

Augustana College, Rock Island, Illinois  
2023 Annual Security and Fire Safety Report  
*Reporting on Calendar Year 2022*

## **Reporting Crimes and Other Emergencies**

The Office of Police and Public Safety is a combination of sworn Augustana College police officers and non-sworn, unarmed Augustana College public safety officers. The police officers are employees of the college that have completed a certified police academy. The Chief of Police is the sole police officer. The Chief is generally on duty Monday-Friday from 8 a.m. - 4:30 p.m. The police officer have the power to arrest on college property, at a college-sponsored event or if an offense is committed in their presence. However, in the rare occasions when an arrest or investigation of a felony offense is warranted, the Rock Island Police Department usually will be asked to intervene.

Augustana public safety officers are on duty 24 hours a day. They are non-sworn, unarmed employees of the college who, among other general safety and surveillance responsibilities, report violations of the Code of Social Conduct directly to the Dean of Students. Although Public Safety staff will handle minor disturbances or disputes between students, they will contact Augustana's sworn officers or the Rock Island Police Department when circumstances indicate that such intervention might be necessary to control a given situation. The Office of Police and Public Safety has a close working relationship with the Rock Island Police Department, the Rock Island County Sheriff's Office and the Illinois State Police.

A student-operated transportation service, Augustana College Express Service (ACES) (ext. 7550), is available usually beginning the third week of fall term. Normal operating hours are 7 days per week from 6:00 p.m. - 12:30 a.m. The van will take students to and from campus and nearby off-campus locations.

Situations requiring an emergency response should be reported to the local emergency '911' service. All members of the campus community are also encouraged to immediately report criminal actions or emergency situations to the Office of Police and Public Safety, after emergency services has been notified. Situations not requiring emergency response can be reported to Police and Public Safety, Residential Life, the Dean of Students or the Office of Student Life and Leadership for referral. A confidential incident report may be filed through the Dean of Students webpage. To contact Police and Public Safety, dial 309-794-7711. To contact local emergency services including ambulances, Rock Island Fire and Police Departments, dial 9-911 if calling from a campus phone or 911 if using a non-campus phone.

Concerns may also be reported to the College's Campus Conduct Hotline at 1-866-943-5787. The Campus Conduct Hotline is a confidential, independent, call-in service that provides a

simple, anonymous way for concerns to be reported. The service is available 24 hours a day, 365 days a year.

## **Annual Security Report**

By October 1 of each year, the Annual Security and Fire Safety Report is distributed to all enrolled students and current employees. Distribution is completed by electronic mail. This Report is also available online for viewing by prospective students and employees. The Annual Security and Fire Safety Report is posted on the Augustana website at

<http://www.augustana.edu/studentlife/security/crime-statistics>. The Chief of Police is responsible for publishing the Annual Security and Fire Safety Report. The Office of Police and Public Safety is responsible for gathering crime statistics from the department's report records and other college officials that have significant responsibility for student and campus activities. On an annual basis, the Office of Police and Public Safety makes every attempt to collect crime statistics for non-campus and public property surrounding college property from the law enforcement agencies.

## **Timely Warnings**

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act 20 U.S.C. § 1092(f) hereafter referred to as the Clery Act, Augustana College will issue timely warnings to notify members of the campus community about certain crimes, defined by the Clery Act, when such crimes occur on the Augustana College campus and the crime represents a serious or continuing threat to members of the campus community. A timely warning shall be issued as soon as pertinent information is made available to the Augustana College Office of Police and Public Safety or a campus security authority. The decision to issue a timely warning is made through a consultation between the Office of Police and Public Safety, the Office of the Dean of Students and other offices of the college as appropriate. A message will be sent via text, email, social media, and posted on the college's web page.

## **Emergency Response – Emergency Response and Evacuation Procedures**

Augustana College maintains all-hazards Campus Emergency Operation and Campus Violence Prevention Plans in coordination with local emergency response agencies. The Chief of Police or his/her designee will notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of the Augustana College community. The validity of existing emergency situations will be confirmed by credible eyewitness reports from police and public safety officers and college employees. Other officials or emergency management personnel may need to be consulted regarding incidents such as severe weather conditions, hazardous materials spills or facility-related issues. Once the type of emergency and emergency response required has been determined, emergency response resources will be contacted and the appropriate emergency notifications will be promptly disseminated via the emergency notification systems and other information pathways. Taking

into account the safety of the community, a determination will be made as to the appropriate segment of the campus community to receive a notification. After determining the content of the notification to be broadcast, Augustana College will initiate the emergency notification system. The emergency notifications will be made by Augustana College Police and Public Safety officials or the Office of Public Relations and will be disseminated via the college's Omnilert emergency notification network, voice mail alert, campus-wide email, and the college's official social media sites. If it is determined the emergency or dangerous situation threatens communities surrounding our campuses, local emergency services will be notified. Emergency notifications may only be withheld if, in the professional judgment of the responsible authorities, the warnings will compromise efforts to assist victims or to contain, respond to or otherwise mitigate the emergency. Augustana College tests its emergency response and evacuation procedures on a quarterly basis. Each test is documented with the description of the exercise, date, time and whether it was announced or unannounced. Emergency tabletop exercises are conducted annually by Augustana College administrators and stakeholders in accordance with the Illinois Campus Security Enhancement Act of 2008 (110 ILCS 12/20). Through its efforts, Augustana College has been recognized by the State of Illinois and has received the Ready to Respond seal.

## **Security of and Access to Campus Facilities**

The following information is intended to outline the measures taken to promote the safety and security of the various facilities on the Augustana campus.

### **Academic Buildings**

Each of the various academic buildings are locked at their specified closing time (a detailed listing of the specific building closing times can be found in [Inside Augustana](#)) by a staff member of the Office of Police and Public Safety. This procedure involves a complete walkthrough of the building and ensuring that all exterior entrances are secured. This is followed by a second check during the overnight hours.

### **Contractor Procedures**

All outside contractors who find it necessary to enter any student living area are required to register with the Office of Police and Public Safety Dispatch Center on the lower level of Sorensen Hall on a daily basis. Any keys which are required by the contractor for the completion of the work are checked out on a daily basis by the contractor and are required to be returned at the end of the work day.

All Augustana employees who enter or work in student living areas are expected to be in uniform. Additionally, all employees are provided with a photo ID badge. In the event they are not in uniform they are expected to wear the photo ID on display.

### **Residence Halls**

The five primary residence halls are secured 24 hours a day with access to the building lobby regulated via a proximity card access system. Additionally, each of the halls features a second

level of security which restricts access to the student living areas to building residents. A full-time Residential Life staff member is on call 24 hours a day for emergencies that occur in either the residence halls or transitional living areas.

### **Transitional Living Area (TLA) Housing**

Students living in other college-owned housing (transitional living areas) are instructed to keep all exterior entrances to the residences locked 24 hours a day.

### **Camera Surveillance System**

Augustana College uses a network of security cameras to monitor the entryways of our residence halls as well as other high profile areas of the campus. These cameras are recorded in the Dispatch Center of the Office of Police and Public Safety. Dispatchers periodically monitor these cameras but do not actively view them at all times.

### **Campus Law Enforcement Policy**

The Office of Police and Public Safety is a combination of sworn, armed Augustana College Police Officers and non-sworn, unarmed Augustana College Public Safety Officers. These Police Officers received their authority from the Illinois Compiled Statutes, Private College Campus Police Act, Chapter 110, Act 1020, Section 1 which provides as follows:

The Board of Trustees of a private college or private university may appoint persons to be members of a campus police department. The Board shall assign duties, including the enforcement of college or university regulations, and prescribe the oath of office. With respect to any such campus police department established for police protection, the members of such campus police department shall be persons who have successfully completed the Minimum Standards Basic Law Enforcement Training Course offered at a police training school established under the Illinois Police Training Act, as such Act may be now or hereafter amended. All members of such campus police departments must also successfully complete the Firearms Training for Peace Officers established under the Peace Officer and Probation Officer Firearm Training Act. Members of the campus police department shall have the powers of municipal peace officers and county sheriffs, including the power to make arrests under the circumstances prescribed in Section 107-2 of the Code of Criminal Procedure of 1963, as amended, for violations of state statutes or municipal or county ordinances, including the ability to regulate and control traffic on the public way contiguous to the college or university property, for the protection of students, employees, visitors and their property, and the property branches, and interests of the college or university, in the county where the college or university is located. Campus police shall have no authority to serve civil process.

The Augustana Police Officers have jurisdiction within the State of Illinois with their primary patrol activity being the main Augustana campus located between 30<sup>th</sup> Street and 39<sup>th</sup>

Street, and 5<sup>th</sup> Avenue and 14<sup>th</sup> Avenue, Rock Island, Illinois. Augustana Public Safety Officers have the same arrest authority as a citizen of Illinois.

## **Working Relationship with State and Local Law Enforcement**

The Office of Police and Public Safety has a close working relationship with the Rock Island Police Department, the Rock Island County Sheriff's Office and the Illinois State Police. Reporting of criminal activity and alcohol-related violations that occur during events sanctioned by the college at off-campus locations is facilitated through contact with the police department of the city the event occurred. There is no formal mutual aid agreement between the Rock Island Police Department and Augustana College.

## **Daily Crime Log**

The Dean of Students and the Office of Police and Public Safety publish an annual crime report. A daily log of reported crimes is maintained by the Office of Police and Public Safety and is available weekdays between the hours of 7 a.m.-4 p.m. at the Police and Public Safety Dispatch Center on the ground floor of Sorensen Hall.

## **Security Awareness Programs**

Beginning with orientation during the fall term and continuing throughout the year, security is a highly visible topic on campus. "Security Week" is held during the first few weeks of the fall term and serves to reinforce the introduction to safety issues which were presented during New Student Orientation. Throughout the year the Offices of the Dean of Students, Residential Life, and Student Life and Leadership provides safety information for on- and off-campus residents. Programs during the year range from involving members of single residence hall floors taking greater precaution when securing their rooms, to an all-campus speaker sharing insights about acquaintance rape. Other topics offered deal with alcohol use, drug abuse, maintenance of property/home security, sexual assault, situational liability for the safety of others and personal protection.

Each spring, information on safety issues is offered to students considering moving off campus. Juniors are required to attend this program, which educates students about the risks of living independently and provides practical information for creating safer environments.

The safest campus is one in which all members feel welcomed and respected. Augustana College is committed to providing an environment where not only behaviors that we normally define as "crimes" are reported, investigated and dealt with, but also behaviors that may cause members of our community to not feel welcomed. This goal must be balanced with the need for open expression of ideas, which is the foundation of serious academic study. Behaviors that are insensitive to individuals or groups can be reported to the Office of Police/Public Safety, Dean of

Students or any Title IX Coordinator. The Augustana Bias Education and Support Team can also assist when individuals are subject to insensitive or offensive behaviors based on a protected class.

## **Crime Prevention Programs**

*Run-Hide-Fight* is a video released by the Department of Homeland Security with strategies on how to survive a mass shooting. This video is distributed to the campus community. The concepts are:

- Run if a safe path is available. Always try to escape or evacuate even if others insist on staying.
- Encourage others to leave with you but don't let the indecision of others slow down your own effort to escape.
- Once you are out of the line of fire, try to prevent others from walking into the danger zone and call 911.
- If you can't get out safely, find a place to hide.
- When hiding, turn out lights, remember to lock doors and silence your ringer and vibration mode on your cell phone.
- As a last resort, working together or alone, act with aggression, use improvised weapons and fight.

Augustana College has a program to assist students with traveling the campus at night. This program is the Augustana College Express Service or ACES. ACES operates from 6:00 p.m. to 12:30 a.m. 7 days per week. This is a van shuttle service that will transport students to academic buildings, campus events, and to the residence of students who live off campus.

Augustana has a safety app offered to all faculty, staff, and students through our emergency messaging company Omnilert. This safety allows people to call Augustana's Dispatcher Center, 9-1-1, or send a silent alert to Augustana's Public Safety Dispatch Center.

Awareness Programs: programs, activities and speakers whose purpose is to increase student awareness of safety issues and motivate students to behave with greater attention to their safety and the safety of others.

Bystander Intervention: behaviors undertaken by third parties to stop a potential perpetrator from harassing, annoying or assaulting another person.

## **Drug and Alcohol Policy**

The presence of alcoholic beverages at college-recognized student organization events is subject to the following:

If alcoholic beverages are present at an event sponsored by an Augustana student organization, no one other than the person who purchased them (who must be at least 21 years of age) may consume them.

All student organizations shall act in accordance with state and local laws and college rules and regulations governing the consumption of alcohol. In particular, minors may not possess alcohol, and no student shall purchase for, serve to, or sell alcoholic beverages to others.

All officers of the recognized student organization, individually and collectively, as well as the organization itself, shall be responsible for the full compliance of their organization with this policy.

No student organization or individual is permitted to purchase alcohol for use by an organization (i.e., dues or spontaneous collections of money among members may not be used). However, organizational funds may be used to finance a catered event where alcohol is available for purchase from a licensed vendor on an individual basis. This policy prohibits the selling of items which allow the purchasers access to free or reduced priced alcoholic beverages. This includes but is not limited to tickets, wristbands, t-shirts, cups, etc.

No distilled spirits or bulk containers (e.g., kegs, party balls, wine cartons) of alcohol are allowed at any student organization function, except when provided and dispensed by a licensed vendor.

Non-alcoholic beverages and food must be available at any organizational function where alcohol is being consumed.

No event that includes the continued consumption of alcohol shall be planned or promoted under the name of Augustana College or any college recognized student organization. Prohibited events include bar/pub crawls, progressive drinking parties or themes, barhopping events, and competitive games or contests involving alcohol.

Student organizations planning to have alcohol at an academic event must register with the Office of Student Activities at least 48 hours prior to the event.

For many reasons, including the safety of students and the Illinois law that prohibits drinking for persons under 21, the college limits alcohol use on campus to the following situations: (a) in some transitional living areas (TLAs), (b) at special occasions catered by the Augustana Dining Service, (c) at certain sporting events when alcohol is served by a licensed, third party provider that controls the service and consumption area, and (d) other limited events when it is determined that alcohol may be served and students are not present. The college advocates an atmosphere that

encourages abstinence from alcohol to protect those who could be injured or annoyed by the behavior of persons who might use alcohol irresponsibly. Still, recognizing the reality of alcohol consumption in our culture, the college respects the student's choice to drink legally and responsibly. Further, the college recognizes that some individuals who choose to use alcohol may develop difficulties in controlling their behavior, and that these persons may require professional assistance. In support of these concerns, the college offers a multifaceted program designed to educate the campus community about alcohol and encourage responsible decision-making concerning alcohol use while providing individual assistance to those who ask, or whose behavior indicates a possible abuse problem.

The Residential Life staff, along with the Associate Dean and Vice President of Student Life and the Office of Student Life and Leadership, offers a variety of educational programs throughout the year that address alcohol use. Augustana observes Alcohol Awareness Week and provides special activities during this time. GAMMA, a part of the college's Greek system, promotes responsibility in the use of alcohol and provides a yearlong sequence of social events designed to show students that they can have fun without abusing alcohol.

The college's primary means of monitoring the use of alcohol by students occurs in the residence halls. Because of their proximity to students, the Residential Life staff is in a position to observe problem behaviors and have conversations about the abuse of alcohol. Community advisors are trained to intervene through one-on-one contacts and to make referrals to their residence director or area coordinator. For violations of the Code of Conduct, the Dean of Students may initiate judicial action.

Persons providing alcoholic beverages to students, either on or off campus, will be held responsible for the consequences of their actions. The college has imposed \$1,000 fines and otherwise penalized individuals providing alcohol to students when that conduct has jeopardized the health or physical safety of the recipient.

In regard to drugs, the college distinguishes between alcohol and other drugs.

## **Employee Drug and Alcohol Policy**

### **Federal Drug Free Workplace Act**

Augustana College places a high value on students and employees and is committed to maintaining a safe and healthy learning environment and a workplace free from chemical substance abuse. Similarly, Augustana College is committed to compliance with the Drug-Free Workplace Act (1988) and the Drug-Free Schools and Communities Act of 1986 and Amendments of 1989.

Augustana College prohibits all employees (for this policy only, "employee" or "employees" includes student workers) from reporting to work or performing work for the college while impaired or under the influence of illegal drugs or alcohol.



The use, possession, dispensation, distribution, manufacture or sale of alcohol or illegal drugs by an employee in the workplace, or while the employee is on duty or official college business, is prohibited. This standard of conduct applies to all college-sponsored on-campus and off-campus activities. Any employee found to have violated this policy will be subject to discipline up to and including termination or dismissal. As appropriate, the college may refer individuals for treatment in lieu of or in addition to disciplinary action.

Federal law contains further prohibitions against the manufacture, possession with the intent to distribute or distribution of controlled substances, including narcotic drugs, depressant or stimulant substances. As appropriate, the college may refer individual cases to the appropriate authorities for legal action as part of its responsive action.

Any employee who is convicted of violating any criminal drug statute must report that conviction to the director of Human Resources no later than five days after the conviction. For purposes of this policy, "conviction" means a finding of guilt or the imposition of a sentence, or both, by any federal or state judicial body. Failure to report such a conviction may result in immediate dismissal.

Employees who drive an Augustana vehicle or personal vehicle for college business are required to promptly report any change in licensure status.

As part of the college's drug-free awareness efforts, an Employee Assistance Program is available for those in need of rehabilitation or counseling. This service is without charge to employees and family members. More information about the Employee Assistance Program is available in the benefits section of the All Employee Handbook.

Additional resources and information on this the health risks of drug and alcohol use along a description of the legal sanctions for the unlawful possession or distribution of illicit drugs and alcohol is available [here](#).

While the possession, use or distribution of alcoholic beverages on the premises or while at work is prohibited, the following situations are exemptions from this policy:

- alcoholic beverages served and consumed by employees at special meetings or events that are catered by Augustana Dining Services or at which the College has approved the serving of such beverages, with a designated individual to monitor alcohol service
- the private apartments of residence hall directors
- other special events under the direction of a member of the Cabinet

Alcohol should not be served in locations where students are present. Alcohol may be served in confined consumption areas and in the Kenny Anderson All-American Club.

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**Appendix Policy:**

**Alcohol & Illegal Drug Abuse** *Frequently utilized local resources for evaluation*

**Al-Anon Information Service**

2033 E. 32nd St.  
Davenport, IA 52807-2050  
563-323-1521

**Alcoholics Anonymous Illowa Intergroup**

1706 Brady St., Suite 201  
Davenport, IA 52803  
309-764-1016

**Center for Alcohol and Drugs Services (CADS)**

1523 S. Fairmount St.  
Davenport, IA 52801  
563-322-2667

**Center for Alcohol and Drugs Services (CADS)**

4230 11th St.  
Rock Island, IL 61201  
309-788-4571

**Genesis Addiction Recovery Center**

1401 West Central Park  
Davenport, IA 52803  
563-421-2900

**R.I. County Council on Addiction**

1607 John Deere Road  
East Moline, IL 61244  
309-792-0292

**Riverside Retreat Trinity Medical Center – West**

2701 17th St. Rock Island, IL 61201  
309-779-3000

**National toll-free numbers concerned with alcohol and drug abuse**

Alcohol and Drug Referral Hot Line, 1-800-252-6465  
Al-Anon, 1-800-344-2666  
Narcotics Anonymous World Services, 1-818-773-9999  
National Drug & Alcohol Treatment Referral Service, 1-800-662-4357

The following is provided to give a brief guide to the effects of alcohol and a variety of commonly abused drugs and to the criminal penalties that may accompany the conviction for the illegal manufacture, distribution, dispensing, possession or use of controlled substances.

### **State, Local and Federal Applicable Sanctions**

[Drugs of Abuse Chart](#) from the National Institute on Drug Abuse

[Illinois Drug Laws](#) from the Illinois General Assembly (marijuana laws also are available in a [simplified table](#))

[Federal Drug Trafficking Penalties Chart](#) from the United States Drug Enforcement Administration

## **Health Risks Associated with the Use of Illicit Drugs and the Abuse of Alcohol**

### **Alcohol Health Risks Information**

**The following information on health risks is from the Center for Disease Control and Prevention:**

Drinking too much can harm your health. Excessive alcohol use led to approximately 95,000 deaths and 2.8 million years of potential life lost (YPLL) each year in the United States from 2011 – 2015, shortening the lives of those who died by an average of 29 years. Further, excessive drinking was responsible for 1 in 10 deaths among working-age adults aged 20-64 years. The economic costs of excessive alcohol consumption in 2010 were estimated at \$249 billion, or \$2.05 a drink.

The Dietary Guidelines for Americans defines moderate drinking as up to 1 drink per day for women and up to 2 drinks per day for men. In addition, the Dietary Guidelines do not recommend that individuals who do not drink alcohol start drinking for any reason. Excessive alcohol use has immediate effects that increase the risk of many harmful health conditions. Over time, excessive alcohol use can lead to the development of chronic diseases and other serious problems including: High blood pressure, heart disease, stroke, liver disease, and digestive problems; Cancer of the breast, mouth, throat, esophagus, voice box, liver, colon, and rectum; Weakening of the immune system, increasing the chances of getting sick; Learning and memory problems, including dementia and poor school performance; Mental health problems, including depression and anxiety; Social problems, including family problems, job-related problems, and unemployment; Alcohol use disorders, or alcohol dependence.

By not drinking too much, you can reduce the risk of these short- and long-term health risks.

Information available at CDC website: <https://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm>

## **Marijuana Health Risks Information**

**The following information on health risks is from the Centers for Disease Control and Prevention:**

Marijuana is the most commonly used illegal drug in the United States, and marijuana use may have a wide range of health effects on the body and brain.

About 1 in 10 marijuana users may experience some form of addiction. For people who begin using before the age of 18, that number rises to 1 in 6. People who are addicted to marijuana may also be at a higher risk of other negative consequences of using the drug, such as problems with attention, memory, and learning. Some people who are addicted may need to smoke more and more marijuana to get the same high. It is also important to be aware that the amount of tetrahydrocannabinol (THC) in marijuana (i.e., marijuana potency or strength) has increased over the past few decades. The higher the THC content, the stronger the effects on the brain. In addition, some methods of using marijuana (e.g., dabbing, edibles) may deliver very high levels of THC to the user.

In many cases, marijuana is smoked in the form of hand-rolled cigarettes (joints), in pipes or water pipes (bongs), in bowls, or in blunts – emptied cigars that have been partly or completely refilled with marijuana. Smoked marijuana, in any form, can harm lung tissues and cause scarring and damage to small blood vessels. Smoke from marijuana contains many of the same toxins, irritants, and carcinogens as tobacco smoke. Smoking marijuana can also lead to a greater risk of bronchitis, cough, and phlegm production. These symptoms generally improve when marijuana smokers quit.

Marijuana use, especially frequent (daily or near daily) use and use in high doses, can cause disorientation, and sometimes cause unpleasant thoughts or feelings of anxiety and paranoia. Marijuana use is associated with temporary psychosis (no knowing what is real, hallucinations and paranoia) and long-lasting mental health challenges, including schizophrenia (a type of mental illness where people might see or hear things that aren't really there).

Marijuana use has also been linked to depression and anxiety, and suicide among teens. However, it is not known whether this is a causal relationship or simply an association.

Information available at CDC website: <https://www.cdc.gov/marijuana/factsheets/teen.html>; <https://www.cdc.gov/marijuana/health-effects.html>

## **MDMA Health Risks Information**

**The following information on health risks is from the National Institute on Drug Abuse:**

People who use MDMA usually take it as a capsule or tablet, though some swallow it in liquid form or snort the powder. The popular nickname Molly (slang for “molecular”) often refers to the supposedly “pure” crystalline powder form of MDMA, usually sold in capsules. However, people who purchase powder or capsules sold as Molly often actually get other drugs such as synthetic cathinones (“bath salts”) instead. Some people take MDMA in combination with other drugs such as alcohol or marijuana.

MDMA increases the activity of three brain chemicals:

- Dopamine—produces increased energy/activity and acts in the reward system to reinforce behaviors
- Norepinephrine—increases heart rate and blood pressure, which are particularly risky for people with heart and blood vessel problems
- Serotonin—affects mood, appetite, sleep, and other functions. It also triggers hormones that affect sexual arousal and trust. The release of large amounts of serotonin likely causes the emotional closeness, elevated mood, and empathy felt by those who use MDMA.

Other health effects include:

- Nausea
- Muscle cramping
- Involuntary teeth clenching
- Blurred vision
- Chills
- Sweating

MDMA’s effects last about 3 to 6 hours, although many users take a second dose as the effects of the first dose begin to fade. Over the course of the week following moderate use of the drug, a person may experience irritability, impulsiveness and aggression, depression, sleep problems, anxiety, memory and attention problems, decreased appetite, and decreased interest in and pleasure from sex. It’s possible that some of these effects may be due to the combined use of MDMA with other drugs, especially marijuana. High doses of MDMA can affect the body’s ability to regulate temperature. This can lead to a spike in body temperature that can occasionally result in liver, kidney, or heart failure or even death.

Information available at NIH website:

<https://www.drugabuse.gov/publications/drugfacts/mdma-ecstasy-molly>

## **Prescription Opioids Health Risks**

**The following information on health risks is from the National Institute on Drug Abuse:**

Prescription opioids used for pain relief are generally safe when taken for a short time and as prescribed by a doctor, but they can be misused.

Opioids bind to and activate opioid receptors on cells located in many areas of the brain, spinal cord, and other organs in the body, especially those involved in feelings of pain and pleasure. When opioids attach to these receptors, they block pain signals sent from the brain to the body and release large amounts of dopamine throughout the body. This release can strongly reinforce the act of taking the drug, making the user want to repeat the experience.

In the short term, opioids can relieve pain and make people feel relaxed and happy. However, opioids can also have harmful effects, including drowsiness, confusion, nausea, constipation, euphoria, and slowed breathing. Opioid misuse can cause slowed breathing, which can cause hypoxia, a condition that results when too little oxygen reaches the brain. Hypoxia can have short- and long-term psychological and neurological effects, including coma, permanent brain damage, or death. Researchers are also investigating the long-term effects of opioid addiction on the brain, including whether damage can be reversed.

People addicted to an opioid medication who stop using the drug can have severe withdrawal symptoms that begin as early as a few hours after the drug was last taken. These symptoms include muscle and bone pain, sleep problems, diarrhea and vomiting, cold flashes with goose bumps, uncontrollable leg movements, and severe cravings.

An opioid overdose occurs when a person uses enough of the drug to produce life-threatening symptoms or death. When people overdose on an opioid medication, their breathing often slows or stops. This can decrease the amount of oxygen that reaches the brain, which can result in coma, permanent brain damage, or death.

If you suspect someone has overdosed, the most important step to take is to call 911 so he or she can receive immediate medical attention. Once medical personnel arrive, they will administer naloxone. Naloxone is a medicine that can treat an opioid overdose when given right away. It works by rapidly binding to opioid receptors and blocking the effects of opioid drugs. Naloxone is available as an injectable (needle) solution, a hand-held auto-injector (EVZIO®), and a nasal spray (NARCAN® Nasal Spray).

Information available at NIH website:

<https://www.drugabuse.gov/publications/drugfacts/prescription-opioids>

## **Student Drug and Alcohol Policy**

### **Alcohol**

The possession, storage, or consumption of alcoholic beverages on campus is prohibited. Exceptions to this rule are made for residents and guests of Transitional Living Areas who are 21

years old or older and who abide by the restrictions set forth under the subheading, Transitional Living Area Code of Conduct. Students in locations where alcohol is present will usually be considered in violation of this policy, even if not drinking or in possession of alcoholic beverages when a confrontation occurs.

Empty alcohol containers and bars will be considered violations of the alcohol policy. The use of hard liquor will result in doubled fines. If, as a result of intoxication, students leave bodily fluids in public areas, are unable to reasonably respond to questions, or fail to comply with staff requests they will be found responsible for violating this policy, even if they did not consume alcohol on campus.

### **Alcohol Amnesty Policy**

Alcohol amnesty protects a student from punitive sanctions for alcohol policy violations when the student is seeking help for a first time alcohol-related medical emergency. Alcohol amnesty for alcohol sanctions will be granted to students who, in good faith, report, or experience themselves, an alcohol emergency that requires acute emergency care (i.e. a transport to the emergency room). However, if campus officials (e.g., Residential Life staff, Augustana Public Safety/Police) intervene beforehand, a student will not be granted protection under this policy.

At its discretion, the college may choose to pursue educational interventions and/or undertake other actions necessary to protect the welfare of the campus community. Students may be held responsible for actions while intoxicated, as intoxication will not be viewed as an acceptable excuse to alleviate individuals of responsibility for other policy violations. The college's alcohol amnesty policy does not preclude action by other legal authorities.

### **Alcohol Policy**

The presence of alcoholic beverages at college-recognized student organization events is subject to the following:

- If alcoholic beverages are present at an event sponsored by an Augustana student organization, no one other than the person who purchased them (who must be at least 21 years of age) may consume them.
- All student organizations shall be in accordance with state and local laws and college rules and regulations governing the consumption of alcohol. In particular, minors may not possess alcohol, and no student shall purchase for, serve to, or sell alcoholic beverages to others.
- All officers of the recognized student organization, individually and collectively, as well as the organization itself, shall be responsible for the full compliance of their organization with this policy.
- No student organization or individual is permitted to purchase alcohol for use by an organization (i.e., dues or spontaneous collections of money among members may not be used). However, organizational funds may be used to finance a catered event where alcohol is available for purchase from a licensed vendor on an individual basis. This policy prohibits the

selling of items which allow the purchasers access to free or reduced priced alcoholic beverages. This includes but is not limited to tickets, wristbands, t-shirts, cups, etc.

- No distilled spirits or bulk containers (e.g., kegs, party balls, wine cartons) of alcohol are allowed at any student organization function, except when provided and dispensed by a licensed vendor.
- Sufficient non-alcoholic beverages and food must be available at any organizational function where alcohol is being consumed.
- No event that includes the continued consumption of alcohol shall be planned or promoted under the name of Augustana College or any college recognized student organization. Prohibited events include bar/pub crawls, progressive drinking parties or themes, bar-hopping events, and competitive games or contests involving alcohol.
- Student organizations planning to have alcohol at an event must register with the Office of Student Life and Leadership at least 48 hours prior to the event.
- During the Greek Life New Member Period, alcohol consumption is prohibited 8 hours prior to, and during, the hours designated as "New Member Hours" by the College, for all members of the Greek community who participate in or who are present during the new member process, regardless of age or active status.
- Campus authorities with an authorization to search have the right to search any member of the Augustana community for alcohol or drugs at any time.

For many reasons, including the safety of students and the Illinois law that prohibits drinking for persons under 21, the college does not allow alcohol use on campus except in some Transitional Living Areas (TLAs) and at special occasions catered by the Augustana Dining Service. The college advocates an atmosphere that encourages abstinence from alcohol to protect those who could be injured or annoyed by the behavior of persons who might use alcohol irresponsibly. Still, recognizing the reality of alcohol consumption in our culture, the college respects the student's choice to drink legally and responsibly. Further, the college recognizes that some individuals who choose to use alcohol may develop difficulties in controlling their behavior, and that these persons may require professional assistance. In support of these concerns, the college offers a multifaceted program designed to educate the campus community about alcohol and encourage responsible decision-making concerning alcohol use while providing individual assistance to those who ask, or whose behavior indicates a possible abuse problem.

The Residential Life staff, along with the Office of Student Life and Leadership, and Director of Student Well-being and Resiliency offer a variety of educational programs throughout the year which address alcohol use. Augustana observes Alcohol Awareness Week and provides special activities during this time.

The college's primary means of monitoring the use of alcohol by students occurs in the residence halls. Because of their proximity to students, the Residential Life staff is in a position to observe problem behaviors and have conversations about the abuse of alcohol. Community advisors are trained to intervene through one-on-one contacts and to make referrals to their Resident Director,



Area Coordinator, the Director of Residential Life, Medical Services Coordinator, Director of Student Well-Being and Resiliency, the Dean of Students or the Director of Counseling, as appropriate. For violations of the Code of Conduct, judicial action may be initiated by the Dean of Students Office.

Augustana College will contact a student's parents in the event of a third violation of the college's alcohol policy. This parent contact is permitted under an amendment to the Family Educational Rights and Privacy Act.

Persons providing alcoholic beverages to students, either on or off campus, will be held responsible for the consequences of their actions. The college has imposed \$1,000 fines and otherwise penalized individuals providing alcohol to students when that conduct has jeopardized the health or physical safety of the recipient.

In regard to drugs, the college distinguishes between alcohol and other drugs.

### **Drugs and paraphernalia**

Augustana complies fully with all federal, state, and municipal regulations regarding the use, cultivation, manufacture, sale, distribution and/or possession of drugs and controlled substances. These and associated actions are prohibited. Judicial action applies to:

- Anyone present where marijuana or other illegal drug use is evident
- Anyone possessing marijuana or other illegal drugs, including inappropriately acquired prescription medication, in their assigned room or in other property under their control
- Anyone who offers or makes arrangements to purchase, sell, accept or provide drugs to another, and
- Anyone whose off-campus drug use has a negative impact on the residence hall community.

Residents aware of the use, cultivation, manufacture, sale, distribution and/or possession of illegal substances are required to report this information immediately to Residential Life staff or they may be considered an accomplice.

Pipes, dugouts, hookahs, bongos, roach clips, blow tubes and any other items associated with drug use — whether or not these items are used for that purpose — are also prohibited on campus and will be confiscated upon discovery.

### **Narcotics and Illegal Drugs**

The purchase, possession, use, sale or distribution of narcotics or illegal drugs is prohibited. Students should be aware of the college's firm belief that the illegal use of drugs is inconsistent with the educational process as defined at Augustana, in that the misuse of drugs interferes with the full realization of each student's potential for intellectual and personal growth. In cases where evidence indicates a student's probable use of illegal drugs, the Student Life staff will become involved with the student in a counselor/educator capacity.

Any person believed to be cultivating, manufacturing, distributing or selling illegal drugs will be considered to be conducting an activity potentially dangerous to the health and safety of the student body and which threatens the existence of an orderly and productive system of education. Persons who choose to traffic in illegal drugs on the Augustana campus will be referred to civil authorities for legal action. The college administration will cooperate with local, state and federal law enforcement in cases involving illegal drugs. A student found guilty (whether by plea agreement or in a court of law) of dealing in illegal drugs will automatically be considered for separation from the Augustana community.

## **Marijuana**

While the Illinois Cannabis Regulation and Tax Act allows certain recreational marijuana use as of January 1, 2020, use, possession, cultivation and distribution of marijuana in any form remains a crime under federal law. Because Augustana College receives federal funding and is subject to the Drug-Free Workplace Act of 1988 and the Drug Free Schools and Community Act Amendments of 1989, the college will continue to prohibit the use, possession or cultivation of marijuana and all other controlled substances.

Students found to be possessing, using, cultivating, or distributing marijuana on Augustana property will still be subject to disciplinary action under the Code of Conduct. Additionally, drug paraphernalia such as pipes or bongs are not allowed on campus and also will continue to be considered violations of college policy.

For further information, contact the Dean of Students Office, 104 Founders, 309-794-7533, or the Chief of Police/Public Safety, Sorensen Hall, 309-794-7279. A daily log of crimes reported under the Clery Act is maintained in the Augustana Police/Public Safety Office, Sorensen Hall.

## ***State, Local and Federal Applicable Sanctions***

[Drugs of Abuse Chart](#) from the National Institute on Drug Abuse

[Illinois Drug Laws](#) from the Illinois General Assembly (marijuana laws also are available in a [simplified table](#))

[Federal Drug Trafficking Penalties Chart from the United States Drug Enforcement Administration](#)

## **Financial Aid**

Students convicted of any drug offense during a period of enrollment for which the student was receiving Title IV, HEA program funds, under any federal or state law involving the possession or sale of illegal drugs will result in the loss of eligibility for any Title IV, HEA grant or loan assistance.

Health risks associated with the use of illicit drugs and the abuse of alcohol

## **Alcohol health risks information**

The following information on health risks is from the Center for Disease Control and Prevention:

Drinking too much can harm your health. Excessive alcohol use led to approximately 95,000 deaths and 2.8 million years of potential life lost (YPLL) each year in the United States from 2011 – 2015, shortening the lives of those who died by an average of 29 years. Further, excessive drinking was responsible for 1 in 10 deaths among working-age adults aged 20-64 years. The economic costs of excessive alcohol consumption in 2010 were estimated at \$249 billion, or \$2.05 a drink.

The Dietary Guidelines for Americans defines moderate drinking as up to 1 drink per day for women and up to 2 drinks per day for men. In addition, the Dietary Guidelines do not recommend that individuals who do not drink alcohol start drinking for any reason. Excessive alcohol use has immediate effects that increase the risk of many harmful health conditions. Over time, excessive alcohol use can lead to the development of chronic diseases and other serious problems including: High blood pressure, heart disease, stroke, liver disease, and digestive problems; [Cancer](#) of the breast, mouth, throat, esophagus, voice box, liver, colon, and rectum; Weakening of the immune system, increasing the chances of getting sick; Learning and memory problems, including dementia and poor school performance; Mental health problems, including depression and anxiety; Social problems, including family problems, job-related problems, and unemployment; Alcohol use disorders, or alcohol dependence.

By not drinking too much, you can reduce the risk of these short- and long-term health risks.

Information available at CDC website: <https://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm>

### **Marijuana health risks information**

The following information on health risks is from the Centers for Disease Control and Prevention:

Marijuana is the most commonly used illegal drug in the United States, and marijuana use may have a wide range of health effects on the body and brain.

About 1 in 10 marijuana users may experience some form of addiction. For people who begin using before the age of 18, that number rises to 1 in 6. People who are addicted to marijuana may also be at a higher risk of other negative consequences of using the drug, such as problems with attention, memory, and learning. Some people who are addicted may need to smoke more and more marijuana to get the same high. It is also important to be aware that the amount of tetrahydrocannabinol (THC) in marijuana (i.e., marijuana potency or strength) has increased over the past few decades. The higher the THC content, the stronger the effects on the brain. In addition, some methods of using marijuana (e.g., dabbing, edibles) may deliver very high levels of THC to the user.

In many cases, marijuana is smoked in the form of hand-rolled cigarettes (joints), in pipes or water pipes (bongs), in bowls, or in blunts – emptied cigars that have been partly or completely refilled with marijuana. Smoked marijuana, in any form, can harm lung tissues and cause scarring and damage to small blood vessels. Smoke from marijuana contains many of the same toxins, irritants, and carcinogens as tobacco smoke. Smoking marijuana can also lead to a greater risk of bronchitis, cough, and phlegm production. These symptoms generally improve when marijuana smokers quit.

Marijuana use, especially frequent (daily or near daily) use and use in high doses, can cause disorientation, and sometimes cause unpleasant thoughts or feelings of anxiety and paranoia. Marijuana use is associated with temporary psychosis (no knowing what is real, hallucinations and paranoia) and long-lasting mental health challenges, including schizophrenia (a type of mental illness where people might see or hear things that aren't really there).

Marijuana use has also been linked to depression and anxiety, and suicide among teens. However, it is not known whether this is a causal relationship or simply an association.

Information available at CDC website: <https://www.cdc.gov/marijuana/healtheffects/teens.html>; <https://www.cdc.gov/marijuana/health-effects.html>

### **MDMA health risks information**

The following information on health risks is from the National Institute on Drug Abuse:

People who use MDMA usually take it as a capsule or tablet, though some swallow it in liquid form or snort the powder. The popular nickname Molly (slang for “molecular”) often refers to the supposedly “pure” crystalline powder form of MDMA, usually sold in capsules. However, people who purchase powder or capsules sold as Molly often actually get other drugs such as synthetic cathinones (“bath salts”) instead. Some people take MDMA in combination with other drugs such as alcohol or marijuana.

#### **MDMA increases the activity of three brain chemicals:**

- Dopamine—produces increased energy/activity and acts in the reward system to reinforce behaviors
- Norepinephrine—increases heart rate and blood pressure, which are particularly risky for people with heart and blood vessel problems
- Serotonin—affects mood, appetite, sleep, and other functions. It also triggers hormones that affect sexual arousal and trust. The release of large amounts of serotonin likely causes the emotional closeness, elevated mood, and empathy felt by those who use MDMA.

#### **Other health effects include:**

- Nausea
- Muscle cramping
- Involuntary teeth clenching
- Blurred vision
- Chills
- Sweating

MDMA’s effects last about 3 to 6 hours, although many users take a second dose as the effects of the first dose begin to fade. Over the course of the week following moderate use of the drug, a person may experience irritability, impulsiveness and aggression, depression, sleep problems, anxiety, memory and attention problems, decreased appetite, and decreased interest in and pleasure from sex. It’s possible that some of these effects may be due to the combined use of MDMA with other drugs, especially marijuana. High doses of MDMA can affect the body’s ability

to regulate temperature. This can lead to a spike in body temperature that can occasionally result in liver, kidney, or heart failure or even death.

Information available at NIH website:

<https://www.drugabuse.gov/publications/drugfacts/mdmaecstasymolly>

### **Prescription opioids health risks**

The following information on health risks is from the National Institute on Drug Abuse:

Prescription opioids used for pain relief are generally safe when taken for a short time and as prescribed by a doctor, but they can be misused.

Opioids bind to and activate opioid receptors on cells located in many areas of the brain, spinal cord, and other organs in the body, especially those involved in feelings of pain and pleasure. When opioids attach to these receptors, they block pain signals sent from the brain to the body and release large amounts of dopamine throughout the body. This release can strongly reinforce the act of taking the drug, making the user want to repeat the experience.

In the short term, opioids can relieve pain and make people feel relaxed and happy. However, opioids can also have harmful effects, including drowsiness, confusion, nausea, constipation, euphoria, and slowed breathing. Opioid misuse can cause slowed breathing, which can cause hypoxia, a condition that results when too little oxygen reaches the brain. Hypoxia can have short- and long-term psychological and neurological effects, including coma, permanent brain damage, or death. Researchers are also investigating the long-term effects of opioid addiction on the brain, including whether damage can be reversed.

People addicted to an opioid medication who stop using the drug can have severe withdrawal symptoms that begin as early as a few hours after the drug was last taken. These symptoms include muscle and bone pain, sleep problems, diarrhea and vomiting, cold flashes with goose bumps, uncontrollable leg movements, and severe cravings.

An opioid overdose occurs when a person uses enough of the drug to produce life-threatening symptoms or death. When people overdose on an opioid medication, their breathing often slows or stops. This can decrease the amount of oxygen that reaches the brain, which can result in coma, permanent brain damage, or death.

If you suspect someone has overdosed, the most important step to take is to call 911 so he or she can receive immediate medical attention. Once medical personnel arrive, they will administer naloxone. Naloxone is a medicine that can treat an opioid overdose when given right away. It works by rapidly binding to opioid receptors and blocking the effects of opioid drugs. Naloxone is available as an injectable (needle) solution, a hand-held auto-injector (EVZIO®), and a nasal spray (NARCAN® Nasal Spray).

Information available at NIH website:

<https://www.drugabuse.gov/publications/drugfacts/prescription-opioids>

## Drug and alcohol programs

A variety of substance abuse and prevention programs are available. [See detailed information under Counseling Services.](#)

Disciplinary Sanctions for Drug and Alcohol Use

[See detailed information under Residential Life](#)

## Policy Against Discrimination & Harassment

It is the policy and commitment of Augustana College to provide an environment free from discrimination based upon race, color, religion, national origin, service in the uniformed service (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, disability, genetic information, gender identity, gender expression, sexual orientation, or any other classification protected by law in matters of admissions, employment, housing, or services or in the educational programs or activities operated by the College.

Harassment, whether verbal, physical, or visual, that is based on any of these characteristics is a form of discrimination. This includes harassing conduct that impacts job benefits, or interferes unreasonably with an individual's academic or work performance, or creates what a reasonable person would perceive to be an intimidating, hostile, or offensive environment. Prohibited sex discrimination includes sexual harassment and sexual violence (see Policy Against Sexual Misconduct and Title IX Sexual Harassment).

Some examples of what may be considered discrimination or harassment, depending on the facts and circumstances, include the following:

- **Verbal behaviors:** derogatory comments regarding a person's race, color, gender, sexual orientation, religion, ancestry, ethnic heritage, mental or physical disability, age, appearance or other classification protected by law; threats of physical harm or distribution of written or graphic material having such effects. Derogatory gestures or the display of signs or pictures that may be offensive to others may also be examples of harassment.
- **Physical behaviors:** physical contact including touching, hitting, pushing or other aggressive contact.
- **Sexual behaviors:** unwelcome verbal or physical conduct of a sexual nature such as sexual advances, demands for sexual favors or other unwelcome verbal or physical conduct of a sexual nature.

Conduct may be considered harassment if:

- Submission to or rejection of such conduct is used as the basis of an academic or employment decision or is either an explicit or implicit term of employment or admission to any college program or college-related activity; or

- Such conduct is sufficiently serious (i.e., severe, pervasive, and/or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance.

It is expected that each and every member of the Augustana community will assist and support the College in its prohibition of discrimination and harassment. All employees of Augustana College are required to promptly report suspected violations of this Policy, even if the individual who was or is the victim has not filed a complaint. The report can be made to a supervisor, the Director of Human Resources, the Dean of Students Office, or in the case of sex discrimination, the Chief Title IX Coordinator or Deputy Title IX Coordinators.

## **SCOPE OF POLICY**

This Policy applies to all employees, including faculty, staff and administrators, of the College, as well as all students, guests and visitors of the Augustana community.

## **REPORTING PROCEDURES**

Sexual or other harassment can occur intentionally or unintentionally. A member of the Augustana community who feels harassed by an employee of the College, a student, guest or visitor or any other third-party (such as a supplier or vendor) should make this concern known by:

- If possible, telling the person who is engaging in the conduct or communication that their actions are offensive to you and that those actions must stop
- If the offensive behavior does not stop, **or if you are not comfortable communicating directly with the person**, you should advise your manager, or any member of the Office of Human Resources, Chief Title IX Coordinator or Deputy Title IX Coordinators, the Dean of Students Office, or a member of the Residential Life staff of the offensive behavior. This can be done by meeting in person or in writing.
- Follow up a verbal complaint with a written report of the complaint. It is helpful for allegations of improper behavior to be put in writing to assure a clear understanding of the behaviors and the issues raised. The written report should contain as much specific information as possible.
- Please see the College's Policy Against Sexual Misconduct and Title IX Sexual Harassment for additional options in reporting sex discrimination, including sexual and interpersonal misconduct.

All complaints of harassment or discrimination will be kept as confidential as possible. The College will promptly and thoroughly investigate alleged behavior that would constitute a violation of this Policy Against Discrimination and Harassment and will take steps necessary to stop behavior that violates this Policy. The investigation and grievance procedures may vary depending on the type of discrimination reported, the nature of the allegations reported and where they occurred, as well as the classification of the individual accused of a violation (i.e, student, employee or faculty

member). If you feel that your complaint has not received appropriate attention, you should discuss your concern with the Director of Human Resources, Chief Title IX Coordinator or Deputy Title IX Coordinators, the Dean of Students Office, or the General Counsel of the College.

### **RETALIATION PROHIBITED**

It is central to the values of Augustana College that any individual who believes they may have been the target of prohibited discrimination or harassment feel free to report their concerns without fear of retaliation or retribution. The College strictly prohibits retaliation against an employee or any other individual who opposes or reports in good faith any practices prohibited under this Policy, including bringing a complaint of discrimination or harassment, assisting someone with such a complaint, attempting to stop such discrimination or harassment, or participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. Any individual who believes they have been subjected to or affected by retaliatory conduct for reporting a suspected violation of this Policy or participating in an investigation should report the concern immediately to the Director of Human Resources, the General Counsel, the Dean of Students Office or the Chief Title IX Coordinator or Deputy Coordinator.



## **Policy Against Sexual Misconduct and Title IX Sexual Harassment**

It is the policy of Augustana College to provide a work and educational environment free from all forms of sex discrimination. Accordingly, Augustana has established this Policy Against Sexual Misconduct and Title IX Sexual Harassment (“Policy”) that articulates the College’s behavioral standards and descriptions of prohibited conduct. The Policy and related procedures—the Title IX Sexual Harassment Investigation and Resolution Procedures (“Title IX Sexual Harassment Procedures”) and Sexual Misconduct Investigation and Resolution Procedures (“Sexual Misconduct Procedures”)—outline the College’s approach to addressing reports of Title IX Sexual Harassment and Sexual Misconduct, and other alleged or suspected violations of this Policy, taking into account the College’s status as a private institution of higher education and its unique mission and culture. Augustana College is committed to the prompt and equitable resolution of all alleged or suspected violations of this Policy about which the College knows or reasonably should know to the fullest extent possible under the circumstances.

The College is committed to complying with the requirements of Title IX of the Education Amendments of 1972 (“Title IX”) and the U.S. Department of Education’s regulations implementing Title IX, the Violence Against Women Reauthorization Act of 2013, and the Illinois Preventing Sexual Violence in Higher Education Act. The College is also committed to complying with Title VII of the Civil Rights Act of 1964 (“Title VII”) and the Illinois Human Rights Act (“IHRA”), which prohibit discrimination on the basis of sex in employment (Title VII and IHRA) and in higher education and places of public accommodation (IHRA).

Consistent with the College’s Non-Discrimination Notice and the U.S. Department of Education’s implementing regulations for Title IX of the Education Amendments of 1972 (“Title IX”) (*see* 34 C.F.R. § 106 *et seq.*), the College prohibits Sexual Harassment that occurs within its education programs and activities.

Administrators, faculty members, staff, students, contractors, guests, and other members of the College community who commit Sexual Harassment are subject to the full range of College discipline including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; fines; permanent separation from the institution (i.e., termination or dismissal); physical restriction from College property; cancellation of contracts; and any combination of the same.

The College will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the College’s education programs and activities.

### **SCOPE OF THIS POLICY**

This Policy applies to all students, faculty, and staff of the College, and to guests and visitors, including third parties such as contractors, consultants, and vendors doing business or providing services to the College. The College’s ability to implement grievance procedures against individuals who are not members of the College Community is limited.

This Policy prohibits Sexual Harassment meeting specific definitions according to the Title IX regulations, as well as other sexual misconduct, not falling under specific Title IX regulatory definitions but prohibited by other policies and Augustana College.

This Policy applies to Title IX Sexual Harassment that occurs in the United States and within the College's Education Programs and Activities and is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the College community. As further defined herein, Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking. Reports or complaints of Title IX Sexual Harassment will be governed by the College's Title IX Sexual Harassment Procedures.

This Policy also applies to Sexual Misconduct that occurs on-campus and off-campus, when the off-campus conduct: (i) occurs during a College sponsored employment or education activity or program; (ii) adversely impacts the education or employment of a member of the College community; or (iii) otherwise threatens the health and/or safety of a member of the College community. As further defined herein, Sexual Misconduct includes sex-based discrimination and harassment that does not fall within the definition of Title IX Sexual Harassment. It also includes Title IX Sexual Harassment that occurs outside the College's Education Programs and Activities or outside the United States (such as in a study abroad program). Reports or complaints of Sexual Misconduct will be governed by the College's Sexual Misconduct Procedures.

Where a complaint or report alleges conduct that allegedly or potentially includes acts of both Title IX Sexual Harassment and Sexual Misconduct, and where the allegations involve the same parties or are otherwise materially related, the allegations will be consolidated and addressed using the Title IX Sexual Harassment Procedures.

## **DEFINITIONS OF PROHIBITED CONDUCT**

### **A. TITLE IX SEXUAL HARASSMENT**

"Title IX Sexual Harassment" is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

#### **1. Quid Pro Quo Sexual Harassment**

Quid Pro Quo Sexual Harassment is an employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual contact.

## 2. Hostile Environment Sexual Harassment

Hostile Environment Sexual Harassment is unwelcome conduct determined by a reasonable person to be so severe, pervasive, *and* objectively offensive that it effectively denies a person access to the College's education programs and activities.

## 3. Sexual Assault<sup>1</sup>

"Sexual Assault" includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.

- (a) "Rape" is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. There is "carnal knowledge" if there is the slightest penetration of the vagina or penis by the sexual organ of the other person. Attempted Rape is included.
- (b) "Sodomy" is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
- (c) "Sexual Assault with an Object" is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
- (d) "Fondling" is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because

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<sup>1</sup> The College's definition of "Sexual Assault" is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the College to adopt a definition of "Sexual Assault" that incorporates various forcible and non-forcible sex crimes as defined by the FBI's Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

of their age or because of their temporary or permanent mental or physical incapacity.

- (e) “Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Illinois law.
- (f) “Statutory Rape” is sexual intercourse with a person who is under the statutory age of consent as defined by Illinois law.

#### **4. Domestic Violence<sup>2</sup>**

“Domestic Violence” is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Illinois and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim who is cohabitating or has cohabitated with the victim as a spouse or intimate partner, shares a child in common with the victim; or commits acts against a youth or adult against an adult or youth victim who is protected from those acts under the family or domestic violence laws of Illinois.

#### **5. Dating Violence**

“Dating Violence” is violence committed by a person –

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship will be determined based on a consideration of the following factors:
  - The length of the relationship;
  - The type of relationship; and
  - The frequency of interaction between the persons involved in the relationship.

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<sup>2</sup> The College’s definition of domestic violence is updated to the wording from the Violence Against Women Act Reauthorization Act of 2022. This is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the College to adopt a definition of “Domestic Violence” as defined by 34 U.S.C 12291(a)(8). See 34 C.F.R. § 106.30(a) for further information.

## 6. Stalking

“Stalking” is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their safety or the safety of others; or
- Suffer substantial emotional distress.

## 7. Other Definitions

**Economic abuse**, in the context of domestic violence and dating violence, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- (A) restrict a person’s access to money, assets, credit, or financial information;
- (B) unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or
- (C) exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty

**Technological abuse** means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, stalking, or sexual misconduct and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of information technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

### **Important Information on Consent, Capacity & Coercion as they relate to Sexual Misconduct and Title IX Sexual Harassment**

Consent refers to words or actions that a reasonable person in the perspective of the Respondent would understand as agreement to engage in the sexual conduct at issue. Consent to engage in sexual activity must be informed, freely given, and mutual. Consent does not exist if a person is mentally or physically incapacitated so that such person cannot understand the fact, nature or extent of the sexual situation or sexual activity. This includes incapacitation due to (1) the use or influence of alcohol or drugs, (2) being asleep or unconscious, or (3) a mental disability. Incapacitation due to drug or alcohol use is a state beyond drunkenness or intoxication. Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated requires an

individualized determination. Facts that will be considered in determining a lack of capacity to give consent due to consumption of drugs or alcohol may include, but are not limited to:

- Control over physical movements (for example, inability to or difficulty with walking or standing without assistance);
- Awareness of circumstances or surroundings (for example, lack of awareness of where one is, how one got there, who one is with, or how or why one became engaged in a sexual interaction);
- Ability to effectively communicate (for example, slurring speech, difficulty finding words).

A person may appear to be giving consent but may not have the capacity to do so. When determining whether a person has the capacity to provide consent, the College will consider whether a sober, reasonable person in the same position (as the respondent) knew or should have known whether the other party (complainant) could or could not consent to the sexual activity. It is important that anyone engaging in sexual activity be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity. Use of drugs or alcohol by the respondent is not a defense against allegations of sexual misconduct and does not diminish the personal accountability of the respondent.

Consent must be ongoing, throughout each instance of sexual activity, and for each form of sexual contact.

Consent cannot be assumed by: silence; lack of verbal or physical resistance or submission resulting from the use of force; a person's manner of dress; or the existence of a prior or current relationship. When determining whether a person has provided consent for sexual activity, the College will consider whether a sober, reasonable person in the same position (as the respondent) knew or should have known whether the other party (complainant) consented to the sexual activity.

If coercion, intimidation, threats, or physical force are used, there is no consent. Coercion refers to behavior that would compel an individual to do something against their will based on fear of harm to self or others. Coercion may involve intimidation, manipulation, or threats of severely damaging consequences. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. When determining whether a person has been subjected to coercion, the College will consider whether a sober, reasonable person in the same position would have felt coerced to participate in the sexual activity. The College will evaluate the following in determining whether coercion was used: (a) the frequency of the application of the behavior, (b) the intensity of the behavior, (c) the duration of the behavior, and (d) severity of the threats or consequences.

Consent cannot be given by those who are under the legal age of consent (17 years in Illinois).

There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. A person's consent to past sexual activity does not constitute consent to future sexual activity. A person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent can be withdrawn at any time. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.

## **B. SEXUAL MISCONDUCT**

Complaints involving allegations of sex discrimination that do not constitute Title IX Sexual Harassment as defined above may constitute Sexual Misconduct. Complaints of Sexual Misconduct are resolved using the Sexual Misconduct Investigation and Resolution Procedures ("Sexual Misconduct Procedures"). "Sexual Misconduct" is prohibited by this Policy and includes "Non-Title IX Sexual Harassment" and "Sex Discrimination" as defined below:

### **1. Non-Title IX Sexual Harassment**

Non-Title IX sexual harassment ("sexual harassment") is unwelcome communication or conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors and other verbal, written or physical conduct of a sexual nature, without regard to whether the parties are of the same or different genders or gender identities. It includes:

- (a) Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, Economic and/or Technological Abuse as defined above, that occurs outside of the College's Education Programs or Activities or outside the United States;
- (b) Unwelcome conduct that does not rise to the level of Hostile Environment Sexual Harassment, as defined in this Policy, but that:
  - is sufficiently serious (severe, pervasive, *or* persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities; or
  - that has the purpose or effect of unreasonably interfering with an individual's work or academic performance
- (c) Inducing Incapacitation for Sexual Purposes. Inducing incapacitation for sexual purposes means using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as "consent" is defined in this Policy) to sexual contact. This also includes

causing or inducing a person, when consent is not present, to touch, fondle, or contact oneself or someone else in a sexual nature.

(d) Sexual Exploitation. Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses.

Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person
- Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity
- Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information
- Exceeding the boundaries of consent
- Engaging in non-consensual voyeurism
- Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status
- Exposing one's genitals in non-consensual circumstances, or inducing another to expose their genitals
- Possessing, distributing, viewing or forcing others to view illegal pornography

## 2. Sex Discrimination

(a) Sex Discrimination means material, adverse treatment of a person or group on the basis of sex. Discrimination occurs when persons are excluded from participation in, or denied the benefits of, any College program or activity on the basis of a protected status.

(b) Pregnancy discrimination is a type of Sex Discrimination and means treating a woman unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

## OTHER DEFINITIONS

**Complainant:** the party who has alleged Sexual Misconduct or Title IX Sexual Harassment or to whom Sexual Misconduct or Title IX Sexual Harassment was directed.



**Respondent:** the party who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct or Title IX Sexual Harassment

**Third Party Reporter/Witness:** An individual who reports conduct that could constitute Sexual Misconduct or Title IX Sexual Harassment occurring between or directed towards individuals other than him/her/themselves.

**“Education Programs and Activities”** refers to all the operations of the College, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the College. It also includes off-campus locations, events, or circumstances over which the College exercises substantial control over the Respondent and the context in which the Title IX Sexual Harassment occurs, including Title IX Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the College.

#### **Understanding Hostile Environment Sexual Harassment**

In considering whether a hostile environment exists for purposes of both Title IX Sexual Harassment and Sexual Misconduct, as defined above, the College will consider the totality of the circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. The College will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant’s position. A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

The College encourages members of the College Community to report any and all instances of sexual harassment, even if they are unsure whether the conduct rises to the level of a Policy violation. Some specific examples of conduct that may constitute Hostile Environment Sexual Harassment and/or sexual harassment if unwelcome include, but are not limited to:

- Repeated comments about a person's physical appearance;
- Sexually suggestive remarks, insults, jokes, humor, or innuendo;
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes
- Displays of sexually suggestive material, including sexual graffiti, pictures, videos, or posters;
- Using sexually explicit profanity;
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities;

- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin;
- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person's dress in a sexual manner
- Unwelcome advances or conduct such as touching, patting, caressing, kissing or sexual propositions; and
  
- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Sexual advances accompanied by threat of punishment or promise of reward including the withholding or giving of grades and promotions.
- E-mail and Internet use that violates this policy.

## **RETALIATION**

"Retaliation" is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or the Illinois Preventing Sexual Violence in Higher Education Act, or because an individual has, in good faith, opposed any practices forbidden under this Policy or made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy or the related Sexual Misconduct Procedures or Title IX Sexual Harassment Procedures.

It is a violation of College Policy to engage in Retaliation. This includes action taken against a bystander who intervened to stop or attempted to stop Sexual Misconduct or Title IX Sexual Harassment. Retaliation may take many forms, and may include intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy.

The College will take immediate and responsive action upon receiving any report of Retaliation and may pursue disciplinary action as appropriate.

Reports or Formal Complaints of Retaliation based on a complaint of Title IX Sexual Harassment or participation in the Title IX Sexual Harassment Procedures may be made as outlined in the reporting sections below, and will be processed in the same manner as a report or Formal Complaint of Title IX Sexual Harassment.

Reports of Retaliation based on a complaint of Sexual Misconduct or participation in the Sexual Misconduct Procedures may be made as outlined in the reporting sections below, and will be processed in the same manner as a report of Sexual Misconduct.

The College retains discretion to consolidate a report or Formal Complaint of Retaliation with a report or Formal Complaint of Title IX Sexual Harassment or Sexual Misconduct, as the case may be, for investigation and/or adjudication purposes if the two complaints share a common nexus.

Individuals who engage in Retaliation as defined by this Policy may be subject to disciplinary action that may include, but is not limited to, the sanctions listed in the Title IX Procedures or the Sexual Misconduct Procedures, up to and including dismissal or other separation from the College.

### **REPORTING SEXUAL MISCONDUCT, TITLE IX SEXUAL HARASSMENT, AND RETALIATION**

Contact the Chief Title IX Coordinator or Deputy Title IX Coordinators with any questions about this Policy or to file a complaint of sex discrimination, including sexual harassment, sexual misconduct, or retaliation. The College's Chief Title IX Coordinator is Dr. Jennie Hemingway, who can be reached at 309-794-7313 or at [titleIX@augustana.edu](mailto:titleIX@augustana.edu). While Dr. Hemingway is the Chief Title IX Coordinator, all of the following individuals serve as Title IX Coordinators for the College and may be contacted with questions, or receive complaints. In addition to the Title IX Coordinators, the Office of Public Safety and Police can receive reports of Policy violations and oversee investigations of alleged Policy violations.

**Title IX Coordinator:** Jennie Hemingway, Ph.D. 309-794-7313. As the Title IX Coordinator, Jennie Hemingway is responsible for enforcement of and compliance with Title IX at the College. Jennie can receive complaints from any individual regarding Title IX. She is responsible for outreach and education regarding the College's prohibition of sex discrimination, the process for addressing concerns of sex discrimination, and the forms of sex discrimination.

**Deputy Title IX Coordinator:** Mindy Zumdom, Director of Human Resources, 309-794-7452. As Deputy Title IX Coordinator, Human Resources Director Mindy Zumdom can receive complaints from any individual regarding Title IX. She and the Human Resources staff will handle reports of staff and administrative employee violations of the College's policy and will be responsible for employee training regarding the College's prohibition of sex discrimination and the process for addressing concerns of sex discrimination.

**Deputy Title IX Coordinator:** Chris Beyer, Director of Residential Life, 309-794-2686. As a Deputy Title IX Coordinator, Chris Beyer is primarily responsible for organizing student training required under Title IX. Chris can also receive a complaint of a violation of Title IX from any member of the Augustana community.

**Deputy Title IX Coordinator:** Laura Schnack, Associate Dean of Students, 309-794-7533. As a Deputy Title IX Coordinator, Laura Schnack coordinates with the Chief Title IX Coordinator when a student has reported or is accused of violating the College's policy. Dean Schnack can also receive a report of a violation of Title IX from any individual.

**Deputy Title IX Coordinator:** Greg Domski, PhD Associate Dean of Academic Strategic Priorities, 309-794-3482. As a Deputy Title IX Coordinator, Greg Domski coordinates with the Title IX Coordinator when a faculty member has reported or is accused of violating the

College's policy. Dean Domski can also receive a report of a violation of Title IX from any individual.

**Office of Public Safety & Police, 309-794-7711**

**Tom Phillis, Chief of Police**

Chief Phillis can receive a complaint of a violation of this Policy from any member of the Augustana community. Chief Phillis oversees the investigation of student complaints of Title IX violations under this Policy.

Any person may report sex discrimination. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in a Title IX Coordinator receiving the report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.

In addition to reporting to a Title IX Coordinator, any person may report Title IX Sexual Harassment or Sexual Misconduct to any College employee with managerial authority over other employees, including cabinet members, deans, department heads, unit supervisors, and other managers (collectively "Reporting Officials") who must promptly forward such report of Title IX Sexual Harassment or Sexual Misconduct to the Title IX Coordinator.

#### Campus Conduct Hotline

The College has a campus conduct hotline (1-866-943-5787) for individuals to report matters **anonymously**. This means that it is not necessary to disclose names or any other identifying information. Reports received through this hotline relating to alleged violations of the Policy Against Sexual Misconduct and Title IX Sexual Harassment will be forwarded to a Title IX Coordinator who will respond to the complaint. The College's ability to respond effectively, or at all, may be limited if the reporter wishes to remain anonymous. This reporting mechanism is not a substitute for the obligation of College employees to report any alleged Policy violations to a Title IX Coordinator, as described above.

#### Electronic Reporting

Reports of a potential violation of this Policy may also be filed electronically at: [www.augustana.edu/titleIX](http://www.augustana.edu/titleIX). An electronic report may be made anonymously. As noted, the College's ability to respond effectively may be limited if the reporter remains anonymous. This reporting mechanism is not a substitute for the obligation of College employees to report any alleged Policy violations to a Title IX Coordinator, as described under the reporting obligations section of this policy.

#### **VICTIM AND THIRD PARTY/BYSTANDER REPORTING**

Anyone who feels that s/he/they has been the victim of sex discrimination, sexual harassment, sexual misconduct, or other interpersonal misconduct as defined in the Policy is encouraged to bring it to the attention of a Title IX Coordinator or to the Office of Public Safety and Police for assistance. Bystanders and third parties who have information they believe could constitute a

violation of this Policy are also encouraged to inform a member of the Title IX Team, or utilizing the Campus Conduct Hotline or the College's electronic reporting option outlined below. Reports will be treated as confidential as possible. This means that the Title IX Team will share information gathered through reports and any investigation on a need to know basis only.

The Title IX Team at Augustana College consists of the Chief Title IX Coordinator, the Deputy Title IX Coordinators, and the Chief of the Office of Public Safety and Police. The Title IX Team is responsible for ensuring the prompt and impartial review, investigation and resolution of all reports of alleged violations of the Policy, along with the provision of interim remedies and measures to support all individuals involved and to ensure that they are treated with dignity and care.

### **REPORTING OBLIGATIONS**

With the exception of the confidential resources identified below, all College employees who receive a report of or otherwise become aware of sex discrimination, sexual harassment, sexual misconduct or other interpersonal misconduct are obligated to promptly inform the Title IX Coordinator (either the Chief Title IX Coordinator or one of the Deputy Title IX Coordinators) or the Office of Public Safety and Police, all the alleged details of the incident, unless they are expressly prohibited by law from disclosing such information. With the exception of students employed in Residential Life, Augustana College students who are also employed by the College are not included in this reporting requirement.

At Augustana, counselors in the Counseling Center and the Campus Pastor are not required to disclose the information obtained while serving in these roles as they have professional obligations to maintain the confidentiality of their clients. These employees can also help individuals understand their options for proceeding with their complaint. More information about these confidential resources is provided below. Confidential Advisors (see below) are also not required to disclose information to the College.

### **CONFIDENTIAL RESOURCES**

Individuals who feel they have been victims of sexual misconduct may require time and support in reaching the decision as to whether to make formal complaints. There are confidential resources on campus and in the community available to individuals who do not wish to make a formal report to campus authorities or who wish to speak with a confidential resource in addition to making a formal report. Information disclosed to a confidential resource will not be shared with other individuals. These resources generally only report to the College the fact that an incident occurred without revealing any personally identifying information. This also means that disclosures to a confidential resource will not result in a College investigation into an incident. These confidential resources include:

#### **Confidential resources on campus**

Counseling Services 309-794-7357

Counselors at Counseling Services can provide emotional and medical support in a safe and confidential space. They are not required to disclose your identifying information as they have professional obligations to maintain the confidentiality of their clients. They can also help you think through your options for filing a formal report.

Campus Chaplain, Office of Campus Ministries, 309-794-7213

Confidential Advisors

Through a partnership, the College has arranged for the availability of confidential advisors employed by Family Resources – Survivor Services to provide emergency and on-going support to survivors of sexual assault. Confidential Advisors may, but are not required to, serve as Advisors of Choice.

**Confidential resources in the community**

Family Resources -Survivor Services of the Quad Cities – 24 Hour Free Crisis Line 309-797-1777

<http://www.famres.org/services/survivor-services>

Family Resources- Survivor Services is a community based program that serves the needs of women, men, children and families whose lives have been affected by domestic or sexual violence, human trafficking, or other violent crimes.

Illinois Domestic Violence Help Line 1-877-863-6338

<http://www.dhs.state.il.us/page.aspx?item=30275>

National Sexual Assault Telephone Hotline: 800-656-HOPE (4673)

Rape, Abuse, and Incest National Network: <https://www.rainn.org>

**OFF-CAMPUS REPORTING & OTHER REPORTING INFORMATION**

The College encourages all individuals who feel they have been victims of sexual misconduct or other interpersonal misconduct (also referred to as complainants) to seek immediate assistance from a medical provider for emergency services, including treatment of any injury, and to collect and preserve physical and other forms of evidence. Seeking medical attention preserves the full range of options, including the options of working through the College's grievance procedures and/or filing criminal complaints.

Local medical assistance can be obtained at Unity Point Health- Trinity Rock Island Hospital, 2701 – 17<sup>th</sup> Street, Rock Island, telephone 309-779-5000. Under Illinois law, forensic medical

examinations (i.e., evidence collection) sought subsequent to instances of sexual violence are free of charge to the patient.

A complainant has the option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue a complaint with the College or to pursue both processes consecutively or concurrently.

**Rock Island City Police**    Emergency Reporting – Dial “911”

Non-Emergency Reporting (309) 732-2677

A complainant also has the right not to pursue any complaint. Unless deemed necessary by the Title IX team or requested by an alleged victim, the College will not contact law enforcement outside of the College Office of Public Safety and Police. In addition to having the option of pursuing a criminal complaint, victims also have the option of exploring whether they might be entitled to an order of protection, no contact order, restraining order, or other similar orders issued by a criminal or civil court. For more information about such orders see <http://www.illinoisattorneygeneral.gov/women/victims.html>.

The Title IX team will assist victims with transportation to a hospital if they so request, with making contact with appropriate law enforcement authorities upon request and with accessing all appropriate resources and support, including on- and off-campus confidential victim services and sexual violence crisis support.

Any pending criminal investigation or criminal proceeding may have some impact on the timing of the College's investigation, but the College will commence its own investigation as soon as is practicable under the circumstances. The College reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding.

Augustana's authority to sanction members of the College community applies only to the violation of College rules, policies and procedures. Legal action to pursue either civil or criminal proceedings may be initiated by contacting the police or the State's Attorney. Students who believe they are the victims of a crime as defined by federal and state laws are encouraged to report to law enforcement authorities as the legal system of the State of Illinois offers recourse through law enforcement officials and the courts. The College's Chief Title IX Coordinator and the Augustana College Office of Public Safety and Police are available to assist students with any reports they might wish to make to law enforcement authorities.

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by calling 1-800-421-3481 or visiting [www2.ed.gov/about/list/ocr/complaintintro.html](http://www2.ed.gov/about/list/ocr/complaintintro.html).

## **PRESERVING EVIDENCE**

Individuals are encouraged to do everything possible to preserve evidence by making certain that the crime scene is not disturbed and any physical evidence is preserved. Individuals who believe

they are victims of sexual misconduct should avoid bathing, using the toilet, rinsing one's mouth or changing clothes, where possible. Clothing that was worn at the time of the incident should be placed in a paper bag, not a plastic one. Bedding should not be laundered or discarded. All forms of electronic communication that occurred before, during, or after the assault should be preserved.

Under Illinois law, forensic medical examinations (i.e., evidence collection) sought subsequent to instances of sexual violence are free of charge to the patient. Local medical assistance can be obtained at Unity Point Health- Trinity Rock Island Hospital, 2701 – 17<sup>th</sup> Street, Rock Island, telephone 309-779-5000.

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of investigations.

## **ADDITIONAL REPORTING INFORMATION**

### Timing of Report

The College encourages individuals to report as soon as practically possible, but there is no time limit on reporting. The College will undertake an investigation of past events made by individuals currently participating in, or attempting to participate in, the education program, but the College cannot typically impose disciplinary sanctions on an individual who is no longer a member of the Augustana community (e.g., a student who has graduated or an individual who is no longer in the employ of the College).

### Amnesty

In order to encourage the reporting of alleged sexual or interpersonal misconduct, the College will not pursue disciplinary action against any student (including a Complainant or third party witness) who reports in good faith or is involved in the investigation of an alleged violation of this Policy and who has violated College policy regarding alcohol or other drugs, provided that such violations did not/do not place the health or well-being of any other person at risk. While disciplinary action will not typically be pursued for violations of the College's alcohol or drug policies in such circumstances, the College may pursue educational interventions where appropriate.

### Applicable Adjudication Procedures

Individuals who file a report of an alleged violation under this Policy will be informed in writing of the applicable investigation and adjudication procedures; this may be updated as additional facts or information becomes available during the Complaint.

***Policy Updated: August 2023***

**Investigation & Grievance Procedures: Sexual Misconduct Allegations Against Employees**



Augustana has established a Policy Against Sexual Misconduct and Title IX Sexual Harassment (“Policy”) that articulates the College’s behavioral standards and descriptions of prohibited conduct. There are separate procedures for resolving allegations of Sexual Misconduct and Title IX Sexual Harassment. These Investigation and Grievance Procedures: Sexual Misconduct Allegations Against Employees (“Procedures”) apply to all suspected or alleged acts of Sexual Misconduct that do not meet the definition of Title IX Sexual Harassment.

The College has established a **Policy Against Sexual Misconduct and Title IX Sexual Harassment (“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 an employee. Investigation and grievance procedures vary based on the nature of the allegations, including where the alleged conduct occurred, and the classification of the individual who is accused of violating the Policy. Allegations that a student violated the Policy are governed by the investigation and grievance procedures outlined in the student handbook Inside Augustana. 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 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 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.

## **RELATIONSHIP TO THE TITLE IX SEXUAL HARASSMENT INVESTIGATION AND RESOLUTION PROCEDURES**

“Title IX Sexual Harassment,” as defined in the Policy, will be governed by the Title IX Sexual Harassment Investigation and Resolution Procedures and should be addressed according to the processes stated therein. All other forms of sex-based discrimination that may constitute Sexual Misconduct are governed by these procedures, including sexual harassment, that do not rise to the level of Title IX Sexual Harassment as defined in the Policy.

Conduct that is initially raised through a complaint under the Title IX Sexual Harassment Procedures may also be addressed under these Sexual Misconduct Procedures, in the College’s

discretion, when: (i) the conduct at issue, or some part of it, may constitute Sexual Misconduct irrespective of whether it constitutes Title IX Sexual Harassment under the Policy; (ii) the Formal Complaint, or some part of it, has been dismissed under the Title IX Sexual Harassment Procedures; or (iii) a final determination of a Formal Complaint has been made under the Title IX Sexual Harassment Procedures and separate or additional action may be necessary to enforce this policy.

Where the College determines, in its discretion, that these Sexual Misconduct Procedures will govern for suspected or alleged acts of Sexual Misconduct, the procedures herein will be used in place of any Faculty or Employee Handbook policies or procedures used to address other alleged misconduct. In addition, any sanctions or other corrective actions imposed against employees who violate the Policy shall be imposed pursuant to these Procedures, rather than pursuant to any other set of policies and procedures governing employee conduct, unless the College determines in its discretion that any other policy governing employee conduct should be used to resolve a particular matter.

The College may at any time, upon finding of good cause, modify the Sexual Misconduct Investigation and Grievance Procedures in the interests of promoting full and fair resolution of suspected or alleged violations of the Policy in accordance with applicable law.

## **CONFIDENTIALITY**

In matters involving incidents of sexual misconduct or other interpersonal misconduct, a request by a complainant not to be identified 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. 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 complainants 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, Supportive Measures, Investigation and Resolution

## **INITIAL RESPONSE**

## **Preliminary Assessment of Alleged Misconduct**

For every report of an alleged or suspected violation of the Sexual Misconduct and Title IX Sexual Harassment Policy, the Title IX Coordinator or designee will review the circumstances of the reported conduct to determine the following:

- Whether the College has jurisdiction over the parties involved;
- Which procedure is applicable to the parties and the conduct being reported; and
- The actions within the College's control necessary to eliminate, prevent, and address the reported conduct.

If the Respondent is not a member of the College community or is no longer affiliated with the College at the time of the report or at the time an investigation or resolution process is initiated (including if the Respondent has graduated or otherwise left the College), the College may be unable to take disciplinary action or conduct an investigation.

As a result of the Preliminary Assessment, the Title IX Coordinator or designee may determine that the conduct constitutes or could constitute Title IX Sexual Harassment, as defined in the Policy, and may proceed to apply the Title IX Sexual Harassment Investigation and Resolution Procedures.

If the Title IX Coordinator determines that the conduct reported does not or could not constitute Title IX Sexual Harassment but could constitute Sexual Misconduct, as defined in the Policy, the Title IX Coordinator will proceed with the procedures set forth in these Sexual Misconduct Procedures below.

Upon receiving a report or complaint alleging a violation of the Policy from a student, the Title IX Coordinator or their designee will provide Student Complainants<sup>1</sup> with a written statement of their rights and options under the Policy and these Procedures. The Student Complainant will also be informed of the availability of a confidential advisor. Confidential advisors are available to Student Complainants and provide confidential emergency and on-going assistance to alleged victims of sexual assault upon request. Confidential advisors are employees of Family Resources-Survivor Services of the Quad Cities. The Title IX Coordinator or their designee will meet with all Complainants, student and non-student, and discuss fully the options afforded to them, including the availability of supportive 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 of students to be accompanied during any College grievance proceeding and any related meeting by an advisor of their choice whose participation will be limited as outlined in this Policy), the process of identifying potential witnesses, 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. Supportive measures may be requested regardless of whether the individual chooses to proceed with a formal complaint.

If a Complainant, whether a student or non-student, chooses not to file a formal complaint, 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 complaints about the same alleged respondent;
- Whether the respondent has a known history of arrests or records from a prior school or prior employment indicating a history of violence;
- Whether the respondent threatened further sexual misconduct or other prohibited behaviors against the student or others;
- Whether the report involves multiple perpetrators;
- Whether the report suggests there is an increased risk of future acts of sexual misconduct under similar circumstances;
- Whether the sexual misconduct was perpetrated with a weapon;
- The relationship between the respondent and the complainant (i.e., faculty/student or employee/employee); and
- Whether the College possesses other means to obtain relevant evidence.

If the College elects to proceed with an investigation, it will consult with the Complainant and provide information about the chosen course of action, including any supportive measures that will be taken to protect the Complainant and ensure the safety of the College community.

After the Complainant files a formal complaint that reports a potential violation of the Sexual Misconduct Policy or when the College determines it is appropriate to proceed with a formal complaint, the College will investigate the allegations as outlined below. The initiation of a formal complaint 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 has been made in accordance with these Procedures.

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.

## SUPPORTIVE MEASURES

Upon receipt of a report or complaint alleging a violation of the Policy, the Title IX Coordinator or their designee will work with all parties involved in an alleged incident to promptly undertake any appropriate supportive measures to protect the safety of the campus community and will seek to provide support for the parties that address their safety and well-being while the report is investigated, and if pursued, through the resolution. Supportive measures may include counseling services, obtaining and enforcing mutually agreed upon campus no contact orders, honoring an order of protection entered by a State court, provision of escorts, housing support, including

reasonable residence or other living modifications. 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 supportive measures provided to the parties, to the extent that maintaining confidentiality will not impair the ability to provide the supportive measures. Supportive 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, supportive measures have no bearing on the complaint process and do not suggest a finding of responsibility.

### **Resources for Complainants and Respondents**

Any student affected by Sexual Misconduct will have access to support and counseling services offered through the College. Employees involved in a Sexual Misconduct allegation also have access to support and counseling services offered through the College's Employee Assistance Program. More information on this program is available at <https://www.augustana.edu/about-us/offices/hr/benefits/eap>. Family Resources- Survivor Services of the Quad Cities provides assistance to victims of sexual violence and is available to all community members. The College encourages any individual who has questions or concerns to seek support from these resources. The Title IX Coordinator is available to provide information about the College's Policy and procedures and to provide assistance. A list of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services and resources available is located at the following link: <https://www.augustana.edu/student-life/TitleIX>

### **INFORMAL RESOLUTION PROCEDURE**

Allegations of Sexual Misconduct 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.

The College or a party may withdraw their consent to participate in the informal resolution process at any time before a resolution has been finalized. In such a case, the matter will proceed to Formal Resolution.

If the parties reach a resolution through the informal resolution process and the College agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will outline the terms of

the agreed resolution in writing and present it to both parties for their signature. Once signed, the resolution is final and all allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the College, except as otherwise presented in the resolution itself. Informal resolution is not subject to appeal.

## INVESTIGATION & FORMAL RESOLUTION

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 College will initiate and coordinate an investigation of a reported violation of the Policy as soon as practical. The College is committed to undertaking prompt, thorough, impartial and fair investigations and to treating all individuals with respect and with sensitivity.

The nature and extent of the investigation will vary depending upon the circumstances, including whether the parties are amenable to pursuing an informal resolution. 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.

Student Complainants 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 they accompany.

If the matter is not resolved informally, a determination of whether the Policy was violated will be made based on information gathered in the investigation, including but not limited to interviews with the Complainant, the Respondent, and any other relevant individuals. This determination will be made by the Office of Human Resources when allegations involve a non-faculty employee. Allegations that a faculty member violated the Policy will be determined by the Dean of the College, or their designee. In all matters, the decision of the Office of Human Resources, the

Dean of the College or their designees, will be final and is not subject to appeal. If, however, the Dean of the College recommends separation of a faculty member from the College, the separation will be handled in accordance with any existing and applicable faculty handbook provisions relating to separation from the College. In some cases, the College may not be able to determine that a Policy violation occurred; in such a situation, the College may still require action to be taken to promote a healthy and respectful environment.

The College may dismiss a Formal Complaint at any point during the grievance process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled or employed by the College, as the case may be; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

#### Sanctions & Corrective Action

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
- Technology/Equipment/Resource access restrictions
- College campus access restrictions
- Change in assigned duties and/or committee assignments
- Leave of absence
- Termination of employment with 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.

In instances where the College is unable to take disciplinary or other corrective action in response to a reported violation, the College will consider other steps available to limit the effects of the

conduct at issue and prevent its recurrence, such as the continuation of supportive measures, training and education.

A Complainant will be informed of the outcome of the investigation, but may not be informed specifically of all sanctions or other remedial action.

## RECORDS MAINTENANCE

For a period of 7 years, 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. Findings that an employee violated the Policy will be retained in the employee's file and subject to retention rules pertaining to personnel records.

## CHANGES IN THIS POLICY

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

Policy updated August 2023

*<sup>1</sup> Use of the term "Complainant" in this policy refers to all complainants, and use of the term "Student Complainants" refers only to complainants who are students currently enrolled and participating in the education program, or seeking to participate in the education program.*

## **Investigation & Grievance Procedures: Sexual Misconduct Allegations Against Students**

Augustana has established a Policy Against Sexual Misconduct and Title IX Sexual Harassment ("Policy") that articulates the College's behavioral standards and descriptions of prohibited conduct. There are separate procedures for resolving allegations of Sexual Misconduct and Title IX Sexual Harassment. These Investigation and Grievance Procedures: Sexual Misconduct Allegations Against Students ("Procedures") apply to all suspected or alleged acts of Sexual Misconduct that do not meet the definition of Title IX Sexual Harassment.

The College has established a **Policy Against Sexual Misconduct and Title IX Sexual Harassment ("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 nature of the allegations, including where the alleged conduct occurred, and 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. The rights and options afforded to individuals who report violations as outlined in this Policy relating to confidentiality and supportive measures will apply in all cases. 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 most cases, the College will not proceed with a formal investigation if the alleged victim of the conduct that violates the Policy is unwilling to file a formal complaint. A Title IX Coordinator 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.

## **RELATIONSHIP TO THE TITLE IX SEXUAL HARASSMENT INVESTIGATION AND RESOLUTION PROCEDURES**

**“Title IX Sexual Harassment,” as defined in the Policy, will be governed by the Title IX Sexual Harassment Investigation and Resolution Procedures and should be addressed according to the processes stated therein. All other forms of sex-based discrimination are governed by these procedures, including sexual harassment, as defined in the Policy, that do not rise to the level of Title IX Sexual Harassment as defined in the Policy.**

**Conduct that is initially raised through a complaint under the Title IX Sexual Harassment Procedures may also be addressed under these Sexual Misconduct Procedures, in the College's discretion, when: (i) the conduct at issue, or some part of it, may constitute Sexual Misconduct irrespective of whether it constitutes Title IX Sexual Harassment under the Policy; (ii) the Formal Complaint, or some part of it, has been dismissed under the Title IX Sexual Harassment Procedures; or (iii) a final determination of a Formal Complaint has been made under the Title IX Sexual Harassment Procedures and separate or additional action may be necessary to enforce this policy.**

Where the College determines, in its discretion, that these Sexual Misconduct Procedures will govern for suspected or alleged acts of Sexual Misconduct, the procedures herein will be used in

place of any Student Code of Conduct or Faculty or Employee Handbook policies or procedures used to address other alleged misconduct. 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.

The College may at any time, upon finding of good cause, modify the Sexual Misconduct Investigation and Grievance 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 an alleged victim not to proceed with an investigation 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, Supportive Measures, and Investigation**

### **INITIAL RESPONSE**

#### **Preliminary Assessment of Alleged Misconduct**

For every report of an alleged or suspected violation of the Sexual Misconduct and Title IX Sexual Harassment Policy, the Title IX Coordinator or designee will review the circumstances of the reported conduct to determine the following:

- Whether the College has jurisdiction over the parties involved;
- Which procedure is applicable to the parties and the conduct being reported; and
- The actions within the College's control necessary to eliminate, prevent, and address the reported conduct.

If the Respondent is not a member of the College community or is no longer affiliated with the College at the time of the report or at the time an investigation or resolution process is initiated (including if the Respondent has graduated or left the College), the College may be unable to take disciplinary action or conduct an investigation.

As a result of the Preliminary Assessment, the Title IX Coordinator or designee may determine that the conduct constitutes or could constitute Title IX Sexual Harassment, as defined in the Policy, and may proceed to apply the Title IX Sexual Harassment Investigation and Resolution Procedures.

If the Title IX Coordinator determines that the conduct reported does not or could not constitute Title IX Sexual Harassment but could constitute Sexual Misconduct, as defined in the Policy, the Title IX Coordinator will proceed with the procedures set forth in these Sexual Misconduct Procedures below.

Upon receiving a report or complaint alleging a violation of the Policy, the Title IX Coordinator or their designee will provide the Complainant a written statement of their 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 alleged victims of sexual assault upon request. Confidential advisors are employees of Family Resources- Survivor Services of the Quad Cities. The Title IX Coordinator or their designee will also meet with the Complainant and discuss fully the options afforded to him/her, including the availability of supportive 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 as outlined in this Policy), the process of identifying potential witnesses, the Grievance Panel Procedures, 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. Supportive measures may be requested by an individual regardless of whether that individual chooses to proceed with a formal complaint.

If a Complainant chooses not to file a formal complaint, 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 elects to proceed with an investigation, it will consult with the Complainant and provide information about their chosen course of action, including any supportive measures that will be taken to protect the Complainant and ensure the safety of other students, .

As soon as practicable after the Complainant files a formal complaint that reports a potential violation of the Sexual Misconduct 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), 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 supportive measures and remedies. A written response may be provided by the Respondent, but a written response is not required. The notice to a 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.

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.

## **SUPPORTIVE MEASURES**

Upon receipt of a report or complaint alleging a violation of the Policy, the Title IX Coordinator or their designee will work with all parties involved in an alleged incident to promptly undertake any appropriate supportive 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 mutually agreed upon campus no contact orders, honoring an order of protection entered by a State court, provision of escorts, housing support, including reasonable residence or other living modifications.. 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 supportive measures provided to the parties, to the extent that maintaining confidentiality will not impair the ability to provide the supportive measures. Supportive 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, supportive measures have no bearing on the complaint process and do not suggest a finding of responsibility.

## **Resources**

Any individual affected by or accused of Sexual Misconduct will have equal access to support and counseling services offered through the College. The College encourages any individual who has questions or concerns to seek support from these resources. The Title IX Coordinator is available to provide information about the College's Policy and procedures and to provide assistance. A list of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services and resources available is located at the following link: <https://www.augustana.edu/student-life/TitleIX>

## **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/accommodations>. 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 the Office of Disability Services.

## **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.

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 written report that summarizes 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 10 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 their 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 7 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 their 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 be removed if the party believes that person has a 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 their 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 their 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 their 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 their choice accompany them to the hearing and any related meeting or proceeding, so long as the advisor does not have a conflict of interest based upon their 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 their 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 their 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.

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 their 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 their designee. 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.

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 their 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 potential sanctions that may be imposed for any violation of this Policy includes:

- 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, campus restrictions

- Ineligibility to participate in co-curricular activities
- No Contact Directives
- Probation
- Suspension
- 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 reported violation, the College will consider other steps available to limit the effects of the conduct at issue and prevent its recurrence, such as training and education.

The complainant and the respondent will be notified simultaneously in writing of the results of the hearing procedure, including information about appeal rights, within 7 days of a decision.

## **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 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 that could affect the outcome of the matter, (2) alleged conflict of interest of the Title IX Coordinator, investigator(s), or decision-maker(s) that affected the outcome of the matter, or (3) material procedural error or irregularity that affected the outcome of the matter or the sanction is disproportionate with the violation. **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 their 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 appeal officer 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. Parties will be notified of the appeal decision in writing within 7 days after the conclusion of the review.

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 can result in a remand of 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**

For a period of 7 years, 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 2023***

#### **Investigation & Grievance Procedures: Title IX Sexual Harassment Allegations Against Employees**

Augustana has established a Policy Against Sexual Misconduct and Title IX Sexual Harassment ("Policy") that articulates the College's behavioral standards and descriptions of prohibited conduct.

These are the Title IX Sexual Harassment Investigation and Grievance Procedures ("Title IX Sexual Harassment Procedures"). Complaints of Sexual Misconduct that do not constitute Title IX Sexual Harassment are handled under the Sexual Misconduct Investigation and Grievance Procedures ("Sexual Misconduct Procedures").

These Title IX Sexual Harassment Procedures outline the College's approach to addressing reports of suspected Policy violations by an employee. Title IX Sexual Harassment Procedures vary based on the nature of the allegations, including where the alleged conduct occurred, and the classification of the individual who is accused of violating the Policy. Allegations that a student violated the Policy are governed by the Title IX Sexual Harassment Procedures outlined in Inside Augustana. The rights and options afforded to individuals who report violations as outlined in this Policy relating to confidentiality and supportive measures will apply in all cases.

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.

These Title IX Sexual Harassment Procedures ("Procedures") apply to all suspected or alleged acts of Title IX Sexual Harassment by employees as defined by federal law and will be used in place of any other employee conduct policies or procedures used to address other alleged misconduct

involving employees . In addition, any sanctions or other corrective actions imposed against employees who violate the Policy shall be imposed pursuant to these Procedures, unless the College determines in its discretion that another policy governing employee 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.

## Preliminary Assessment, Initial Response, Supportive Measures, and Investigation

### **PRELIMINARY ASSESSMENT**

Upon receipt of a report the Title IX Coordinator will conduct a Preliminary Assessment to determine:

- Whether the College has jurisdiction over the parties involved;
- Whether the conduct, as reported, falls or could fall within the scope of the Policy Against Sexual Misconduct and Title IX Sexual Harassment; and
- Whether the conduct, as reported, constitutes or could constitute Title IX Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the Policy, and/or could not constitute Sexual Harassment, even if investigated, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act (“FERPA”). The Title IX Coordinator may refer the report to other College offices, as appropriate.

If the Respondent is not a member of the College community or is no longer affiliated with the College at the time of the report or at the time of an investigation or resolution process is initiated (including if the Respondent has graduated or left the employment College), the College may be unable to take disciplinary action or conduct an investigation.

If the Title IX Coordinator determines that the conduct reported could constitute Title IX Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant as specified below.

As part of the Preliminary Assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if such identity is not apparent from the report.

### **INITIAL RESPONSE**

If a report is not closed as a result of the Preliminary Assessment specified above and the Complainant’s identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures specified in these Procedures; to discuss and consider the Complainant’s wishes with respect to such Supportive Measures; to inform the Complainant of the availability of such Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint.

The Title IX Coordinator will also discuss with the Complainant with the following information:



- Options for filing complaints with the local police and information about resources that are available on campus and in the community
- Provide a written statement of their rights and options under the Policy and these Procedures
- The availability of a confidential advisor. Confidential advisors provide confidential emergency and on-going assistance to alleged victims of sexual assault upon request. Confidential advisors are employees of Family Resources- Survivor Services of the Quad Cities.
- The right to be accompanied during any College grievance proceeding and any related meeting by an advisor of choice whose participation will be limited as outlined in this Procedures
- The hearing process
- The prohibition against retaliation
- 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.

### **Formal Complaint**

A "Formal Complaint" is a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Title IX Sexual Harassment in accordance with these Procedures. A "document filed by a Complainant" means a document or electronic submission (such as an email) that contains the Complainant's physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the College investigate and adjudicate a report of Title IX Sexual Harassment in accordance with these Procedures. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the College's education programs or activities. A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified above. No person may submit a Formal Complaint on the Complainant's behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the College if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community. Factors the Title IX Coordinator may consider in determining whether to file a Formal Complaint on behalf of the College include (but are not limited to):

- Whether the alleged Respondent is likely to commit additional acts of sexual or other violence, such as:
  - o Whether there have been other Title IX Sexual Harassment about the same alleged Responding Party;
  - o Whether the alleged Respondent has a history of arrests or records from a prior school or employment indicating a history of violence;
  - o Whether the alleged Respondent threatened further sexual misconduct or interpersonal

violence or other violence against the Reporting Party or others;

- Whether the Title IX Sexual Harassment was committed by multiple perpetrators
- Whether the Title IX Sexual Harassment was perpetrated with a weapon
- Whether the Reporting Party is a minor
- Whether Augustana possesses other means to obtain relevant evidence of the Title IX Sexual Harassment (e.g., security cameras or personnel, physical evidence)
- Whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the College will commence an investigation and proceed to adjudicate the matter as specified in these Procedures. In all cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

If neither the Complainant nor the Title IX Coordinator files a Formal Complaint, the investigation and adjudication provisions of these Procedures will not be applied, but the Title IX Coordinator may assess the matter under the College's Sexual Misconduct Investigation Procedures or refer the matter to other College offices, as appropriate.

### **Consolidation of Formal Complaints**

The College may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this Policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Title IX Sexual Harassment.

### **Dismissal Prior to Commencement of Investigation**

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and **must** dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint did not occur in the College's Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States.

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the

parties and advise them of their right to appeal as specified in these Procedures. The Title IX Coordinator may assess the matter under the College's Sexual Misconduct Investigation Procedures or refer the matter to other College offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination for purposes of these Title IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

### **Notice of Formal Complaint**

Within five (5) days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of the Policy and these Title IX Sexual Harassment Investigation and Grievance Procedures or a hyperlink to the same;
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notification to the Complainant and Respondent of their right to be accompanied by an advisor of their choice, as specified in these Procedures.
- Notification to the Complainant and Respondent of their right to inspect and review evidence as specified in these Procedures.
- Notification to the Complainant and Respondent of the College's prohibitions on retaliation and false statements specified in the Policy.
- Information about resources that are available on campus and in the community.

Should the College elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the College will provide a supplemental written notice describing the additional allegations to be investigated.

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.

### **SUPPORTIVE MEASURES**

Supportive Measures are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the College's Education Programs and Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the College's education environment, or to deter Title IX Sexual

Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, other changes to academic, living, dining, transportation, and working situations, honoring an order of protection or no contact order entered by a State civil or criminal court, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

If a report is not closed as a result of the Preliminary Assessment specified in these Procedures, the College will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the College will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The College will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

The Title IX Coordinator will provide the Complainant and Respondent with a written document (separate from this Policy) listing the available rights, options, and resources, including Supportive Measures, and describing the Title IX Procedures in plain, concise language. The College will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the College's ability to provide the Supportive Measures in question.

## **INTERIM REMOVAL**

At any time after receiving a report of Title IX Sexual Harassment, the Title IX Coordinator may remove a student Respondent from the College's Education Programs and Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the College may place the Respondent on administrative leave at any time after receiving a report of Title IX Sexual Harassment, including during the pendency of the applicable investigation and adjudication process.

For all other Respondents, including independent contractors and guests, the College retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Title IX Sexual Harassment or otherwise.

## **INVESTIGATION**

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the College and not with the parties. The investigation will culminate in a written investigation report, specified in these Procedures, that will be submitted to the hearing officer during the hearing process. Although the length of each investigation may vary depending on the totality of the circumstances, the College strives to complete each investigation within 90 days of the transmittal of the written notice of Formal Complaint.

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. 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, and any such recording will become part of the investigation record.

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.

### **Equal Opportunity**

During the investigation, the investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator

finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant, as specified in these Procedures. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Formal Complaint. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

### **Access to the Evidence**

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the investigator will transmit to each party and their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the College may choose not to rely on at any hearing and inculpatory or exculpatory evidence whether obtained from a party or some other source. Thereafter, the parties will have ten (10) days in which to submit to the investigator a written response, which the investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to the public.

### **Investigation Report**

After the period for the parties to provide any written response as specified in these Procedures has expired, the investigator will complete a written investigation report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their advisor, in either electronic or hard copy form.

Upon conclusion of the investigation, the investigator(s) will produce a written 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 10 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.

### **Documentation of Investigation**

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator’s notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator’s sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.

### **INFORMAL RESOLUTION PROCEDURE**

At any time after the parties are provided written notice of the Formal Complaint as specified in and before the completion of any appeal specified in these Procedures, the parties may voluntarily consent, with the Title IX Coordinator’s approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another College official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party’s ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will outline the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the College, except as otherwise provided in the resolution itself, absent a showing that a party induced the

resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the College. Informal resolution pursuant to this Section is not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) days from the date the informal resolution process started. If an informal resolution process does not result in a resolution within twenty-one (21) days, and absent an extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Formal Complaint will be resolved pursuant to the investigation and adjudication procedures. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended due to the informal resolution.

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee accused of committing Title IX Sexual Harassment against a student.

## Formal Resolution Procedure

### **NOTICE OF HEARING**

#### **A. Hearing Officer**

The College will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint, at the conclusion of the hearing process. The hearing officer will be provided a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator as specified in these Procedures.

#### **B. Hearing Notice and Response to the Investigation Report**

The hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of the College's Hearing Procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten (10) days from the date of transmittal of the written notice specified in these Procedures.

A party's written response to the investigation report must include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration at the hearing



based on privilege, relevancy, the prohibition on the use of sexual history specified in these Procedures, or for any other reason;

- A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- Any objection that the party has to the College's Hearing Procedures;
- Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
- If the party does not have an advisor who will accompany the party at the hearing, a request that the College provide an advisor for purposes of conducting questioning as specified in these Procedures.

A party's written response to the investigation report may also include:

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Title IX Sexual Harassment.

## **PRIOR TO THE HEARING**

### **Pre-Hearing Conference**

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with the parties and their advisors. The pre-hearing conference will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the pre-hearing conference will be conducted with the hearing officer, the parties, the advisors, and other necessary College personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the hearing officer's discretion, the pre-hearing conference may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

During the pre-hearing conference, the hearing officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of

attendance; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing.

### **Issuance of Notices of Attendance**

After the pre-hearing conference, the hearing officer will transmit notices of attendance to any College employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. All such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The College will not issue a notice of attendance to any witness who is not an employee or a student.

## **GRIEVANCE HEARING**

### **Attendance**

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the College's Hearing Procedures. The hearing will be audio recorded. The audio recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the hearing officer, the parties, the advisors, witnesses, and other necessary College personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio. Neither party will be compelled to testify in the physical presence of the other party.

In the hearing officer's discretion, the hearing may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing Procedures and rulings from the hearing officer will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or

challenge credibility;

- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary College personnel. With the exception of the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete. The parties will not be permitted to question the other party or any witness directly.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them.

While a party has the right to attend and participate in the hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the hearing in such a way as to be materially disruptive, may be barred from further participation and/or have their participation limited, as the case may be, in the discretion of the hearing officer.

Subject to the minimum requirements specified in this Section, the hearing officer will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility. The hearing officer will independently and contemporaneously screen questions for relevance in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

The hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The hearing officer will have discretion to modify the Hearing Procedures, when good cause exists to do so, and provided the minimal requirements specified in this Section are met. The Complainant and Respondent will have equal access to information before and during the hearing, including access to the Investigation Record as noted above. The College will arrange for audio-recording the entire Hearing; this recording will become part of the Investigation Record.

### **Deliberation and Determination**

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The hearing officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference or during the hearing. The hearing officer will resolve disputed facts using a preponderance of the evidence (i.e., "more likely than not") standard and reach a determination regarding whether the facts that are supported by a

preponderance of the evidence constitute one or more violations of the Policy as alleged in the Formal Complaint.

### **Discipline and Remedies**

In the event the hearing officer determines that the Respondent is responsible for violating this Policy, the hearing officer will, prior to issuing a written decision, consult with an appropriate College official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The hearing officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing Supportive Measures or other remedies will be provided to the Complainant.

### **Written Decision**

After reaching a determination and consulting with the appropriate College official and Title IX Coordinator, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the College upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Title IX Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline determined by the appropriate College official;
- Whether the Complainant will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator; and
- A description of the College's process and grounds for appeal.

The hearing officer's written determination will be transmitted to the parties. Transmittal of the written determination to the parties concludes the hearing process, subject to any right of appeal as specified in these Procedures.

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the College strives to issue the hearing officer's written determination within seven (7) days of the decision.

### **Dismissal During Investigation or Adjudication**

The College may dismiss a Formal Complaint at any point during the investigation or hearing process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled or employed by the College, as the case may be; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may assess the subject matter of the Formal Complaint under the College's Sexual Misconduct Procedures or refer the subject matter of the Formal Complaint to other College offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination as it pertains to the Title IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

#### Sanctions & Corrective Action/Remedies

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the appropriate sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. The potential disciplinary sanctions that may be imposed along with other corrective actions for a finding of a Policy violation are set forth below. One or more of these sanctions may be imposed at the discretion of the College. Any sanctions imposed will be proportionate with the violation.

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). Potential sanctions that may be imposed for any violation of this Policy includes:

- Verbal warning
- Written warning
- Mandatory discrimination or harassment training or education
- Mandatory Counseling
- Technology/Equipment/Resource access restrictions
- College campus access restrictions
- Change in assigned duties and/or committee assignments
- Leave of absence
- Termination of employment with 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.

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.

In instances where the College is unable to take disciplinary or other corrective action in response to a reported violation, the College will consider other steps available to limit the effects of the conduct at issue and prevent its recurrence, such as training and education.

### **Remedies**

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the College may also offer additional measures, and/or take other action, to eliminate any hostile environment caused by the Title IX Sexual Harassment, prevent the recurrence of any Title IX Sexual Harassment, and remedy the effects of the Title IX Sexual Harassment on the Complainant and the College community. Remedies that may be offered or provided to a Complainant may include the same individualized services described as Supportive Measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Additional corrective actions may include but are not limited to support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support for one or both parties. Corrective actions and remedies at the level of the institution may 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.

In no event will a party in matters involving an alleged violation of the Policy be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome.

### **APPEAL PROCESS**

Either party may appeal the determination of a hearing or a dismissal of a Formal Complaint, on one or more of the following grounds:

- A procedural irregularity affected the outcome;
- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The Title IX Coordinator, investigator, hearing officer, or administrative officer, as the case may be, had a conflict of interest or bias for or against complainants or respondents generally, or

against the individual Complainant or Respondent, that affected the outcome.

- The sanction is disproportionate with the violation.

No other grounds for appeal are permitted.

A party must file an appeal within ten (10) days of the date they receive notice of dismissal or the determination appealed from. The appeal must be submitted in writing to the Title IX Coordinator. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

The Title IX Coordinator will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the Title IX Coordinator determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal will be dismissed and written notice of the dismissal will be provided to the parties.

If the Title IX Coordinator confirms that the appeal is timely and invokes at least one permitted ground for appeal, they will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) days. Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the Title IX Coordinator will forward the appeal to the Appeal Officer. The Appeal Officer shall also receive any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal. The Appeal Officer will review the matter and transmit a written decision to the parties that explains the outcome of the appeal and the rationale. The Appeal Officer will be appointed by the College. Although the length of each appeal will vary depending on the totality of the circumstances, the College strives to issue the Appeal Officer's written decision within (21) days of an appeal being filed. The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the Appeal Officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.

## **OTHER PROVISIONS**

### **Advisors of Choice**

From the point a Formal Complaint is made, and until an investigation, hearing, and appeal are complete, both parties are entitled to bring an advisor of their choice to any meetings, interviews, and hearings that are part of the investigation, resolution, and appeal process, provided that the involvement of the advisor does not result in undue delay of the meeting or interview. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing specified in these Procedures, the role of the advisor of choice is limited to consulting privately with the party they accompany. The advisor will play a passive role and is not permitted to communicate on behalf of a party, insist

that communication flow through the advisor, or communicate with the College about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in writing by the Hearing Office, or as outlined in these Procedures, including engaging in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or an individual investigating or resolving the complaint, the College may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing specified in these Procedures, the College will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The College will have sole discretion to select the advisor it provides. The advisor the College provides may be, but is not required to be, an attorney or any individual with specialized legal training.

The College is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing specified in these Procedures.

### **Treatment Records and Other Privileged Information**

During the investigation and hearing processes, the investigator and adjudicator, as the case may be, are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally-recognized privilege, such as the attorney client privilege; unless the College has obtained the party's voluntary, written consent to do so for the purposes of the investigation and adjudication process.

Notwithstanding the foregoing, the investigator and/or adjudicator, as the case may be, may consider any such records or information otherwise covered by this Section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense, as the case may be.

### **Sexual History**

During the investigation and hearing processes, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, 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. Notwithstanding the foregoing, a Complainant who affirmatively uses information otherwise considered irrelevant by this Section for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this Section.



### **Presumption of Non-Responsibility**

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

### **Conflicts of Interest, Bias, and Procedural Complaints**

The Title IX Coordinator, investigator, hearing officer, administrative officer, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. The parties will be notified of the identities of the decision maker and appeal reviewer for their proceeding before those individual(s) initiate contact with either party. Any party who believes one or more of these individuals has a material conflict of interest or material bias must raise the concern promptly so that the College may evaluate the concern and find a substitute, if appropriate. If a party believes that the investigator, hearing officer, administrative officer, appeals officer, or informal resolution facilitator has a conflict of interest, the party should raise the concern to the Title IX Coordinator. If a party believes a Title IX Coordinator has a conflict of interest, the party should raise the concern to the Dean of Students (when requesting party is a student) or the Vice President of the College (when requesting party is an employee). The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in these Procedures or otherwise.

### **Objections Generally**

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the College may evaluate the matter and address it, if appropriate.

### **Recordings**

Wherever this Policy specifies that an audio or video recording will be made, the recording will be made only by the College and is considered property of the College, subject to any right of access that a party may have under this Policy, FERPA, and other applicable federal, state, or local laws. Only the College is permitted to make audio or video recordings under this Policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this Policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

### **Vendors, Contractors and Third Parties**

The College does business with various vendors, contractors, and other third-parties who are not students or employees of the College. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under the Policy or these Title IX Sexual Harassment Procedures, the College retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the College retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under these Title IX Sexual Harassment Procedures.

## **Confidentiality**

The College will keep confidential the identity of any individual who has made a report or Formal Complaint of Title IX Sexual Harassment or Retaliation, including any Complainant, the identity of any individual who has been reported to be a perpetrator of Title IX Sexual Harassment or Retaliation, including any Respondent, and the identity of any witness. The College will also maintain the confidentiality of its various records generated in response to reports and Formal Complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, adjudication records, and appeal records.

Notwithstanding the foregoing, the College may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the College's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this Policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the College's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials in the circumstances specified in this Policy. In all interviews and meetings held in connection with these Title IX Sexual Harassment procedures, the College will protect the privacy of the participating parties and witnesses as required by FERPA and other applicable law.

While the College will maintain confidentiality specified in these Procedures, the College will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Title IX Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this Policy.

Note that certain types of Title IX Sexual Harassment are considered crimes for which the College must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

## **Other Violations of this Policy**

Alleged violations of the Policy, other than violations of the prohibitions on Title IX Sexual Harassment, Sexual Misconduct, and Retaliation, such as failing to abide by a supportive measure or emergency removal, will be subject to review under the Student Code of Conduct for students, the Faculty Handbook for faculty, or other College policies and standards for employees.

## **Signatures and Form of Consent**

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where these Title IX Sexual Harassment Procedures provide that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

## **Deadlines, Time, Notices, and Method of Transmittal**

Where these Title IX Sexual Harassment Procedures specify a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period;
- Count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the federal government;
- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

All deadlines and other time periods specified in this Policy are subject to modification by the College where, in the College's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the College's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, hearing officer, administrative officer, appeal officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The College officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the College.

The parties will be provided written notice of the modification of any deadline or time period specified in this Policy, along with the reasons for the modification.

Where these Title IX Sexual Harassment Procedures refer to notice being given to parties "simultaneously," notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

Unless otherwise specified in these Title IX Sexual Harassment Procedures, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this Policy will be email using College email addresses.

A party is deemed to have received notice upon transmittal of an email to their College email address. In the event notice is provided by mail, a party will be deemed to have received notice three (3) days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in the Title IX Sexual Harassment Procedures, the sufficient time to be provided will be determined in the sole discretion of the College, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at

issue; the schedules of relevant College officials; approaching holidays or closures; and the number and length of extensions already granted.

### **Other Forms of Discrimination**

These Title IX Sexual Harassment Procedures apply only to (1) complaints of Title IX Sexual Harassment or (2) complaints that include acts of both Title IX Sexual Harassment and Sexual Misconduct, where the allegations involve the same parties or are otherwise materially related. Complaints of Sexual Misconduct, as defined in the Policy, are governed by the College's Sexual Misconduct Procedures.

### **Outside Appointments, Dual Appointments, and Delegations**

The College retains discretion to retain and appoint suitably qualified persons who are not College employees to fulfill any function of the College under the Policy and these Procedures, including, but not limited to, the investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The College also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The functions assigned to a given College official under this Policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, administrative officer, informal resolution officer, and appeals officer, may, in the College's discretion, be delegated by such College official to any suitably qualified individual and such delegation may be recalled by the College at any time.

### **RECORDS MAINTENANCE**

The College will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven years after which point in time they may be destroyed, or continue to be retained, in the College's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

For a period of 7 years, 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.

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. If an employee is found responsible for violating the Policy, the finding will be retained in the employee's employment file and subject to retention rules pertaining to personnel records.

### **Discretion in Application**

The College retains discretion to interpret and apply this Policy in a manner that is not clearly unreasonable, even if the College's interpretation or application differs from the interpretation of the parties.

Despite the College's reasonable efforts to anticipate all eventualities in drafting this Policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the College retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this Policy and the Hearing Procedures referenced in these Procedures are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the College retains discretion to revise this Policy and the Hearing Procedures at any time, and for any reason. The College may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

### **Training and Educational Programming**

The College will ensure that College officials acting under this Policy, including but not limited to the Title IX Coordinator, investigators, hearing officers, informal resolution facilitators, College provided advisors, and appeals officers, receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii), and any other applicable federal or state law.

The College will also provide education to students and employees on issues relating to Title IX Sexual Harassment and the College's policies and procedures that complies with the Illinois Preventing Sexual Violence in Higher Education Act and any other applicable federal or state law.

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 2023

*<sup>1</sup> The College may, however, apply other applicable laws, policies and procedures to resolve alleged sex discrimination before applying these Procedures if the College deems it appropriate. In such a case, the resolution under the previously applied procedures may result in a dismissal of proceedings under the Policy and these Procedures.*

## **Title IX Sexual Harassment Investigation & Grievance Procedures: Alleged Student Violations**

Augustana has established a Policy Against Sexual Misconduct and Title IX Sexual Harassment ("Policy") that articulates the College's behavioral standards and descriptions of prohibited conduct.

These are the Title IX Sexual Harassment Investigation and Resolution Procedures ("Title IX Sexual Harassment

Procedures"). Complaints of Sexual Misconduct that do not constitute Title IX Sexual Harassment are handled under the Sexual Misconduct Investigation and Resolution Procedures ("Sexual Misconduct Procedures").

These Title IX Sexual Harassment Procedures outline the College's approach to addressing reports of suspected Policy violations by a student. Title IX Sexual Harassment Procedures vary based on the nature of the allegations,

including where the alleged conduct occurred, and the classification of the individual who is accused of violating the Policy. Allegations that a faculty member violated the Policy are governed by the Title IX Sexual Harassment

Procedures outlined in Section 10 of the Faculty handbook. Allegations that a staff or administrative employee violated the Policy are governed by the Title IX Sexual Harassment Procedures generally outlined in the Employee Handbook. The rights and options afforded to individuals who report violations as outlined in this Policy relating to confidentiality and supportive measures will apply in all cases.

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.

These Title IX Sexual Harassment Procedures ("Procedures") apply to all suspected or alleged acts of Title IX Sexual Harassment by students as defined by federal law 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 Title IX Sexual Harassment 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.

### **Preliminary Assessment, Initial Response, Supportive Measures, and Investigation**

#### **PRELIMINARY ASSESSMENT**

Upon receipt of a report the Title IX Coordinator will conduct a Preliminary Assessment to determine:

- Whether the College has jurisdiction over the parties involved;
- Whether the conduct, as reported, falls or could fall within the scope of the Policy Against Sexual Misconduct and Title IX Sexual Harassment; and
- Whether the conduct, as reported, constitutes or could constitute Title IX Sexual Harassment.



If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Sexual Harassment, even if investigated, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act (“FERPA”). The Title IX Coordinator may refer the report to other College offices, as appropriate.

If the Respondent is not a member of the College community or is no longer affiliated with the College at the time of the report or at the time of an investigation or resolution process is initiated (including if the Respondent has graduated or left the College), the College may be unable to take disciplinary action or conduct an investigation.

If the Title IX Coordinator determines that the conduct reported could constitute Title IX Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant as specified below.

As part of the Preliminary Assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if such identity is not apparent from the report.

## **INITIAL RESPONSE**

If a report is not closed as a result of the Preliminary Assessment specified above and the Complainant’s identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures specified in these Procedures; to discuss and consider the Complainant’s wishes with respect to such

Supportive Measures; to inform the Complainant of the availability of such Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint.

The Title IX Coordinator will also discuss with the Complainant with the following information:

- Options for filing complaints with the local police and information about resources that are available on campus and in the community
- Provide a written statement of his/her rights and options under the Policy and these Procedures
- The availability of a confidential advisor. Confidential advisors provide confidential emergency and on-going assistance to alleged victims of sexual assault upon request. Confidential advisors are employees of Family Resources-Survivor Services of the Quad Cities.
- The right to be accompanied during any College grievance proceeding and any related meeting by an advisor of choice whose participation will be limited as outlined in this Procedures
- The hearing process
- The prohibition against retaliation
- 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.

## **Formal Complaint**

A "Formal Complaint" is a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Title IX Sexual Harassment in accordance with these Procedures. A "document filed by a Complainant" means a document or electronic submission (such as an email) that contains the Complainant's physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the College investigate and adjudicate a report of Title IX Sexual Harassment in accordance with these Procedures. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the College's education programs or activities. A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified above. No person may submit a Formal Complaint on the Complainant's behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the College if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community. Factors the Title IX Coordinator may consider in determining whether to file a Formal Complaint on behalf of the College include (but are not limited to):

- Whether the alleged Respondent is likely to commit additional acts of sexual or other violence, such as:
  - Whether there have been other Title IX Sexual Harassment about the same alleged Responding Party;
  - Whether the alleged Respondent has a history of arrests or records from a prior school indicating a history of violence;
  - Whether the alleged Respondent threatened further sexual misconduct or interpersonal violence or other violence against the Reporting Party or others;
- Whether the Title IX Sexual Harassment was committed by multiple perpetrators
- The Title IX Sexual Harassment was perpetrated with a weapon
- The Reporting Party is a minor
- Augustana possesses other means to obtain relevant evidence of the Title IX Sexual Harassment (e.g., security cameras or personnel, physical evidence)
- The Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the College will commence an investigation and proceed to adjudicate the matter as specified in these Procedures. In all cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

If neither the Complainant or the Title IX Coordinator files a Formal Complaint, the investigation and adjudication provisions of these Procedures will not be applied, but the Title IX Coordinator may assess the matter under the College's Sexual Misconduct Investigation Procedures or refer the matter to other College offices, as appropriate.

### **Consolidation of Formal Complaints**

The College may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this Policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Title IX Sexual Harassment.

### **Dismissal Prior to Commencement of Investigation**

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and **must** dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint did not occur in the College's Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States.

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in these Procedures. The Title IX Coordinator may assess the matter under the College's Sexual Misconduct Investigation Procedures or refer the matter to other College offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination for purposes of these Title IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

## **Notice of Formal Complaint**

Within five (5) days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of this Policy or a hyperlink to this Policy;
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notifying the Complainant and Respondent of their right to be accompanied by an advisor of their choice, as specified in these Procedures.
- Notifying the Complainant and Respondent of their right to inspect and review evidence as specified in these Procedures.
- Notifying the Complainant and Respondent of the College's prohibitions on retaliation and false statements specified in the Policy.
- Information about resources that are available on campus and in the community.

Should the College elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the College will provide a supplemental written notice describing the additional allegations to be investigated.

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.

## **SUPPORTIVE MEASURES**

Supportive Measures are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the College's Education Programs and Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the College's education environment, or to deter Title IX Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and

monitoring of certain areas of campus, other changes to academic, living, dining, transportation, and working situations, honoring an order of protection or no contact order entered by a State civil or criminal court, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

If a report is not closed as a result of the Preliminary Assessment specified in these Procedures, the College will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the College will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The College will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

The Title IX Coordinator will provide the Complainant and Respondent with a written document (separate from this Policy) listing the available rights, options, and resources, including Supportive Measures, and describing the Title IX Procedures in plain, concise language.

The College will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the College's ability to provide the Supportive Measures in question.

## **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/accommodations>. 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 the Office of Disability Services.

## **INTERIM REMOVAL**

At any time after receiving a report of Title IX Sexual Harassment, the Title IX Coordinator may remove a student respondent from the College's Education Programs and Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the College may place the Respondent on administrative leave at any time after receiving a report of Title IX Sexual Harassment, including during the pendency of the applicable investigation and adjudication process.

For all other Respondents, including independent contractors and guests, the College retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Title IX Sexual Harassment or otherwise.

## **INVESTIGATION**

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the College and not with the parties. The investigation will culminate in a written investigation report, specified in these Procedures, that will be submitted to the hearing officer during the hearing process.

Although the length of each investigation may vary depending on the totality of the circumstances, the College strives to complete each investigation within 90 days of the transmittal of the written notice of Formal Complaint.

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. 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, and any such recording will become part of the investigation record.

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.

### **Equal Opportunity**

During the investigation, the investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant, as specified in these Procedures. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Formal Complaint. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

### **Access to the Evidence**

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the investigator will transmit to each party and their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation

that is directly related to the allegations raised in the Formal Complaint, including evidence the College may choose not to rely on at any hearing and inculpatory or exculpatory evidence whether obtained from a party or some other source. Thereafter, the parties will have one ten (10) day period in which to submit to the investigator a written response, which the investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to the public.

### **Investigation Report**

After the period for the parties to provide any written response as specified in these Procedures has expired, the investigator will complete a written investigation report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their advisor, in either electronic or hard copy form.

Upon conclusion of the investigation, the investigator(s) will produce a written 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 10 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.

### **Documentation of Investigation**

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.



## INFORMAL RESOLUTION PROCEDURE

At any time after the parties are provided written notice of the Formal Complaint as specified in and before the completion of any appeal specified in these Procedures, the parties may voluntarily consent, with the Title IX

Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any informal resolution process will be determined by the parties and the Title IX

Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another College official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will outline the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the College, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the College. Informal resolution pursuant to this Section is not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) days from the date the informal resolution process started. If an informal resolution process does not result in a resolution within twenty-one (21) days, and absent an extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Formal Complaint will be resolved pursuant to the investigation and adjudication procedures. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended due to the informal resolution.

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee accused of committing Title IX Sexual Harassment against a student.

## **Formal Resolution Procedure**

### **NOTICE OF HEARING**

#### **A. Hearing Officer**

The Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint, at the conclusion of the hearing process. The Title IX Coordinator will see that the hearing officer is provided a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator as specified in these Procedures.

#### **B. Hearing Notice and Response to the Investigation Report**

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of the College's Hearing Procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten (10) days from the date of transmittal of the written notice specified in these Procedures.

A party's written response to the investigation report must include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history specified in these Procedures, or for any other reason;
- A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;

- A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- Any objection that the party has to the College's Hearing Procedures;
- Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
- If the party does not have an advisor who will accompany the party at the hearing, a request that the College provide an advisor for purposes of conducting questioning as specified in these Procedures.

A party's written response to the investigation report may also include:

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Title IX Sexual Harassment.

## **PRIOR TO THE HEARING**

### **Pre-Hearing Conference**

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with the parties and their advisors. The pre-hearing conference will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the pre-hearing conference will be conducted with the hearing officer, the parties, the advisors, and other necessary College personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the hearing officer's discretion, the pre-hearing conference may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

During the pre-hearing conference, the hearing officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have

requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing.

### **Issuance of Notices of Attendance**

After the pre-hearing conference, the hearing officer will transmit notices of attendance to any College employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. All such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The College will not issue a notice of attendance to any witness who is not an employee or a student.

## **GRIEVANCE HEARING**

### **Attendance**

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the College's Hearing Procedures. The hearing will be audio recorded. The audio recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the hearing officer, the parties, the advisors, witnesses, and other necessary College personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio. Neither party will be compelled to testify in the physical presence of the other party.

In the hearing officer's discretion, the hearing may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing Procedures and rulings from the hearing officer will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant

questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;

- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary College personnel. With the exception of the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete. The parties will not be permitted to question the other party or any witness directly.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them.

While a party has the right to attend and participate in the hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the hearing in such a way as to be materially disruptive, may be barred from further participation and/or have their participation limited, as the case may be, in the discretion of the hearing officer.

Subject to the minimum requirements specified in this Section, the hearing officer will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility. The hearing officer will independently and contemporaneously screen questions for relevance in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

The hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The hearing officer will have discretion to modify the Hearing Procedures, when good cause exists to do so, and provided the minimal requirements specified in this Section are met.

The Complainant and Respondent will have equal access to information before and during the hearing, including access to the Investigation Record as noted above. The College will arrange for audio-recording the entire Hearing; this recording will become part of the Investigation Record.

### **Deliberation and Determination**

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The hearing officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference or during the hearing. The

hearing officer will resolve disputed facts using a preponderance of the evidence (i.e., “more likely than not”) standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the Policy as alleged in the Formal Complaint.

### **Discipline and Remedies**

In the event the hearing officer determines that the Respondent is responsible for violating this Policy, the hearing officer will, prior to issuing a written decision, consult with an appropriate College official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The hearing officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing Supportive Measures or other remedies will be provided to the Complainant.

### **Written Decision**

After reaching a determination and consulting with the appropriate College official and Title IX Coordinator, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the College upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Title IX Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline determined by the appropriate College official;
- Whether the Complainant will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator; and
- A description of the College’s process and grounds for appeal.

The hearing officer’s written determination will be transmitted to the parties. Transmittal of the written determination to the parties concludes the hearing process, subject to any right of appeal as specified in these Procedures.

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the College strives to issue the hearing officer’s written determination within seven (7) days of the decision.

### **Dismissal During Investigation or Adjudication**

The College may dismiss a Formal Complaint at any point during the investigation or hearing process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled or employed by the College, as the case may be; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may assess the subject matter of the Formal Complaint under the College's Sexual Misconduct Procedures or refer the subject matter of the Formal Complaint to other College offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination as it pertains to the Title IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

### **Sanctions & Corrective Action/Remedies**

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the appropriate sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. The potential disciplinary sanctions that may be imposed along with other corrective actions for a finding of a Policy violation are set forth below. One or more of these sanctions may be imposed at the discretion of the College. Any sanctions imposed will be proportionate with the violation. In imposing disciplinary sanctions, the College will consider the impact of separating a student from their education.

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 potential sanctions that may be imposed for any violation of this Policy includes:

- 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, campus restrictions
- Ineligibility to participate in co-curricular activities
- No Contact Directives
- Probation
- Suspension

- 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 instances where the College is unable to take disciplinary or other corrective action in response to a reported violation, the College will consider other steps available to limit the effects of the conduct at issue and prevent its recurrence, such as training and education.

#### **Remedies**

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the College may also offer additional measures, and/or take other action, to eliminate any hostile environment caused by the Title IX Sexual Harassment, prevent the recurrence of any Title IX Sexual Harassment, and remedy the effects of the Title IX Sexual Harassment on the Complainant and the College community. Remedies that may be offered or provided to a Complainant may include the same individualized services described as Supportive Measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Additional corrective actions may include but are not limited to support services and accommodations such as escorts, counseling and medical services, academic or residential



accommodations and support for one or both parties. Corrective actions and remedies at the level of the institution may 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.

In no event will a party in matters involving an alleged violation of the Policy be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome.

## **APPEAL PROCESS**

Either party may appeal the determination of a hearing or a dismissal of a Formal Complaint, on one or more of the following grounds:

- A procedural irregularity affected the outcome;
- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The Title IX Coordinator, investigator, hearing officer, or administrative officer, as the case may be, had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.
- The sanction is disproportionate with the violation.

No other grounds for appeal are permitted.

A party must file an appeal within ten (10) days of the date they receive notice of dismissal or the determination appealed from. The appeal must be submitted in writing to the Title IX Coordinator. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

The Title IX Coordinator will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the Title IX Coordinator determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal will be dismissed and written notice of the dismissal will be provided to the parties.

If the Title IX Coordinator confirms that the appeal is timely and invokes at least one permitted ground for appeal, they will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) days. Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the Title IX Coordinator will forward the appeal to the Appeal Officer. The Appeal Officer shall also receive from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal. The Appeal

Officer will promptly decide the appeal and transmit a written decision to the parties within seven (7) days that explains the outcome of the appeal and the rationale.

The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the Appeal Officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, the College strives to issue the Appeal Officer's written decision within (21) days of an appeal being filed.

## **OTHER PROVISIONS**

### **Advisors of Choice**

From the point a Formal Complaint is made, and until an investigation, hearing, and appeal are complete, both parties are entitled to bring an advisor of their choice to any meetings, interviews, and hearings that are part of the investigation, resolution, and appeal process, provided that the involvement of the advisor does not result in undue delay of the meeting or interview. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing specified in these Procedures, the role of the advisor of choice is limited to consulting privately with the party they accompany. The advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the College about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in writing by the Hearing Office, or as outlined in these Procedures, including engaging in behavior or advocacy that harasses, abuses, or

intimidates either party, a witness, or an individual investigating or resolving the complaint, the College may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing specified in these Procedures, the College will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The College will have sole discretion to select the advisor it provides. The advisor the College provides may be, but is not required to be, an attorney or any individual with specialized legal training.

The College is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing specified in these Procedures.

### **Treatment Records and Other Privileged Information**

During the investigation and hearing processes, the investigator and adjudicator, as the case may be, are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally-recognized privilege, such as the attorney client privilege; unless the College has obtained the party's voluntary, written consent to do so for the purposes of the investigation and adjudication process.

Notwithstanding the foregoing, the investigator and/or adjudicator, as the case may be, may consider any such records or information otherwise covered by this Section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense, as the case may be.

### **Sexual History**

During the investigation and hearing processes, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, 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. Notwithstanding the foregoing, a Complainant who affirmatively uses information otherwise considered irrelevant by this Section for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this Section.

### **Presumption of Non-Responsibility**

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

### **Conflicts of Interest, Bias, and Procedural Complaints**

The Title IX Coordinator, investigator, hearing officer, administrative officer, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. The parties will be notified of the identities of the decision maker and appeal reviewer for their proceeding before those individual(s) initiate contact with either party. Any party who believes one or more of these individuals has a material conflict of interest or material bias must raise the concern promptly so that the College may evaluate the concern and find a substitute, if appropriate. If a party believes that the investigator, hearing officer, administrative officer, appeals officer, or informal resolution facilitator has a conflict of interest, the party should raise the concern to the Title IX Coordinator. If a party believes a

Title IX Coordinator has a conflict of interest, the party should raise the concern to the Dean of Students (when requesting party is a student) or the Vice President of the College (when requesting party is an employee). The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in these Procedures or otherwise.

### **Objections Generally**

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the College may evaluate the matter and address it, if appropriate.

### **Recordings**

Wherever this Policy specifies that an audio or video recording will be made, the recording will be made only by the College and is considered property of the College, subject to any right of access that a party may have under this Policy, FERPA, and other applicable federal, state, or local laws. Only the College is permitted to make audio or video recordings under this Policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this Policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

### **Vendors, Contractors and Third Parties**

The College does business with various vendors, contractors, and other third-parties who are not students or employees of the College. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under the Policy or these Title IX Sexual Harassment Procedures, the College retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the College retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under these Title IX Sexual Harassment Procedures.

### **Confidentiality**

The College will keep confidential the identity of any individual who has made a report or Formal Complaint of Title IX Sexual Harassment or Retaliation, including any Complainant, the identity of any individual who has been reported to be a perpetrator of Title IX Sexual Harassment or Retaliation, including any Respondent, and the identity of any witness. The College will also maintain the confidentiality of its various records generated in response to reports and Formal Complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, adjudication records, and appeal records.

Notwithstanding the foregoing, the College may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the College's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this Policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the College's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials in the circumstances specified in this Policy.

In all interviews and meetings held in connection with these Title IX Sexual Harassment procedures, the College will protect the privacy of the participating parties and witnesses as required by FERPA and other applicable law.

While the College will maintain confidentiality specified in these Procedures, the College will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Title IX Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this Policy.

Note that certain types of Title IX Sexual Harassment are considered crimes for which the College must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

### **Other Violations of this Policy**

Alleged violations of the Policy, other than violations of the prohibitions on Title IX Sexual Harassment, Sexual Misconduct, and Retaliation, such as failing to abide by a supportive measure or emergency removal, will be subject to review under the Student Code of Conduct for students, the Faculty Handbook for faculty, or other College policies and standards for employees.

### **Signatures and Form of Consent**

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where these Title IX Sexual Harassment Procedures provide that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

### **Deadlines, Time, Notices, and Method of Transmittal**

Where these Title IX Sexual Harassment Procedures specify a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period;
- Count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the federal government;
- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

All deadlines and other time periods specified in this Policy are subject to modification by the College where, in the College's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the College's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, hearing officer, administrative officer, appeal officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The College officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the College.

The parties will be provided written notice of the modification of any deadline or time period specified in this Policy, along with the reasons for the modification.

Where these Title IX Sexual Harassment Procedures refer to notice being given to parties “simultaneously,” notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

Unless otherwise specified in these Title IX Sexual Harassment Procedures, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this Policy will be email using College email addresses.

A party is deemed to have received notice upon transmittal of an email to their College email address. In the event notice is provided by mail, a party will be deemed to have received notice three (3) days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in the Title IX Sexual Harassment Procedures, the sufficient time to be provided will be determined in the sole discretion of the College, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at issue; the schedules of relevant College officials; approaching holidays or closures; and the number and length of extensions already granted.

### **Other Forms of Discrimination**

These Title IX Sexual Harassment Procedures apply only to (1) complaints of Title IX Sexual Harassment or (2) complaints that include acts of both Title IX Sexual Harassment and Sexual Misconduct, where the allegations involve the same parties or are otherwise materially related. Complaints of Sexual Misconduct, as defined in the Policy, are governed by the College’s Sexual Misconduct Procedures.

### **Outside Appointments, Dual Appointments, and Delegations**

The College retains discretion to retain and appoint suitably qualified persons who are not College employees to fulfill any function of the College under this Policy, including, but not limited to, the investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The College also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The functions assigned to a given College official under this Policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, administrative officer, informal resolution officer, and appeals officer, may, in the College's discretion, be delegated by such College official to any suitably qualified individual and such delegation may be recalled by the College at any time.

### **RECORDS MAINTENANCE**

The College will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven years after which point in time they may be destroyed, or continue to be retained, in the College's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

For a period of 7 years, 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.

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.

#### **Discretion in Application**

The College retains discretion to interpret and apply this Policy in a manner that is not clearly unreasonable, even if the College's interpretation or application differs from the interpretation of the parties.

Despite the College's reasonable efforts to anticipate all eventualities in drafting this Policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the College retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this Policy and the Hearing Procedures referenced in these Procedures are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the College retains discretion to revise this Policy and the Hearing Procedures at any time, and for any reason. The College may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

## **Training and Educational Programming**

The College will ensure that College officials acting under this Policy, including but not limited to the Title IX Coordinator, investigators, hearing officers, informal resolution facilitators, College provided advisors, and appeals officers, receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii), the Illinois Preventing Sexual Violence in Higher Education Act, and any other applicable federal or state law.

The College officials responsible for investigating and resolving alleged violations of this Policy in accordance with these Title IX Sexual Harassment 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.

The College will also provide education to students and employees on issues relating to Title IX Sexual Harassment and the College's policies and procedures that complies with the Illinois Preventing Sexual Violence in Higher Education Act and any other applicable federal or state law.

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.

Police Updated: August 2023

*<sup>1</sup> The College may, however, apply other applicable laws, policies, and procedures to resolve alleged sex discrimination before applying these Procedures if the College deems it appropriate. In such a case, the resolution under the previously applied procedures may result in a dismissal of proceedings under the Policy and these Procedures.*

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- 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.

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

## **Illinois Murderer and Violent Offender Against Youth Information**

The Illinois State Police have established a statewide Murder and Violent Offender Against Youth Database, accessible on the Internet, identifying violent offenders against youth who have been convicted of certain offenses and/or crimes against children must register as a Violent Offender Against Youth. More information about the registry may be found at <http://www.isp.state.il.us/cmvo/>.

## **Weapons on Campus**

Augustana College maintains a weapons- and firearms-free campus. "Campus" includes, but is not limited to, the Augustana College campus in Rock Island; a regional office located in Lombard, Ill.; field stations located throughout the state of Illinois; residential properties owned and controlled by Augustana located in Rock Island, including residence halls and transitional living areas; and sites, whether owned, leased or controlled by Augustana, where Augustana programs, activities and classes are held.

Unless authorized by law or specifically exempted by Augustana College policy or federal or state law, no individual may possess a weapon or firearm while on the Augustana College campus.

The provisions of this policy do not apply to: law enforcement officers required to carry a weapon for his/her employment, including sworn officers of the Augustana College Police Department, the use of simulated weapons or firearms in connection with Augustana College theatrical productions, or off-duty law enforcement officers on campus.

A weapon or firearm may be transported into a college-owned parking area if the weapon or firearm and its ammunition remain locked in a case out of view within the parked and locked vehicle. "Case" is defined as a glove compartment or console that completely encases the weapon or firearm and its ammunition, the trunk of the vehicle, or a weapon or firearm carrying box. The weapon or firearm may be removed only for the limited purpose of storage or retrieval from within the trunk of the vehicle. A weapon or firearm must be unloaded before removal from the vehicle. Any individuals arriving on campus with a licensed weapon or firearm

who cannot store their weapon or firearm in their vehicle must immediately contact the Augustana College Police Department at 309-794-7711.

Violations of this policy may result in arrest and prosecution, as well as referrals to external law enforcement agencies. Additionally, any individual visiting campus found to violate this policy may be banned from campus. Students in violation of this policy will be subject to discipline, up to and including, but not limited to, suspension from Augustana College. An employee found to violate this policy will be subject to discipline, up to and including, but not limited to, immediate termination of employment.

Signs are posted at main building entrances informing that concealed firearms are prohibited. Signs are in accordance with the design approved by the Illinois State Police.

### **Violence Prevention**

While Augustana employs a dedicated group of public safety and police personnel, it is the job of each and every employee to assist in keeping our workplace and campus as safe as possible. Employees who receive or overhear any threatening communications from an employee or outside third party should report it to the Office of Police and Public Safety at once. Employees should not engage in either physical or verbal confrontation with a potentially violent individual. If an employee encounters an individual who is threatening immediate harm to an employee or visitor to our premises or to any worksite, contact our Office of Police and Public Safety at 309-794-7711 or an emergency agency, such as 911, immediately.

All reports of work-related threats will be kept confidential to every extent possible, investigated and documented. Employees are expected to report and cooperate with an investigation of any suspected and/or actual cases of workplace violence.

Violations of this policy, including an employee's failure to report or fully cooperate in the college's investigation, may result in disciplinary action, up to and including immediate termination.

### **Missing Student**

If a member of the college community has reason to believe that a student who resides in oncampus housing, as defined by the Clery Act, is missing, he or she should immediately notify the Augustana Office of Police and Public Safety at 309-794-7711 or the Dean of Students Office at 309-794-7533. The Office of Police and Public Safety will generate a missing person report and initiate an investigation. After investigating the missing person report, should the Office of Police and Public Safety determine that the student is missing and has been missing for more than 24 hours, Augustana College will notify the student's emergency contact no later than 24 hours after the student is determined to be missing. If the missing student is under the age of 18 and is not an emancipated individual, the Dean of Student's Office will notify the student's

parent or legal guardian immediately after it is determined the student has been missing for more than 24 hours. In addition to registering an emergency contact, students residing in oncampus housing, as defined by the Clery Act, have the option to identify confidentially an individual to be contacted by Augustana College in the event the student is determined to be missing for more than 24 hours. If a student has identified such an individual, Augustana College will notify that individual no later than 24 hours after the student is determined to be missing. Students who wish to identify a confidential contact can do so through the Dean of Students Office.

## **Definitions of Clery Crimes**

### **Criminal Homicide**

- Murder and non-negligent manslaughter. The willful (non-negligent) killing of one human being by another.
- Negligent manslaughter. The killing of another person through gross negligence.

### **Forcible sex offenses**

- Rape. The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

### **Non-forcible sex offenses**

- Incest. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape. Sexual intercourse with a person who is under the statutory age of consent.

### **Robbery**

□ The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

### **Aggravated assault**

□ An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by a means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used that could and probably would result in serious personal injury if the crime were successfully completed.)

### **Burglary**

□ The unlawful entry of a structure to commit a felony or a theft. For reporting purposes, this definition includes: unlawful entry with intent to commit a larceny or a felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking, and all attempts to commit any of the aforementioned acts.

### **Motor vehicle theft**

□ The theft or attempted theft of a motor vehicle. (Motor vehicle theft is classified as any case where an automobile is taken by a person not having lawful access, even if the vehicle is later abandoned, including joy riding).

### **Arson**

□ Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

### **Other offenses**

□ Liquor law violations. The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned activities. (Drunkenness and driving under the influence are not included in this definition.)

### **Drug abuse violations**

□ Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine)

### **Weapon law violations**

□ The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: the manufacture, sale, or possession of deadly weapons; the carrying of deadly weapons, concealed or openly; the furnishing of deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned acts.

### **Domestic Violence**

□ (1) A felony or misdemeanor crime of violence committed – (i) By a current or former spouse or intimate partner of the victim; (ii) By a person with whom the victim shares a child in common; (iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) By a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (v) By any other person against an adult or youth victim who is protected from that person's

acts under the domestic or family violence laws or the jurisdiction in which the crime of violence occurred.

### Dating Violence

□ Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; (1) 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. (2) For the purpose of this definition – (i) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse; (ii) Dating violence does not include acts covered under the definition of domestic violence.

### Stalking

□ (1) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (i) Fear for the person's safety or the safety of others; or (ii) Suffer substantial emotional distress. (2) For the purpose of this definition – (i) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. (ii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. (iii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

### Crime Statistics

Offense	Year	Residential	On Campus	Non Campus	Holiday Inn- RI	Public Property	Totals
Murder/Non-negligent manslaughter	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
Negligent manslaughter	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
Rape	2022	5	4	1	0	0	5
	2021	6	6	0	0	0	6
	2020	3	3	0	0	0	3
Fondling	2022	2	1	1	0	0	2
	2021	3	3	0	0	0	3
	2020	0	0	0	0	0	0
Incest	2022	0	0	0	0	0	0

	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Statutory Rape</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Robbery</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	1	0	0	1
<b>Aggravated assault</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Burglary</b>	2022	1	1	1	0	0	2
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Motor vehicle theft</b>	2022	0	3	0	0	0	3
	aw2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Liquor law arrests</b>	2022	0	0	0	0	0	0
	2021	5	5	0	0	0	5
	2020	35	1	0	0	0	36
<b>Liquor law violations referred for disciplinary action</b>	2022	153	153	0	0	0	153
	2021	191	191	0	0	0	191
	2020	102	102	0	0	0	102
<b>Drug law arrests</b>	2022	0	0	0	0	0	0
	2021	1	1	0	0	0	1
	2020	4	4	0	0	0	4
<b>Drug law violations referred for disciplinary action</b>	2022	79	79	0	0	0	79
	2021	65	65	0	0	0	65
	2020	64	5	0	0	0	69
<b>Weapons law arrests</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Weapons law violations referred for disciplinary action</b>	2022	0	0	0	0	0	0
	2021	12	12	0	0	0	12
	2020	0	0	0	0	0	0
<b>Hate crime– assaults</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Hate crime– intimidation</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0



	2020	0	0	0	0	0	0
<b>Hate crime-- property vandalism</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Dating violence</b>	2022	4	4	0	0	0	4
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Domestic violence</b>	2022	1	1	0	0	0	1
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0
<b>Stalking</b>	2021	5	3	2	0	0	5
	2021	0	0	0	0	0	0
	2020	5	3	3	0	0	8
<b>Arson</b>	2022	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2020	0	0	0	0	0	0

## **Fire Safety**

*The following information is provided in response to the Higher Education Opportunity Act of 2008 (PL-110-315).*

Augustana College strives to provide a safe residential environment particularly when it comes to fire safety.

The college employs a full-time staff member whose primary responsibility is to maintain life/safety equipment. All fire safety systems are inspected annually by an independent contractor hired for that purpose.

In recent years the college has not reported injuries or loss of life as the result of a fire. In the most recent calendar year, there was no reported fire on campus. The most recent occurrence involving a fire in a residential facility occurred in 2020.

### **Fire Safety and Security Instructions for Students Residing in Augustana Housing**

- Clean your room regularly to avoid fire hazards,
- Do not tamper with safety equipment and/or fire alarms and extinguishers.
- Keep posters, banners and other decorations off the ceiling and away from areas where smoke alarms and fire sprinklers are located.

- Regularly remove trash and recyclables from your room.
- Follow all emergency evacuation procedures or drills. Remember that buildings must be fully cleared of people whenever the fire alarm sounds, regardless of whether or not you think it is a false alarm.
- Report any unauthorized use, tampering or damage to emergency or safety equipment.
- Keep anything involving an open flame, flammable materials, and exposed heating element far outside of your living environment.

**Under “What NOT to bring” lists:**

- Space Heaters
- Candles, incense, or other fire hazards
- BBQ grills, charcoal, lighter fluid, propane
- Extension cords (without an internal circuit breaker)
- Halogen lamps or lava lamps

**Safety practices:**

- All residence hall rooms and TLAs have an “Emergency Instructions” sign that explains “evacuation” “shelter” and “lockdown” protocols.
- Residential Life and Public Safety have designated week 2 of the Fall semester as “safety week.” Students receive extra safety information this week (see attached email communication).
- Public Safety administers fire drills in the residence halls during safety week. This year, drills took place on Thursday 9/7/22.
- In December, Residential Life conducts “Health and Safety” inspections of residence halls and TLAs after students leave for winter break. The purpose of the inspections is to make sure all doors and windows are closed and locked and to document any plain sight policy violations. If we see candles sitting in plain sight, we confiscate them. If we see drug paraphernalia, we contact public safety to confiscate.
- All fire alarms during the school year are logged in Maxient.

Residents are not allowed to possess any items that may be a fire safety hazard. Such items include, but are not limited to candles, incense, grills (gas or charcoal), flammable liquids, and fireworks. Wickless candles for use with candle warmers are allowed. Fire hazards will be confiscated and disciplinary action.

Students may not have a campfire on campus without first getting permission from Augustana Police and Public Safety.

Tampering with fire alarms, fire extinguishers, sprinklers, security camera, exit signs, and emergency exit doors is a serious offense and could cause bodily harm or death if any emergency occurred and equipment was not in the intended place or condition. Fire and security equipment are in place for the safety of the community. Students are not allowed to

interact with any safety equipment. Students who observe vandalism and who do not report it to Residential Life staff members may be considered an accomplice. Covering smoke detectors is prohibited.

All extension cords should be UL (Underwriters Laboratory) or ETL (Electrical Testing Laboratories) approved and must be no longer than six feet. Extension cords may not be placed across aisles, wrapped around metal fixtures or furniture, run through doorways or under carpets or bedding. If the cord is covered, heat cannot escape which could result in a fire. Worn or cracked cords are prohibited and will be confiscated on sight. Octopus plugs (multiple outlet units) are prohibited, unless they have an internal circuit breaker (surge protector).

### **Recent reports**

On January 19, 2022, Transitional Living Area building, located at 730 – 34<sup>th</sup> Street (Viking House) caught fire. This fire was caused by an overloaded electrical circuit in a second floor bedroom. There were no injuries.

### **Fire Alarm Log**

A log of all fire alarms is maintained by the Police and Public Safety dispatchers. This log is located in the Dispatch Center of the Office of Police and Public Safety located in the lower level of Sorensen Hall, 639 – 38<sup>th</sup> Street.

### **Fire safety training**

Early in the fall term each residential facility conducts a fire drill to familiarize residents with the evacuation procedures specific to their residence. Fire safety and evacuation procedures are also reviewed at the first community meeting. A poster outlining emergency procedures is posted in every student room. Residents are not allowed to possess any items that may be a fire safety hazard. Such items include, but are not limited to candles, incense, grills (gas or charcoal), flammable liquids and fireworks. Wickless candles for use with candle warmers are allowed. Fire hazards will be confiscated and disciplinary action. Tampering with fire alarms, fire extinguishers, sprinklers, security camera, exit signs, and emergency exit doors are a serious offense and could cause bodily harm or death if any emergency occurred and equipment was not in the intended place or condition. Fire and security equipment are in place for the safety of the community. Students are not allowed to interact with any safety equipment. Students who observe vandalism and who do not report it to Residential Life staff members may be considered an accomplice.

### **Fire safety systems in student housing**

Augustana employs a variety of fire protection systems in residential housing. Each facility is listed below with specific information regarding the method/means utilized.

S — Sprinklers -building is equipped with a sprinkler system

HW — Hard Wired detectors within the structure are linked and connected to 110v B  
— Battery. Detectors are battery equipped

FP — Facility is regulated through a fire panel on site but is not linked to central station FPM  
— Fire Panel Monitored structure is linked into a central station in Public Safety and monitored 24/7

Andeberg	FP
Anderson	FPM
Andreen	S/FPM
Ansvar	B
Arbaugh	FPM
Asgard	HW
Austin	B
Baldur	HW
Bartholomew	FPM
Bellman A&B	HW
Bergman	HW
Bostad	FP
Branting	HW
Bremer A&B	FP
Celsius	HW
Delling	HW
Erickson Hall	S/FPM
Erfara	B
Esbjorn	FPM
Forseti	FP
Freya	FP
Gustav A&B	HW
Hanson	B
Heimdahl	B
House On Hill	FPM
Idun	B
Jansson	B
Karsten	HW
Larsson	HW
Levander	FP
Lindgren A&B	B

Local Culture	HW
Loki A&B	B
Lundholm	B
Lutheran House	B
Martinson A&B	B
Milles	HW
Moberg	HW
Naeseth (1-5)	FPM
Nobel	HW
Oden	FP
Ostara	B
Parkander S.	S/FPM
Parkander N.	S/FPM
Roslin A&B	HW
Ryden	FPM
Sanning	B/R
Seminary Hall	S/FPM
Sif House	B
Skadi	B
Swanson	S/FPM
Commons	
Swedenborg	HW
Thor	B
Tyr	HW
Vidar	HW
Westerlin Hall	S/FPM
Wicksell	B
Zander House	B
Zorn	HW
11 <sup>th</sup> Avenue Flats	S/HW/FPM