

# Investigation & Grievance Procedures: Alleged Student Violations

The College has established a Policy Against Sex Discrimination, including Sexual Harassment and Sexual Misconduct, and Other Interpersonal Misconduct ("Policy") that articulates conduct prohibited by the College which applies to all members of the College community. The Policy and these Investigation and Grievance Procedures outline the College's approach to addressing reports of suspected Policy violations by a student. Investigation and grievance procedures vary based on the classification of the individual who is accused of violating the Policy. Allegations that a faculty member violated the Policy are governed by the investigation and grievance procedures outlined in Section 10 of the Faculty handbook. Allegations that a staff or administrative employee violated the Policy are governed by the investigation and grievance procedures generally outlined in the Employee Handbook. While the investigation procedures may vary, the rights and options afforded to individuals who report violations as outlined in this Policy relating to confidentiality, interim measures and accommodations, and the use of confidential advisors and advisors of choice will apply regardless of the classification of the individual who is accused of violating the Policy. The College's investigation and grievance procedures take into account the College's status as a private institution of higher education and its unique mission and culture. Because the College's approach to resolving alleged or suspected violations of the Policy is grounded in its mission and purpose as an educational institution, its approach to resolving alleged or suspected violations of the Policy is educational, rather than legal or judicial. As a result, the College retains the discretion to exercise its academic and educational judgment in investigating and resolving alleged or suspected violations of the Policy in a manner that is consistent with its mission and the various anti-discrimination laws that apply to its programs.

The College is committed to promptly, fairly, impartially, and equitably resolving alleged or suspected violations of the Policy. The College's investigation and resolution of alleged violations, including the issuance of any sanctions, will typically be completed within 90 calendar days. The College's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the Complainant is willing to file a complaint or participate in an investigation, the location where the alleged conduct occurred, and the College's access to information relevant to the alleged or suspected violation of the Policy. The College is nonetheless committed to investigating and resolving all alleged and suspected violations of the Policy to the fullest extent possible under the circumstances. In instances where an alleged or suspected victim of conduct that violates the Policy is unwilling or unable to file a formal complaint, the College, through a representative selected by the College, may elect to proceed with a complaint and to seek resolution of the complaint in accordance with the Investigation and Grievance Procedures described below or other process that resolves the complaint in a manner consistent with applicable law and relevant OCR or other governmental guidance. In any case, the unwillingness of an alleged victim to proceed with a complaint is not a violation of this policy.

These Investigation and Grievance Procedures ("Procedures") apply to all suspected or alleged violations of the Policy by students and will be used in place of the Augustana Code of Social Conduct or any other student conduct policies or procedures used to address other alleged misconduct involving students. In addition, any sanctions or other corrective actions imposed against students who violate the Policy shall be imposed pursuant to these Procedures, rather than pursuant to the Code of Social Conduct, Student Judiciary procedures, or any other set of policies and procedures governing student conduct, unless the College determines in its discretion that the Code of Social Conduct, Student Judiciary procedures, or other policy governing student conduct should be used to resolve a particular matter. In addition, the College may, upon finding of good cause, modify these Procedures in the interests of promoting full and fair resolution of suspected or alleged violations of the Policy in accordance with applicable law. The College officials responsible for investigating and resolving alleged violations of this Policy in accordance with these Investigation and Grievance Procedures will receive a minimum of 8 hours annual training on issues related to sexual assault, dating violence, and domestic violence, and how to conduct an investigation and hearing process that is fair, balanced, and equitable and promotes accountability.

## CONFIDENTIALITY

In matters involving incidents of sexual misconduct or other interpersonal misconduct, a request by an individual who is a victim for confidentiality will be respected to the extent allowable under federal and state law, and information pertaining to such incidents will be treated with sensitivity and disseminated with care when it is necessary to do so for purposes of conducting an investigation or taking appropriate corrective action. However, the College reserves the right (as permitted or required by applicable law) to issue timely warnings and make other announcements to the

College community when the College determines that there is a serious or continuing threat to members of the College community or that there is another significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on the College's campus. In making such announcements to students and employees, the College will withhold the names of victims as confidential to the greatest extent permitted by law. Under federal law, the College must report the occurrence of certain designated crimes that occur on campus or in certain other designated areas, including sex offenses as defined by the federal government, in an annual security report that is submitted to the U.S. Department of Education. This annual security report does not include personally identifiable information.

## **Initial Response, Interim Measures, and Investigation**

### **INITIAL RESPONSE**

Upon receiving a report or complaint alleging a violation of the Policy, the Title IX Coordinator or his/her designee will provide the Complainant a written statement of his/her rights and options under the Policy and these Procedures. The Complainant will also be informed of the availability of a confidential advisor. Confidential advisors provide confidential emergency and on-going assistance to victims of sexual assault upon request. Confidential advisors are employees of Family Resources- Survivor Services of the Quad Cities. The Title IX Coordinator or his/her designee will also meet with the Complainant and discuss fully the options afforded to him/her, including the availability of interim measures, the option to proceed with a formal complaint, the rights and responsibilities of both parties when a formal complaint is made (including the right to be accompanied during any College grievance proceeding and any related meeting by an advisor of their choice whose participation will be limited to consulting privately with the party accompanied by the advisor), the process of identifying potential witnesses, the Hearing Panel process, the prohibition against retaliation, and the need to preserve any relevant evidence or documentation. Any time after this meeting, a Complainant may choose to file a formal complaint, which initiates the College's disciplinary process. Interim measures may be requested by an individual regardless of whether that individual chooses to proceed with a formal complaint.

If a Complainant at that time requests that his/her identity remain confidential or chooses not to file a formal complaint and requests that the College not pursue an investigation, the College must still discharge its responsibility to understand what occurred and take steps to foster an educational environment that is free of discrimination and harassment for all members of the campus community. As a result, the College will seek to respect the Complainant's request, but it must also take into account the seriousness of the alleged misconduct and threats to community safety. Factors that will be considered include the following:

- Whether there have been other sexual violence complaints about the same alleged perpetrator;
- Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- Whether the alleged perpetrator threatened further sexual violence or other violence against the student or others;
- Whether the sexual violence was committed by multiple perpetrators;
- Whether the student's report suggests there is an increased risk of future acts of sexual violence under similar circumstances;
- Whether the sexual violence was perpetrated with a weapon;
- The age of the student subjected to the sexual violence; and
- Whether the College possesses other means to obtain relevant evidence.

If the College cannot abide by the Complainant's request for confidentiality, it will consult with the Complainant and provide information about his or her chosen course of action, including any interim measures that will be taken to protect the Complainant and ensure the safety of other students, which may be provided on an interim basis regardless of whether a Complainant proceeds with a formal complaint. The Title IX Coordinator will make the final determination regarding the College's ability to comply with a Complainant's request for confidentiality. A decision to honor a request for confidentiality may limit the College's ability to fully respond to the matter, including pursuing disciplinary action against the alleged perpetrator.

As soon as practicable after the Complainant files a formal complaint that reports a potential violation of the Policy, the individual accused of violating the Policy (the "Respondent") will be notified in writing that a complaint has been made. This notice will include known details such as the parties alleged to be involved, the specific section of the

Policy that was allegedly violated, the conduct allegedly constituting the Policy violation, and the date and location of the alleged incident. This notice may be amended or supplemented as additional information becomes available. The Respondent will also be informed of the options available to him/her, the rights and responsibilities of both parties (including the right to be accompanied during any College grievance proceeding and any related meeting by an advisor of their choice whose participation will be limited to consulting privately with the party accompanied by the advisor), the process of identifying potential witnesses, the Hearing Panel process, the prohibition against retaliation, the need to preserve any relevant evidence or documentation in the case, and the availability of interim measures and remedies. A written response may be provided by the Respondent, but a written response is not required. The notice to Respondent is not a determination of a Policy violation and the Respondent will not be deemed by the College to have violated the Policy unless and until (a) the Respondent accepts responsibility for the alleged Policy violation, or (b) the College's process for determining a Policy violation are followed, and a finding of responsibility has been made in accordance with the Policy.

The Respondent may elect to accept responsibility for all or part of the conduct alleged by the Complainant. In that case, the Title IX Coordinator or designee may continue their investigation in order to provide additional information that may be relevant in determining any appropriate sanctions. If the Respondent does not accept responsibility, the investigation process, as described below, will begin.

## **INTERIM MEASURES**

Upon receipt of a report or complaint alleging a violation of the Policy, the Title IX Coordinator or his/her designee will work with all parties involved in an alleged incident to promptly undertake any appropriate interim measures to protect the safety of the campus community and will seek to provide remedies for the parties that address their safety and well-being while the report is investigated, and if pursued, through the completion of any disciplinary proceedings. Interim measures and remedies may include counseling services, obtaining and enforcing campus no contact orders, honoring an order of protection entered by a State court, provision of escorts, housing support, including residence or other living modifications, along with academic, dining, transportation, and campus work accommodations. In addition, the College may, at its discretion, impose an interim suspension, an interim ban from the College campus, or interim leave of absence in cases where the College believes that such action is appropriate after assessing all factors in a particular case, such as the risk of harm to others and the risk of disruption or interference with normal College operations. The College will maintain as confidential any interim measures provided to the parties, to the extent that maintaining confidentiality will not impair the ability to provide the accommodations or protective measures. All parties will be informed that the College prohibits any retaliation against parties involved in reporting or witnessing allegations of violations of the Policy and that retaliation is grounds for disciplinary action. Interim measures may be requested at any time by a party, and regardless of whether an individual chooses to file a formal complaint of a Policy violation. When issued, however, interim measures have no bearing on the complaint process and do not suggest a finding of responsibility.

## **ACCOMMODATIONS**

College programs and procedures must be accessible to all students. Students who have a documented disability have the right to reasonable accommodations that are necessary to make college policies accessible, including these investigation and resolution procedures. Students with disabilities may request accommodations by contacting with the Director of Disability Services and filling out the "request for academic accommodations" form on the link provided: <https://www.augustana.edu/student-life/residential-life/disability-services>. The Title IX Coordinator or their designee will work with the Director of Disability Services to provide reasonable accommodations that are necessary to make these policies and procedures accessible. Students who have or think they may have a disability are invited to contact the Director of Disability Services for a confidential discussion. For more information, please contact [kamwilliams@augustana.edu](mailto:kamwilliams@augustana.edu) or visit room 314 of the Tredway Library.

## **INVESTIGATION**

Depending upon the nature of the alleged or suspected Policy violation and any requests by the Complainant for confidentiality or an election not to proceed with a formal complaint, the Title IX Coordinator will initiate and

coordinate an investigation of a reported violation of the Policy as soon as practical, appointing one or more campus officials who have been trained to conduct investigations.

The College is committed to undertaking prompt, thorough, impartial and fair investigations and to treating all individuals with respect and with sensitivity. The investigation of any suspected or alleged violation of the Policy will typically be completed and a resolution arrived at within 90 calendar days of the filing of a formal complaint or the date on which the College becomes aware of a suspected or alleged violation of the Policy, unless the College determines that additional time is required. The College will provide both parties with periodic updates regarding the status of the process. Extenuating circumstances often require the process to extend beyond that time frame and the College will determine in its discretion if such circumstances exist. If an extension is required, the College will inform both the Complainant and the Respondent of the delay and the reason for the delay.

The nature and extent of the investigation will vary depending upon the circumstances, including whether the parties are amenable to pursuing an informal resolution. Both parties will have equal procedural rights during the investigation and resolution of a complaint. Either party may report a conflict of interest on the part of the investigator to the Chief Title IX Coordinator and ask that the investigator be replaced. These requests must describe the reason for the challenge and must be received in writing by the Chief Title IX Coordinator within 3 calendar days of notification of the investigator. The College will determine whether a replacement of the investigator is warranted. As part of the investigation, the investigator(s) will seek to interview both the Complainant and the Respondent, as well as any other witnesses who the investigator determines can provide relevant information. Each party will receive written notice in advance of any interview to allow for meaningful preparation. The College may audio-record interviews of any parties and witnesses; this recording will be the property of the College and is not distributed to the parties.

To help ensure a prompt and thorough investigation, Complainants are asked to provide as much information as possible, including the following:

- The name, department, and position of the person or persons allegedly causing the prohibited discrimination, harassment, or retaliation.
- A description of any relevant incident(s), including the date(s), location(s), and the presence of any witnesses.
- The alleged effect of the incident(s) on the Complainant's opportunity to participate in or benefit from the College's programs or activities.
- The names of other individuals who might have relevant information about the alleged actions and/or have been subject to the same or similar acts of discrimination, harassment, or retaliation.
- Although it is not required, any steps the Complainant has taken to try to stop the discrimination, harassment, or retaliation.
- Any other information the Complainant believes to be relevant to the alleged discrimination, harassment, or retaliation.

The Respondent is also expected to provide as much information as possible in connection with the investigation.

The prior sexual history of the Complainant or Respondent will never be used as evidence of character or reputation. Evidence related to the prior sexual history of the parties is generally not used in determining whether a violation of this Policy has occurred and will only be considered during an investigation under limited circumstances. For example, where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent asserts that the conduct was consensual, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties, which may inform the determination whether consent was sought and reasonably appeared to have been given during the incident in question. The mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will only be permitted if it is probative of a material fact, for example to explain an injury or physical finding.

Both parties are entitled to bring an advisor of their choice to any meeting or interview in connection with these Procedures, provided that the involvement of the advisor does not result in undue delay of the meeting or proceeding. The role of the advisor of choice is limited to consulting privately with the party he/she accompanies.

Upon conclusion of the investigation, the investigator(s) will produce a report that summarizes and analyzes the relevant facts and any supporting documentation (which may include statements by the parties, third-party witnesses, or others with information and any physical, written, or electronic or other evidence) and shall provide such report to the Title IX Coordinator. This investigation report will be shared with the parties and will be used in either an informal or formal resolution procedure, as appropriate and as outlined below. Each party will have an opportunity to respond to the investigation report either in writing or before the Hearing Panel. Written responses must be received by the College within 7 calendar days after either party has received the investigation report. The investigation report is treated as a confidential document, and is intended to be shared only with individuals who have a "need to know" its contents. All individuals are expected to honor the confidential nature of the report. Disciplinary action may be taken in the event the confidential nature of the report is disregarded by a party or individual in the proceeding.

## **INFORMAL RESOLUTION PROCEDURE**

Allegations of sexual misconduct, including allegations of sexual assault or sexual violence, may be resolved informally when overseen by one or more College representatives if (i) the College determines, in its discretion, that informal resolution would be appropriate; and (ii) all parties agree to participate.

If mediation is used to achieve an informal resolution, the parties will not deal directly with one another without the College's involvement and approval, and without the consent of all parties. The Title IX Coordinator and the Complainant may agree to seek an informal resolution of the complaint by meeting with the Respondent, maintaining anonymity if appropriate or possible. The Title IX Coordinator can also arrange for any current member of the College faculty, staff or student community to be asked to assist with the informal process by meeting with both parties separately or together.

In all matters, the College will share the investigative report with both parties if such a report has been completed as of that time. A College official will discuss with the Complainant the outcome of the steps taken through the informal procedures. If the Complainant is satisfied, the informal procedure is completed and the resolution will be documented.

Any party may request that the informal resolution process be terminated at any time, in which case the formal resolution procedure would commence. In addition, any party can pursue formal resolution if he or she is dissatisfied with a proposed informal resolution. Finally, as described above, the College may elect to pursue a formal resolution procedure even if the Complainant does not wish to bring the matter to a Hearing Panel.

# **Formal Resolution Grievance Panel Procedure**

## **NOTICE OF HEARING**

The Title IX Coordinator or his/her designee will provide any written statements from the Complainant and Respondent along with the Investigation Report to the Chair of the Hearing Panel. Both parties will be informed in writing of the date, time, and location of the hearing and will be informed of the names of persons serving on the Hearing Panel. The parties will be given at least 14 calendar days advance notice of the hearing unless the Title IX Coordinator determines that less time is appropriate or required in a given situation. If the alleged victim of a sexual assault elects not to participate in a hearing, the College reserves the right to take the matter to a hearing.

Either party may request that the hearing be rescheduled at any time and must specify the reasons for the request. The Title IX Coordinator or his/her designee for the case will determine whether to grant the request, and will base the decision on factors such as the time of the request and the impact the requested change will have on all other parties and witnesses, as well as the Hearing Panel.

Either party may ask that a member of the Hearing Panel, the sanctioning official (the Dean of Students), or the appeal official (the Vice President of Diversity and Inclusion) be removed if the party believes that person has bias, conflict of interest or cannot be fair and impartial. These requests must describe the reason for the challenge and

must be received in writing by the Title IX Coordinator or his/her designee within 3 calendar days of notification of the Hearing Panel members. The Title IX Coordinator shall determine whether the challenge is valid and to make changes to the Hearing Panel the sanctioning official, or the appeal official.

## **COMPOSITION OF THE HEARING PANEL**

Hearings to address complaints alleging violations of the Policy by students will be conducted by a Hearing Panel, except that the Dean of Students or his or her designee may conduct a hearing in extraordinary circumstances if the Hearing Panel cannot reasonably be convened or if the College determines that an alternative process is appropriate under the circumstances. The Hearing Panel shall consist of three persons that are drawn from the College's Committee on Harassment and Discrimination, which consists of faculty members and staff members from the College community who have received proper training. One of these three persons will be designated as the Chair of the Hearing Panel.

## **PRIOR TO THE HEARING**

The Title IX Coordinator or his/her designee will offer to meet individually with the parties to answer any questions and explain the process as soon as possible after issuing the notice of hearing.

Each party may choose to have an advisor of his or her choice accompany him or her to the hearing and any related meeting or proceeding, so long as the advisor does not have a conflict of interest based upon his or her involvement with the Investigation and Grievance Procedures set forth above. Such an advisor may speak privately to their advisee, but such an advisor may not present evidence, question witnesses, or otherwise participate directly in the hearing or related meeting. This advisor does not represent a party at the hearing and does not have an active voice during the proceedings, but can provide advice during the hearing or during adjournments and breaks to their advisee only. A confidential advisor may serve as a party's advisor of choice.

## **WITNESS, IMPACT & CHARACTER STATEMENTS**

Each party may submit a list of proposed witnesses to the Title IX Coordinator or his/her designee within seven (7) days after the College has delivered the investigative report. Character witnesses are not allowed. If a party requests that a witness be heard at the hearing and that individual was not interviewed in the course of the investigation, the party must provide in writing a rationale for including that witness. The Title IX Coordinator or his/her designee will determine whether that witness may be called, or will ask that the investigator interview the witness as well. If a witness cannot or feels that s/he should not appear during the hearing s/he must submit a short written explanation to the Title IX Coordinator at least 3 calendar days prior to the hearing. The final approved witness list will be shared with the parties at least 2 calendar days prior to the Hearing.

Both parties may prepare and present impact statements and letters attesting as to character in sealed envelopes to the Chair of the Hearing Panel at the outset of the hearing. These statements will be used solely by the Dean of Students for the purposes of determining any appropriate sanctions after the Hearing Panel concludes its deliberations.

## **GRIEVANCE HEARING**

### **Attendance**

Hearings will be closed to anyone who is not directly involved in the case as a party, advisor of the party's choice (as described above), Investigator, Title IX Coordinator, Hearing Panel member, any witness invited by the Hearing Panel. The College recognizes that both parties have the right to engage legal representation at their own expense. Unless present as a party's advisor of choice, attorneys are not permitted to be present during a Hearing Panel proceeding. The College may at its discretion designate its own attorney to be present or otherwise available during proceedings before the Hearing Panel and provide legal counsel to the Chair and the Hearing Panel members. The Chair of the Hearing Panel will determine which witnesses to invite to the hearing in advance of the hearing. Witnesses will be present only during their period of testimony and questioning.

Either the Complainant or the Respondent may request to participate in the hearing through a method that limits or does not require physical presence in the hearing room, and any such request will be submitted to the Title IX

Coordinator or his/her designee for approval. For instance, a party could participate using technology or they may request the use of partitions in the hearing room. Witnesses may also participate using technology. Such requests must be approved in advance by the Title IX Coordinator or his/her designee to ensure that they do not compromise fairness and equity. The Complainant and Respondent will have equal access to information before and during the hearing. The College will arrange for audio-recording the entire Hearing; this recording will be the property of the College and is not distributed to the parties. The Hearing Panel's deliberations will not be recorded.

### **Sequence of the Hearing**

1. The hearing will begin with the Chair calling the hearing to order and explaining the process.
2. The Chair reminds the parties that the proceedings are confidential and asks each person present to state their name and role for the record.
3. The Chair confirms that both parties have had an opportunity to review the investigation report.
4. The Hearing Panel then questions the Complainant. The Respondent is not permitted to address the Complainant directly, but may present written questions for the Complainant to the Chair, who will determine whether the questions are relevant and appropriate and, if so, read them aloud for the Complainant to respond. The Chair will have the discretion to deny questions that are inflammatory or otherwise inappropriate. The Complainant will have the opportunity to share with the Hearing Panel any questions or comments related to the investigation report. The Hearing Panel will then call and ask questions of each witness for Complainant. Both parties will have the opportunity to ask relevant questions of any witnesses.
5. The Hearing Panel will question the Respondent and witnesses for the Respondent following the same process outlined in (4) above.
6. At the conclusion of the hearing, the Hearing Panel will meet in closed session to make a decision on the matter by majority vote. College counsel may remain in the room but will neither vote nor participate in the deliberations.
7. The Hearing Panel's decision will rest on whether or not the Respondent was found in violation of the Policy, based solely on the evidence presented at the hearing. The Hearing Panel will use a preponderance-of-the-evidence standard (i.e., whether it is more likely than not that the Respondent violated the Policy).
8. The Panel will notify the Dean of Students and Title IX Coordinator of its decision.
9. To the greatest extent possible, the Complainant and Respondent will be notified simultaneously of the outcome of the hearing within 24 hours of the conclusion of the Panel's deliberations.
10. Both during and after a hearing, neither the Respondent or the Complainant (or their advisors or representatives) may contact a member of the Hearing Panel about the hearing or the decision of the Hearing Panel. Any questions or concerns must be directed to a Title IX Coordinator and/or expressed in an appeal, as outlined below.

## **Sanctions & Corrective Action**

Upon reviewing the Hearing Panel's decision and any impact or character statements submitted by the Respondent and/or the Complainant, and/or, upon receiving an election to accept responsibility, the Dean of Students will determine what, if any, sanctions will be imposed and will notify each party simultaneously in writing of any sanctions and when they go into effect, along with a description of the appeal rights of the parties. The Dean of Students will also provide a copy of his or her decision regarding sanctions to the Title IX Coordinator. The College may designate an alternative individual for sanctioning should it determine that an alternative is required.

The College will take reasonable steps to prevent the recurrence of any violations of the Policy and to correct the discriminatory effects on the Complainant (and others, if appropriate). The range of potential sanctions and corrective actions that may be imposed for any violation of this Policy includes but is not limited to the following:

- Verbal warning
- Written warning
- Mandatory discrimination or harassment training or education
- Mandatory counseling
- Disciplinary hold on academic and/or financial records
- College campus access restrictions
- Housing restrictions on campus, class enrollment restrictions, other campus restrictions such as dining hours, library hours, etc.
- Ineligibility to participate in extra-curricular activities such as athletics
- Probation, suspension, and dismissal from the College

Corrective actions taken by the College might also include, but are not limited to: providing and/or requiring appropriate forms of counseling and training, developing educational materials and programming, implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns of violations. Additional corrective actions for a Complainant may include, but are not limited to, support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support.

When a student is found responsible for sexual assault, which is one form of prohibited sexual misconduct under this Policy, the following sanctions that are common in addition to any of the sanctions listed above. In all cases, however, the sanctions assigned to a student found responsible will depend on the full context in which the offense takes place. For instance, repeat offenders can expect to be assigned more severe sanctions than if they did not have prior offenses. Offenders who commit multiple offenses in a single episode can expect to be assigned more severe sanctions than they would have been assigned had they committed fewer offenses. The presence of aggravating factors such as the use of force, the use of a weapon, the involvement of multiple perpetrators, intimidation or intentional incapacitation will also lead to more severe sanctions.

#### **Sexual Assault: Non-consensual Sexual Intercourse**

Sanctions for non-consensual sexual intercourse may result in suspension to expulsion from the College.

#### **Sexual Assault: Attempted Sexual Intercourse**

Sanctions for attempted sexual intercourse may result in probation up to expulsion.

#### **Sexual Assault: Touching**

Sanctions for non-consensual sexual touching may result in probation up to expulsion.

In no event will either party in matters involving an alleged violation of the Policy that involves sex discrimination, sexual harassment, or other sexual misconduct be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome or of the alleged violation. In instances where the College is unable to take disciplinary or other corrective action in response to a violation of this policy because a Complainant insists on confidentiality or for some other reason, the College will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

#### **Appeal Process**

Each party has the right to submit a written appeal to a Title IX Coordinator within 10 calendar days (a) of being notified of the Hearing Panel's decision or (b) of the Dean of Student's decision regarding sanctions, whichever comes later. Appeals may be filed only on grounds of (1) relevant, substantive and new information not available at the time of the hearing, (2) alleged bias of the Chair or members of the Hearing Panel, (3) material procedural error, or (4) on the grounds of an excessively harsh or lenient sanction. **The appeal must specifically state the grounds upon which it is made.**

The Title IX Coordinator will inform the parties whether the grounds for appeal have been met. The party that did not initiate the appeal will have 7 calendar days to submit a written response, at his or her choosing. Within 30 calendar days of the deadline for receiving this written response (a) the appeal will be reviewed by a three person panel ("the Appeal Panel") consisting of the Vice President of Diversity, Equity, and Inclusion or his/her designee and two



members of the Committee on Harassment and Discrimination who did not participate in the initial hearing; and (b) the Appeal Panel will notify the parties in writing of the outcome of the appeal.

The appeal is not a de novo review and will be based on the materials submitted by the parties and the record of the original hearing. If new and substantive evidence has arisen, the appeal panel can remand the case to the original hearing panel for reconsideration and a new determination. Both parties will be informed simultaneously in writing of the outcome of any appeal within three calendar days of the conclusion of the appeals review. Appeal decisions by the Appeal Panel are final.

## **RECORDS MAINTENANCE**

The College will maintain documentation and records regarding alleged violations of the Policy and their resolution in a manner that protects the confidentiality of the parties involved, complies with the Family Educational Rights and Privacy Act, and to the extent possible excludes personally identifiable information of victims of domestic violence, dating violence, and stalking.

The hearing audio-recording and evidence presented at the hearing will be maintained by the Title IX Coordinator and will be property of the College. If a student has been found responsible for violating the Policy, this finding remains a part of that student's conduct record. The finding is not referenced on a student's transcript.

# **Educational Programming**

The College will provide the following education programming designed to promote the awareness of sexual assault, domestic violence, dating violence and stalking.

### **Employees with Responsibility for Receiving Reports of Violations of this Policy; Providing or Referring Services to Victims; and/or Adjudicating Alleged Violations of this Policy**

- Training on at least an annual basis on the issues related to sexual assault, sexual violence, dating violence and stalking; and
- Training on at least an annual basis on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

## **PRIMARY PREVENTION AND AWARENESS PROGRAMS**

The College will provide primary prevention and awareness programs for all incoming students and new employees that includes the following:

- a statement that the College prohibits the offenses of discrimination, harassment, sexual assault, domestic violence, dating violence and stalking, and a description of the College's policies that prohibit this conduct;
- the definition of consent and inability to consent, in reference to sexual activity, as defined in this Policy and under Illinois law;
- the definition of discrimination, harassment, including sexual assault, domestic violence, dating violence, and stalking (or similar offenses) in this Policy and under Illinois law;
- safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of discrimination, harassment, sexual assault, domestic violence, dating violence and stalking against a person other than such individual;
- information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- the procedures that a Complainant/victim should follow if discrimination, harassment, sexual assault, domestic violence, dating violence and stalking has occurred, as described in this Policy, including options for a Complainant/victim to report such incidents to a confidential advisor or other confidential resource;
- the possible sanctions and protective measures that the College may impose following a final determination of a violation of College policy regarding discrimination, harassment, sexual assault, domestic violence, dating violence and stalking;
- the procedures for College disciplinary action in cases of alleged discrimination, harassment, sexual assault,

domestic violence, dating violence and stalking, as described in this Policy, including the standard of proof that is used;

- information about how the College will protect the confidentiality of Reporting Parties, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the Reporting Party, to the extent permissible by law;
- information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for student and employee accusers and victims both on-campus and in the community; and
- information about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by a Complainant and if such accommodations are reasonably available, regardless of whether the Complainant chooses to report the crime to campus security or local law enforcement.

## **ONGOING PREVENTION AND AWARENESS CAMPAIGNS**

The College will also provide ongoing prevention and awareness campaigns for students and employees that include the information covered in the primary prevention and awareness programs.

## **CHANGES IN THIS POLICY**

The College reserves the right to make adjustments and changes in this policy at any time.

***Policy Updated: August 20, 2019***