



## College of The Albemarle Procedure

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**Title: Title IX Sexual Harassment**

**Related Policy: 3.3.7 Discrimination and Harassment (Employees); 5.3.4 Discrimination and Harassment (Students)**

**Division of Responsibility: Student Success and Enrollment Management; Human Resources**

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College of The Albemarle (College) strives to make its campuses inclusive and a safe and welcoming learning environment for all members of the College community. Pursuant to multiple federal and state laws and administrative regulations and pursuant to College policy, the College prohibits discrimination in its education programs and activities based on sex.

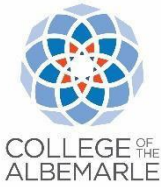
Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Under Title IX, discrimination on the basis of sex includes *quid pro quo* harassment; sexual harassment; and sexual assault, stalking, dating or domestic violence (collectively referred to as "sexual harassment"). The College's Title IX coordinator has oversight responsibility for handling sexual harassment complaints and for identifying and addressing any patterns and/or systemic problems involving sexual discrimination or harassment.

All allegations involving sexual harassment should be directed to the College's Title IX coordinator and addressed under these procedures. For other complaints of discrimination and harassment not related to sexual harassment, refer to Discrimination and Harassment Procedure 5.3.4.2.

### I. DEFINITIONS

The following definitions shall apply to this procedure. The definitions are not intended to operate as speech codes, promote content and viewpoint discrimination or suppress minority viewpoints in the academic setting. Indeed, just because a person's speech or expression is deemed offensive by others does not mean it constitutes discrimination or harassment.

- A. **Actual Knowledge** – notice of sexual harassment or allegations of sexual harassment by the Title IX coordinator or any College official who has authority to institute corrective measures on behalf of the College. Actual knowledge is not met when the only College official with actual knowledge is a Respondent.
- B. **Complainant** – an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- C. **Consent** – explicit approval to engage in sexual activity demonstrated by clear actions or words. This decision must be made freely and actively by all participants. Non-verbal communication, silence, passivity, or lack of active resistance does not imply consent. In addition, previous participation in sexual activity does not indicate current consent to participate and consent to one form of sexual activity does not



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imply consent to other forms of sexual activity. Consent has not been obtained in situations where the individual: i) is forced, pressured, manipulated or has reasonable fear that they will be injured if they do not submit to the act; ii) is incapable of giving consent or is prevented from resisting due to physical or mental incapacity (including being under the influence of drugs or alcohol); or iii) has a mental or physical disability which inhibits his/her ability to give consent to sexual activity.

- D. **Dating Violence** – crimes of violence against a person with whom the person has or had a social relationship or a romantic or intimate relationship.
- E. **Domestic Violence** – crimes of violence against a current or former spouse or intimate partner; a person with whom the individual shares a child in common; a person with whom the individual cohabitates or has cohabitated as a spouse or intimate partner; a person similarly situated to the individual as a spouse under local domestic laws; or any other person who is protected under local domestic laws of the jurisdiction.
- F. **Education Program or Activity** – for purposes of these Procedures, this means any locations, events, or circumstances over which the College exercised substantial control over both the Respondent(s) and the context in which the alleged sexual harassment occurs. It also means any building owned or controlled by a student organization that is officially recognized by the College.
- G. **Formal Complaint** – a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting the College investigate the allegation(s). A Formal Complaint initiates a formal grievance process in which parties are entitled to due process protections.
- H. **Informal Resolution** – a resolution reached regarding an allegation of sexual harassment without going through the entire formal grievance process. Informal Resolution may include mediation, facilitated dialogue, conflict coaching, restorative justice, or other models of alternative dispute resolution. Informal Resolution cannot be used for a student’s allegation of sexual harassment against a College employee.
- I. **Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- J. **Retaliation** – to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under these Procedures.



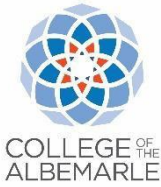
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- K. **Sexual Assault** – an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting system.
- L. **Sexual Harassment** – *quid pro quo* harassment; unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity, including conduct based on sex stereotyping; or any instance of sexual assault, dating violence, domestic violence, or stalking.
- Quid pro quo harassment is a person having power or authority over another and conditioning an educational or employment benefit or service or access to receiving the educational or employment benefit or service upon a person’s participation in unwelcome sexual conduct.
- M. **Stalking** – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress.
- N. **Standard of Evidence** – the College uses the preponderance of the evidence standard as the standard for proof of whether a violation of this policy has occurred. In the student due process hearing and employee grievance process, legal terms like "guilt", "innocence" and "burden of proof" are not applicable. Student and employee due process hearings are conducted to take into account the totality of all evidence available from all relevant sources. The College will find the Respondent either "responsible" or "not responsible" for violating these Procedures.
- O. **Supportive Measures** – individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party that are designed to ensure equal educational access, protect safety, or deter sexual harassment. Examples of support measures are counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, leaves of absences, increased security and monitoring of certain areas of the College, and other similar measures.
- P. **Title IX Coordinator** – for purposes of these Procedures, the Title IX coordinator for Employees refers to the human resources director. The Title IX coordinator for Students is the vice president of student success and enrollment management. The phone number is 252-335-0821 ext. 2236 for employees, or ext. 2251 for students and the email is ella\_bunch44@albemarle.edu for employees or kris\_burris76@albemarle.edu for students.



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### II. SCOPE AND APPLICABILITY

- A. These Procedures apply to the conduct of and protect:
  - 1. College students and applicants for admission into the College
  - 2. College employees and applicants for employment
  - 3. College student organizations
  - 4. Third parties participating in a College education program or activity
- B. These Procedures apply to conduct that occurs in a College Education Program or Activity located within the United States and of which the College has actual knowledge.

### III. REPORTING

#### A. Reporting to Local Law Enforcement

Individuals may report sexual harassment directly to local law enforcement agencies by dialing 911. Individuals who make a criminal allegation may also choose to pursue the College's grievance procedure simultaneously. A criminal investigation into the matter does not release the College from its obligation to conduct its own investigation (nor is a criminal investigation determinative of whether sexual harassment has occurred).

However, the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence. In the event of such a delay, the College must make available supportive measures when necessary to protect the alleged Complainant and/or the College community.

Individuals may choose not to report alleged sexual harassment to law enforcement authorities. The College respects and supports individuals' decisions regarding reporting; nevertheless, the College may notify appropriate law enforcement authorities if legally required or warranted by the nature of the allegations.

#### B. Reporting to College Officials

The College's Title IX coordinator oversees compliance with these Procedures and Title IX regulations. Questions about these Procedures should be directed to the Title IX coordinator. Anyone wishing to make a report relating to sexual harassment may do so by reporting the concern to the College's Title IX coordinator in person, by mail, by telephone, by email, or by any other means that results in the Title IX



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coordinator receiving the person's verbal or written report of alleged sexual harassment.

#### IV. GRIEVANCE PROCEDURES

##### A. Scope

1. Use of these grievance procedures applies to reports alleging sexual harassment carried out by employees, students, or third parties.
2. All reports of sexual harassment are taken seriously. At the same time, those accused of sexual harassment are presumed "not responsible" throughout this grievance procedure.

##### B. Initial College Response and Assessment

1. After receiving a report of sexual harassment, the Title IX Coordinator takes immediate and appropriate steps to:
  - a. Communicate with the individual who reported the alleged conduct;
  - b. Implement supportive measures to eliminate and prevent the recurrence of sex harassment, deter retaliation, remedy the effects of sex harassment, and provide due process rights during a College investigation;
  - c. Provide the individual with a copy of this Policy and Procedure; and
  - d. Determine whether the alleged conduct, as described by the reporting party, falls within the scope of this policy and if so, initiate the investigation and resolution procedures outlined below.
  - e. The Title IX coordinator may delegate the authority to take some or all of these steps to a Deputy Title IX coordinator.
2. The Title IX coordinator must administratively close a report or complaint of sexual harassment if after an initial assessment:
  - a. The allegations as stated do not constitute a violation of this Policy and Procedure, even if proven; or
  - b. The alleged sexual harassment did not occur in the College's Education Program or Activity or did not occur in the United States.



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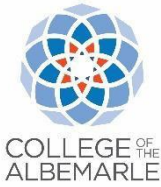
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- c. The Title IX Coordinator will notify the parties if a report or complaint of sexual harassment is closed under this section, including the reason(s) for closure, and direct the parties to the appropriate College office or department to resolve the report or complaint. All parties may appeal the Title IX Coordinator's dismissal of a Formal Complaint under this section by using the appeal procedures in Section VI, below.
3. The Title IX coordinator may administratively close a report or complaint of sexual harassment if:
  - a. The Complainant, at any time, requests withdrawal of the report or complaint;
  - b. The Respondent is no longer enrolled or employed by the College; or
  - c. The College is prevented from gathering evidence sufficient to reach a determination of responsibility.
  - d. The Title IX coordinator will notify the parties if a report or complaint of sexual harassment is closed under this section, including the reason(s) for closure, and direct the parties to the appropriate College office or department to resolve the report or complaint. All parties may appeal the Title IX Coordinator's dismissal of a Formal Complaint under this section by using the appeal procedures in Section VI, below.
4. Regardless of when alleged sexual harassment is reported, a Complainant must be participating in or attempting to participate in the College's education program or activity for a Formal Complaint to be filed.

#### **C. Informal Resolution**

1. Any party may request the College facilitate an informal resolution to a sexual harassment complaint at any time after the filing of a Formal Complaint. The Title IX coordinator may offer the parties the opportunity for informal resolution, too.
  - a. Upon a request for informal resolution, the Title IX coordinator determines whether informal resolution is appropriate based on the facts and circumstances of the case. The Title IX coordinator ensures that any proposed informal resolution is consistent with the College's obligations to prevent and redress sexual harassment.
  - b. A student's allegations of sexual harassment against a College employee are not eligible for informal resolution.



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- c. The Title IX coordinator provides the parties with written notice of proceeding with an informal resolution, including the allegations of sexual harassment, the requirements of the informal resolution process, and potential outcomes resulting from participating in the informal resolution process.
      - d. The Title IX coordinator also designates an independent, neutral person to facilitate the informal resolution.
2. Informal resolution is voluntary.
  - a. The Complainant and Respondent must provide written consent for informal resolution to take place.
  - b. Any party has a right to end the informal resolution process at any time prior to agreeing to a resolution and begin or continue the formal investigation and grievance process.
3. Informal resolution concludes the matter only when all parties have signed a written agreement that confirms resolution of the allegations.
  - a. The resolution agreement must include a waiver of the parties' right to have a formal hearing on the allegations that have been informally resolved.
  - b. Parties are prohibited from revoking or appealing a resolution agreement. Should the Respondent violate the terms of an informal resolution agreement, such violation will subject the Respondent to an investigation and the formal grievance process contained in this procedure.
4. If a resolution agreement is not reached, the College will continue with a formal investigation.

#### **D. Investigations**

1. The goal of a formal investigation is to reach a determination as to whether a Respondent has violated one or more College policies prohibiting sexual harassment and if so, remedy the effects of a violation.
  - a. The Title IX coordinator may include possible violations of other College policies that contributed to, arose from, or are otherwise related to alleged violations of this Policy and Procedure in the scope of an investigation.







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- viii. Good faith efforts to reach a resolution; or
    - ix. Other unforeseen circumstances.
  - b. Investigations typically include interviews with the Complainant, the Respondent, and any witnesses, and the objective evaluation of any physical, documentary, or other evidence as appropriate and available. The College will give the Complainant and the Respondent written notice of any interview, meeting, or hearing at which a party is invited or expected to participate.
  - c. The Title IX coordinator will inform the Complainant and Respondent at regular intervals of the status of its investigation.
  - d. The College may remove a student, pending the completion of an investigation and resolution, when the College performs an individualized safety and risk analysis and determines the person poses an immediate threat to the physical health or safety of any member(s) of the College community.
    - i. A threat assessment team must recommend to the appropriate College official to implement or stay an emergency removal of a student and the conditions and duration of such emergency removal.
    - ii. In all cases in which an emergency removal is imposed, the student shall be given notice and an opportunity to challenge the removal decision immediately following the removal by submitting a written appeal to the President.
    - iii. Violation of an emergency removal under this Procedure is grounds for expulsion or termination.
  - e. The College may place an employee on paid administrative leave pending the completion of an investigation and resolution. An employee does not have a right to appeal a determination to place the employee on paid administrative leave pending the conclusion of the Title IX grievance procedure.
- 6. Interviews conducted as part of an investigation under this Procedure may be recorded by the College. Recordings not authorized by the College are prohibited.
- 7. The Complainant and Respondent have the right to be accompanied by an advisor of their choosing during all stages of an investigation.
  - a. A party may elect to change advisors during the process.



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- b. All advisors are subject to the same rules:
  - i. During the investigation, the advisor's role is limited to providing advice, guidance, and support to the Complainant or Respondent. An advisor is not permitted to act as a participant or advocate during the investigative process.
  - ii. Advisors are expected to maintain the privacy of the records shared with them.
  - iii. Advisors are expected to refrain from interfering with investigations.
  - iv. Any advisor who oversteps their role or interferes during an investigation process will be warned once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave. The Title IX Coordinator determines whether the advisor may return or should be replaced by a different advisor.
8. Prior to finalizing a report, the investigator provides all parties an equal opportunity to review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the College does not intend to rely.
  - a. The Complainant and Respondent may submit a written response to the evidence within ten days after receipt of the evidence.
    - i. Responses must be submitted to the investigator via email, mail, or hand delivery by 5:00 p.m. eastern standard time on the date responses are due.
    - ii. Responses may not exceed 10 double-spaced pages on 8.5x11 paper with one-inch margins and 12-point font.
  - b. The investigator considers any responses received from the parties and conducts any further investigation necessary or appropriate.
9. Following an investigation and at least 10 days prior to a grievance hearing, the investigator submits an investigative report to the parties that fairly summarizes relevant evidence. The report includes a summary of the allegations; a summary of the response; a summary of the investigative steps taken to verify the allegations and response; and a summary of the evidence relevant to a determination of responsibility.

## V. GRIEVANCE HEARINGS



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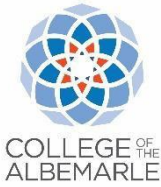
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At least 10 days after the issuance of an investigation report, the College must hold a live hearing in front of a decision-maker to determine responsibility of a Respondent. The decision-maker may not be the Title IX Coordinator or the investigator(s). A "live hearing" means either in person or virtually. The following hearing rules apply:

- A. All parties must be able to see and hear the questioning of parties and witnesses.
- B. Any party may request a virtual hearing. If requested, the College will provide a virtual hearing.
- C. All parties have an equal opportunity to present witnesses, including fact and expert witnesses.
- D. The parties' advisors are permitted to cross-examine the parties and any witnesses.
  1. The parties are prohibited from directly conducting cross-examination. Cross-examination must be conducted by a party's advisor.
  2. The decision-maker determines whether questions asked during cross-examination are relevant to the determination of responsibility. If the decision-maker disallows a question, they will explain the basis for their decision at the hearing. Parties and advisors may not challenge a decision-maker's relevancy determinations during the hearing.
  3. Evidence or questions that inquire about the Complainant's sexual predisposition or prior sexual history are prohibited (i.e., rape-shield protections) unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
  4. To the extent permitted by law, the decision-maker may consider statements of persons not present at a hearing and/or not subject to cross-examination unless the statements are subject to exclusion under another provision in this Procedure. "Statements" include but are not limited to opinions and statements in police reports, medical records, court records, investigation notes, emails, written statements, text messages, social media postings, and the like.
  5. Records with a legally recognized privilege, such as medical treatment records, may not be used unless the individual or entity who holds the privilege waives the privilege. Any waiver must be written and made in advance of a hearing.



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6. If a party does not have an advisor, the College will provide an advisor at no cost to the party. The advisor may, or may not, be an attorney.
  7. Other standard Rules of Evidence do not apply in grievance hearings under these Procedures.
- E. The College will provide either an audio recording, audiovisual recording, or transcript of the hearing to all parties.
- F. The decision-maker evaluates all relevant evidence and reaches a determination regarding responsibility. The decision-maker issues their final written determination to all parties within ten (10) days of the hearing. The final written determination includes a summary of the allegations; a description of the procedural steps taken by the College to investigate and reach a determination of responsibility; findings of fact supporting the determination; conclusions regarding the application of College policies to the facts; a statement of and rationale for the result as to each allegation, including a determination of responsibility; any disciplinary sanctions the College recommends or imposes; whether remedies designed to restore or preserve equal access to an education program or activity will be provided to the Complainant; and the College's appeal procedures.
- G. The following sanctions may be imposed for those who have violated these Procedures:
1. Students
    - a. Verbal or Written Warning
    - b. Probation
    - c. Administrative withdrawal from a course without refund
    - d. Required Counseling
    - e. No Contact Directive
    - f. Suspension
    - g. Recommendation of Dismissal
    - h. Other consequences deemed appropriate
  2. Employees
    - a. Verbal or Written Warning
    - b. Performance Improvement Plan
    - c. Required Counseling
    - d. Required Training or Education
    - e. Recommendation of Demotion



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- f. Recommendation to Suspend with or without Pay
- g. Recommendation of Dismissal
- h. Other consequences deemed appropriate to the specific violation

If the decision-maker is required to make a recommendation for student dismissal or employee suspension, demotion or dismissal, such recommendation will be made to the appropriate College official after the time for appeal has expired. If the decision-maker recommends the Respondent be expelled, suspended, demoted, or dismissed, during the time in which either party has to appeal, the Respondent shall remain in their current status (allowed on campus, on emergency removal, or on paid administrative leave) unless otherwise determined by the decision-maker.

#### VI. APPEALS

After the decision-maker submits their determination of responsibility to the Complainant and Respondent, all parties are given an equal opportunity to appeal the determination. Appeals may be based only on these grounds:

- A. Procedural irregularity that affected the outcome;
- B. New evidence that was not reasonably available at the time of the hearing that could affect the outcome; and/or
- C. The Title IX coordinator, investigator, or decision-maker had a bias or conflict of interest that affected the outcome.

Parties must submit any appeal to the President of the College by 4:30 p.m. eastern standard time via email or mail, within ten (10) days of receiving the decision-maker's written determination of responsibility. Appeals may not exceed ten (10) double-spaced pages on 8.5x11 paper with one-inch margins and 12-point font.

The College notifies all parties when an appeal is filed and provides all parties a copy of the appeal and a chance to submit a written statement supporting or challenging the outcome. Parties must submit written statements supporting or challenging the outcome to the president of the College by 4:30 p.m. eastern standard time via email or mail, within two (2) days of receiving a copy of an appeal.

The president shall conduct a review of the record, including the appeal(s) received, any written statements supporting or challenging the outcome, the investigation report, the decision-maker's written determination of responsibility, and any accompanying evidence prior to issuing a written decision to the Complainant and Respondent that describes the result of the appeal and the rationale for the result.



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The president's written decision is final.

#### **VII. PROTECTION AGAINST RETALIATION**

The College will not in any way retaliate against an individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under these Procedures.

Retaliation is a violation of College policy regardless of whether the underlying allegations are ultimately found to have merit. Reports of retaliation are treated separately from reports or complaints of sexual harassment.

#### **VIII. PROVIDING FALSE INFORMATION**

Any individual who knowingly files a false report or complaint, who knowingly provides false information to College officials or who knowingly misleads College officials involved in the investigation or resolution of a complaint may be subject to disciplinary action, including but not limited to dismissal or employment termination. The College recognizes a determination regarding responsibility alone is not sufficient to conclude a false report or complaint was made.

#### **IX. LIMITED IMMUNITY**

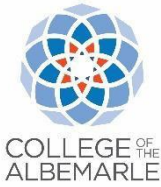
The College community encourages the reporting of misconduct and crimes. Sometimes, complainants or witnesses are hesitant to report to College officials or participate in resolution processes because they fear they themselves may be accused of various policy violations. It is in the best interest of this College that as many complainants as possible choose to report to College officials and that witnesses come forward to share what they know. To encourage reporting, the College offers sexual harassment complainants and witnesses amnesty from minor policy violations.

#### **X. FERPA (Family Educational Rights and Privacy Act)**

A student's personally identifiable information found in a student's education records will be shared only with 1) College employees who need to know to assist with the College's response to sexual harassment and 2) parties involved in the Title IX grievance process who are legally entitled to evidence obtained during a Title IX investigation.

A student's personally identifiable information found in a student's education records will not be disclosed to third parties unaffiliated with the College unless:

- A. The student gives consent;



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- B. The College must respond to a lawfully issued subpoena or court order; or
- C. The College is otherwise required by law to disclose.

#### **XI. SUSPENDING PROCEDURES**

In cases of emergency or serious misconduct, the College reserves the right to suspend this process and may enact appropriate action for the welfare and safety of the College community.

#### **XII. STUDENT AND EMPLOYEE EDUCATION AND ANNUAL TRAINING**

The Title IX coordinator, investigators, decision-makers, and those involved in any informal resolution process shall receive annual trainings on topics including:

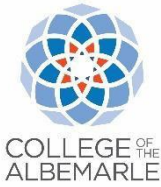
- A. The definition of sexual harassment for Title IX purposes;
- B. The scope of the College's education programs and activities under Title IX;
- C. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes;
- D. How to serve impartially, including avoiding prejudgment of facts at issue, conflicts of interest, and bias;
- E. Technology to be used at live hearings;
- F. Issues of relevance of questions and evidence, including rape-shield limitations; and
- G. Issues of relevance to create an investigative report that fairly summarizes relevant evidence.

All training materials are posted on the College's website.

All new students and all employees shall be required to participate in a primary prevention and awareness program that promotes awareness of sexual harassment. This program will be held annually at the beginning of each fall semester and/or completed via the new student online orientation prior to registration.

At this annual training, students and employees must receive training in the following areas:

- A. Information about safe and positive options for bystander intervention skills;
- B. What "consent" means with reference to sexual activities;
- C. Risk reduction programs so students recognize and can avoid abusive behaviors or potential attacks;
- D. How and to whom to report an incident regarding discrimination, harassment and sex-based violence;
- E. The importance of preserving physical evidence in a sex-based violent crime; and
- F. Options about the involvement of law enforcement and campus authorities, including the alleged victim's option to: i) notify law enforcement; ii) be assisted by



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campus authorities in notifying law enforcement; iii) decline to notify law enforcement; and iv) obtain "no-contact" or restraining orders.

Each year, all students and employees will receive an electronic copy of these Procedures sent to their College email address of record. These Procedures will be maintained online in the College's website and a hard copy will be kept on file in the Title IX coordinator's office. Translations will be made available upon request.

### **XIII. RECORDKEEPING**

The College maintains all records of Title IX proceedings and all materials used to train Title IX personnel for seven years.

Legal Reference: Title IX of the Education Amendments Act of 1972, as amended, 20 U.S.C. 1681 *et seq.* and its implementing regulations; [Office for Civil Rights, Q&A on Campus Sexual Misconduct \(September 2017\)](#); [Office for Civil Rights, Dear Colleague Letter on Sexual Harassment \(Jan. 25, 2006\)](#); [Office for Civil Right Office for Civil Rights, Revised Sexual Harassment Guidance \(66 Fed. Reg. 5512, Jan. 19, 2001\)](#)

June 13, 2023

February 03, 2025

February 03, 2025

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**Date Approved by Board of Trustees**

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**Date of Last Review**

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**Date of Last Revision**