisers serve as a support person for the parties during the process, including investigative meetings, meetings with the director of Human Resources and Title IX coordinator or sanction meetings. The adviser's name and relationship to a party (e.g., student, faculty member, family member, attorney, etc.) must be disclosed to the director of Human Resources and Title IX coordinator prior to the meeting for which they will serve as the adviser. Individuals who are witnesses to the incident, or are otherwise involved in the matter, may not typically serve as advisers. Advisers are not permitted to speak or answer questions during any of the aforementioned meetings—except to quietly and unobtrusively advise his or her advisee in whispers or by written note. The College reserves the right to remove an adviser from any meeting if the expectations and guidelines are violated. Meetings are not generally delayed or rescheduled due to an adviser's schedule or availability. The director of Human Resources and Title IX coordinator will consider requests made to delay or reschedule a meeting and will make the final determination at his or her sole discretion. The College reserves the right to have legal counsel present during any meeting.

### **Attendance**

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

## **HISTORY OF THE PRINCIPLE PARTIES**

### **Sexual History**

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

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

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

### **Records Maintained**

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

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

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

### **Response and support**

When the respondent is 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 interim remedies that will assist them in feeling safe on campus. The complainant will be encouraged to make a complaint to the local law enforcement agency.

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

### **Reporting to law enforcement**

Criminal report may be made by:

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

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

- A primary party of the report is a minor, and such report is required by law and the alleged



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

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

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

### **Investigation and evidence**

The investigation conducted by Springfield College and the College Title IX investigators is independent of any associated criminal process. An outcome in the College process is determined by a preponderance of the evidence standard, whereas criminal proceedings are determined based on a beyond a reasonable doubt standard. While the investigations are separate and the College does not automatically provide a copy of its investigative report to law enforcement, the applicable law enforcement agency may subpoena any and all documentation, materials, evidence, or recordings associated with a case file.

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

### **What to expect**

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

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

For more information on what to expect when filing a criminal report, visit the RAINN web page here:

<https://www.rainn.org/articles/reporting-law-enforcement>.

## **Limitations**

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

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

## **XIV. Pregnancy and Parenting**

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

### **Student Rights**

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

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

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