



Responsible College Official: Title IX Coordinator
Responsible Offices: Office of Student Affairs; Office of Academic Affairs; Office of Human Resources
Policy Implementation Date: September 11, 2017

Discrimination, Harassment, Sexual Misconduct and Retaliation

Policy Statement

North Central College (“College”) is committed to maintaining a positive learning, working, social and residential environment. The College does not discriminate or allow harassment on the basis of race, color, religion, ethnicity, national origin, sex, gender identity, gender expression, age, marital status, citizenship, mental or physical disability status, religion, sexual orientation, pregnancy or parenting, order of protection status, military or veteran status, genetic information, unfavorable military discharge (except dishonorable discharges) or any other characteristic protected by law in admission and access to, and treatment and employment in, its educational programs and activities.

In pursuit of these goals, the College will not tolerate acts of discrimination, harassment, sexual misconduct and/or retaliation involving any administrator, staff, faculty, student, guest, visitor, camper, vendor or subcontractor, as such behavior seriously undermines the College’s effectiveness as an educational institution and a workplace. While the College adheres to and supports the principles of academic freedom, each member of the North Central College community also shares in a common responsibility to maintain an environment free from discrimination, harassment, sexual misconduct and retaliation. Administrators, faculty and staff members who violate this policy will be subject to disciplinary action, up to and including termination of employment. Students who violate this policy will be subject to disciplinary action up to and including expulsion.

All employees are considered to be “Responsible Employees” with the authority and responsibility to report disclosures or observations of sexual misconduct to the Title IX Coordinator. Employees who are exempted from this reporting requirement are professional or pastoral counselors who provide work-related mental-health counseling, campus advocates who provide confidential victim assistance, medical staff, and employees who are otherwise prohibited by law from disclosing information received in the course of providing professional care and treatment. Failure of a non-confidential employee to timely report an incident or incidents of sex or gender harassment or discrimination of which they become aware is a violation of College policy and can be subject to disciplinary action.

The resolution procedures set forth in this policy provide a fair and impartial process for reporting, investigating, resolving, and determining appropriate sanctions or remedies in relation to a report of discrimination, harassment, sexual misconduct and/or retaliation under this and related policies such as the Consensual Relationships, Service and Assistance Animal, and Pregnant and Parenting Student.

The Title IX Coordinator has primary responsibility for enforcement of this policy, specifically for coordinating efforts related to investigation, resolution, and implementation of corrective measures and monitoring to stop, remediate, and prevent sex discrimination, sex or gender-based harassment, sexual

misconduct and/or retaliation (collectively referred to as sexual misconduct).

Dr. Rebecca Gordon
Title IX Coordinator
532 Old Main
30 N. Brainard
(630) 637-5340
rgordon@noctrl.edu

The Assistant Vice President for Human Resources and Deputy Title IX Coordinator assists the College regarding efforts related to investigation, resolution, and implementation of corrective measures and monitoring to stop, remediate, and prevent discrimination, harassment, retaliation based on race, color, religion, national origin, age, marital status, citizenship, mental or physical disability status, religion, sexual orientation, order of protection status, military or veteran status, genetic information, unfavorable military discharge (except dishonorable discharges) (here after referred to bias related discrimination).

John Acardo
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Deputy Title IX Coordinator
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Together, this team plays an integral role in carrying out the College's commitment to creating, fostering and maintaining an educational, employment, and campus environment that is free of discrimination, harassment, sexual misconduct (including dating/domestic violence or stalking) and retaliation.

External Inquiries may also be made to:

Office of Civil Right (OCR); Midwest Region
U.S. Department of Health and Human Services
233 N. Michigan Ave., Suite 240
Chicago, IL 60601
Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov

Equal Employment Opportunity Commission (EEOC)
Chicago District Office
500 West Madison Street
Suite 2000
Chicago, IL 60661
Phone: (800) 669-4000
Fax: (312) 869-8220
Contact: <http://www.eeoc.gov/contact/>

[Illinois Human Rights Commission](http://www.illinois.gov/ihr/Pages/default.aspx)
<https://www.illinois.gov/ihr/Pages/default.aspx>

Reason for Policy/Purpose

This policy is in place to ensure compliance with Title IX and other federal and state civil rights laws. North Central College has developed internal policies that will provide a supportive process for individuals who report discrimination, harassment, sexual misconduct or retaliation and that will ensure a fair process to resolve allegations of discrimination, harassment, sexual misconduct, including sexual violence, and/or retaliation.

Through this policy, North Central College (1) articulates the College's commitment to the values of fairness, equity, and equal opportunity; (2) describes categories of conduct that may constitute discrimination, harassment, sexual misconduct or retaliation; (3) explicitly prohibits discrimination, harassment, sexual misconduct and retaliation; (4) establishes procedures to follow when a member of the College community believes that he/she has been subject to discrimination, harassment, sexual misconduct or retaliation; (5) provides a pathway to share concerns regarding the College's policies, procedures and/or practices in the event that they cause a discriminatory impact.

Policy Jurisdiction and Applicability

The College is able to respond to alleged violations of this policy that occurred on campus, that are part of official College programs/groups (regardless of location), or where the responding party is a member of the College community, regardless of location and regardless of whether the reporting party is a member of the College community. If the responding party is unknown or is not a member of the College community, the Title IX Coordinator/Deputy Coordinator will assist students or others in identifying appropriate campus resources or local authorities if the individual would like to file a report. In addition, the College may take other actions as appropriate to protect the student, faculty, or staff member against such third parties. The policy covers administrators, Staff, Faculty, Students, Groups/Programs, Guests, Visitors and Third-Party Consultants/Contractors.

For definitions of the terms and terminology used throughout this policy, please refer to the Definitions/Glossary of Terms section of this policy.

Policy Review and Updates

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator and/or Assistant Vice President of Human Resources. The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator or Assistant Vice President of Human Resources may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure is in effect for the 2017-18 Academic year and was implemented on September 11, 2017.

Contacts for this Policy

If you have questions about this Policy, you may:

1. Contact the Title IX Coordinator, Rebecca Gordon, at (630) 637-5340 or rgordon@noctrl.edu.
2. Contact the Assistant Vice President of Human Resources at (630) 637-5754 or jjacardo@noctrl.edu.

Title IX and Deputy Title IX Coordinators

The Title IX Coordinator, Rebecca Gordon (Old Main, 30 N Brainard, Suite 530, rgordon@noctrl.edu, (630) 637-5340) is assisted by seven (7) Title IX Deputy Coordinators:

- John Acardo, Assistant Vice President of Human Resources (Old Main, 30 N Brainard, Suite 507, jjacardo@noctrl.edu, (630) 637-5754)
- Stephen Caliendo, Dean of the College of Arts and Sciences (Goldspohn Hall, 31 N Loomis, Room 19C, smcaliendo@noctrl.edu, (630) 637- 5344)
- Susan Kane, Assistant Athletic Director (Merner Field House, 450 S Brainard, Room 106C, smkane@noctrl.edu, (630) 637-5501)
- Jeremy Gudauskas, Associate Dean of Students (Old Main, 30 N Brainard, Suite 501, jkgudauskas@noctrl.edu, (630) 637-5147)
- Lisa Long, Dean of College Programs and Special Assistant to the Provost (Old Main, 30 N Brainard, Suite 530, lalong@noctrl.edu, (630) 637- 5286)
- Sharon Merrill, Director of Human Resource Services (Old Main, 30 N Brainard, Suite 507, semerrill@noctrl.edu, (630) 637-5718)
- Kevin McCarthy, Associate Dean of Students (Old Main, 30 N Brainard, Suite 501, kemccarthy@noctrl.edu, (630) 637-5152)

Together, these individuals are responsible for coordinating the College's compliance with Title IX, VAWA Section 304, which includes, among other responsibilities, oversight of the resolution process, communications and training in connection with Title IX's prohibition of discrimination based upon sex/gender, and identifying and addressing any patterns or systemic problems that arise during the review of reports. The Title IX Coordinator and Deputy Coordinators are knowledgeable about, and will provide information on, all options for addressing and resolving allegations of discrimination on the basis of sex/gender, including concerns pertaining to sexual harassment and sexual misconduct. At North Central College the role of the Assistant Vice President of Human Resources extends to the other forms of discrimination cited in the policy. Together, this team plays an integral role in carrying out the College's commitment to creating, fostering and maintaining an educational, employment, and campus environment that is free of sexual discrimination, harassment, misconduct and/or retaliation.

Resources and Reporting Options

The College wants individuals to be aware of what to do following an experience of sexual assault, dating and domestic violence, and stalking including how to contact law enforcement in an emergency, how to access medical care, how to preserve evidence. The College encourages individuals to talk about what occurred with someone who is in a position to provide immediate support and who can assist the individual in identifying resources, options, and to whom to report what occurred so that the College can respond appropriately. The College has resources that are either confidential or private where individuals can seek support and discuss options.

Confidential resources are those individuals who will not report any information to others without a release of information and provide support as well as an overview of options, resources, and referrals. Confidential resources will have to report if the person is a risk to themselves or others, or if the event that abuse to minors is being disclosed. On campus confidential resources include the Dyson Wellness Center advocate, counselors, and medical staff. Off campus confidential resources include advocacy agencies, mental health care providers, health care providers, and emergency room staff.

Those offices that are considered to be private such as the Center for Student Success, Dean of Students, Campus Safety, and Residence Life will only share an individual's information to the extent necessary to report to the Title IX Coordinator and provide a coordinated response to their concerns.

The Title IX Coordinator can honor requests for confidentiality or for no action to be taken providing that a safe, non-discriminatory environment can be maintained for the individual and campus community. Otherwise, reports to the Title IX Coordinator are considered to be private and information is only shared to the extent necessary to provide academic accommodations, interim safety measures, referrals, and/or to conduct an investigation (*see Section III, B. Preliminary Inquiries*).

The College also will provide assistance to individuals who want to make a report to Law Enforcement but also respects an individual's right or desire not to do so.

I. RESOURCES FOR THOSE WHO EXPERIENCE SEXUAL MISCONDUCT

A. Procedures to Follow After Experiencing Sexual Misconduct

The following are suggested options after experiencing sexual misconduct. These options are not listed in a step-wise order so some options may be pursued and not others.

Procedures to follow:

- **If you are in immediate danger, call 911 for assistance from local law enforcement**
- **Get to a safe and secure location as soon as you can and lock the door**
- **If you are on campus and have continued safety concerns contact, Naperville Police Non-emergency number (630) 420-6666, Campus safety (630) 637-5911 or the Area Hall Director on call (630) 816-5298**
- **Contact a friend, family member or support person, tell them what happened and have them come to your location**
- **Seek medical assistance as soon as possible**

Getting medical attention is important for addressing the physical consequences of any type sexual violence or physical assault, even if you do not wish to seek criminal prosecution. If possible, seeking medical attention within 24 hours of a sexual assault is the most ideal for medical and prophylactic

treatment. Individuals who experience sexual violence or physical assaults can have health issues that include bruising, cuts, abrasions, internal injuries not readily apparent, or broken bones. Individuals who have experienced sexual assault can also have additional health concerns that could include tearing or bruising of the labia, vaginal or anal wall, urethra; sexually transmitted infections such as chlamydia, gonorrhea, herpes and HIV; and pregnancy.

Campus Safety can provide transport to the Edward Hospital Emergency Room for a forensic evidence collection exam and post-assault medical care including STI testing. Campus Safety can also provide transportation to the following medical providers: Edward Care at Jewel Osco on Washington, Cadence Care Center at Raymond & Ogden, or CVS Clinic at Ogden & Naper Blvd.

Sources for Medical Care

Edward Hospital Emergency Room is located at 801 S. Washington Street, Naperville, IL. Their number is (630) 527-3000 (Main Switch Board) and they are open 24 hours. The Edward Hospital Emergency Room is staffed by sexual assault nurse examiners (SANE) and will contact the YWCA to dispatch a medical advocate to provide information and support during the ER visit. The ER can provide emergency and follow-up health care following a sexual assault, which includes prophylactic treatment for STIs, emergency contraception, test for date-rape drugs, and can conduct a forensic exam to collect physical evidence. The emergency room visit is free of charge when paperwork is completed with a YWCA medical advocate. The emergency room staff will contact the Naperville Police Department in cases of sexual assault though the individual can decline to talk with them. Treatment and testing is provided regardless of whether a police report is filed.

The Dyson Wellness Center (DWC) is located at 455 S. Brainard Street on the 2nd floor of the Benedetti-Wherli Stadium. The DWC also offers confidential medical consultations, referrals and low-cost STI testing. Appointments can be made by calling (630) 637-5550.

Evidence Preservation

After experiencing sexual assault, dating or domestic violence, and/or stalking, preserving evidence is important to assist in criminal prosecution, a Title IX investigation, and/or obtaining civil orders of protection or no contact orders even if you are undecided about what courses of action you want to pursue.

- Secure the room or location where the assault occurred (if possible) without disturbing anything and do not allow anyone else to enter until law enforcement arrives.
- Preserve all physical evidence of the assault. If you can avoid it, it is best not to bathe, shower, urinate, douche or use a toothbrush. Do not wash or discard any articles of clothing worn during the assault, however, evidence can still be obtained even if you shower or wash.
- If you suspect a date rape drug has been used, do not urinate and ask the health care provider to take a urine sample immediately.
- Evidence can be collected up to 120 hours post-assault, or longer in some cases, through the forensic evidence collection process conducted in the Emergency Room. Keep the same clothes on if you are still wearing what you had on during the assault. The Emergency Room will provide you with scrubs or sweats or you can have someone bring clothes. Otherwise, bring the clothes with you to the Emergency Room in a clean paper bag or bedsheet.
- Try to remember any helpful details that can corroborate your account of events (e.g. what time you arrived, what time the other person arrived, who saw them with you, what other friends were there). Write details down as soon as you remember them even if they seem irrelevant like who

was there, description of the location, and what you saw, felt, smelled, and heard.

- If you don't know the identity of the other person, try to remember what they were wearing, who they came with or seemed to know them, any identifying marks, jewelry, and clothing.
- Save emails, texts, snap chats, voice mails, any messages sent over social media, and written notes. If these are disturbing to you, forward to a friend to be the repository of the information or College official like the DWC advocate, Campus Safety, or Title IX Coordinator.

For dating and domestic violence and stalking:

- Take pictures of any physical injuries or damage to property.
- Keep a record of witnesses or people you informed of what was happening.
- Save emails, texts, snap chats, voice mails, any messages sent over social media, and written notes. If these are disturbing to you, forward to a friend to be the repository of the information or to a College official like the DWC advocate, Campus Safety, or Title IX Coordinator.
- Keep a record of all the incidents with date, time and description of abusive, harassing, or threatening behavior, and email it to yourself or a trusted friend in order to have a time stamp.

B. Confidential Advocacy and Counseling

On Campus Confidential Resources:

The College's Dyson Wellness Center Advocate offers confidential support services and advocacy. The DWC advocate can be contacted at (630) 637-5113 and is available during normal business hours. The DWC advocate provides technical assistance to anyone who has experienced sexual violence, dating or domestic violence, and stalking. The DWC advocate can provide an overview of all the on and off campus options available to anyone who has experienced sexual misconduct, assist with pursuing civil orders of protection or no contact orders, provide safety planning, facilitate immigration status assistance, access changes in housing assignments, and help with anonymous or confidential reporting to the College, the Title IX Coordinator and/or law enforcement. The DWC advocate can be selected as the advisor of choice and attend all meetings that are part of on and off campus processes.

The professional counselors at the Dyson Wellness Center can provide free, short-term, confidential counseling and/or referrals. An intake appointment can be made by calling 630-637-5550. Counseling services hours are Monday and Wednesday, 8:00 a.m. - 7:00 p.m. and Thursday and Friday, 8:00 a.m. - 5:00 p.m.

Off Campus Confidential Resources:

YWCA Metropolitan Chicago Patterson and Mc Daniel Family Center (confidential)

2055 West Army Trail Road, Suite 140

Addison, IL 60101

Sexual Violence and Support Services

Provides counseling to sexual assault survivors of all genders, medical advocacy for Edward Hospital Emergency Room and legal advocacy through police and court proceedings.

www.ywcachicago.org or (630) 971- 3927

Family Shelter Service- Healing from Domestic Abuse (confidential)

Provides shelter service for women and children, assistance with obtaining orders of protection through its Court Advocacy Office, offers support groups, and provides individual services and case management.

www.familyshelterservice.org or (630) 469- 5650

Mutual Ground (**confidential**)

Offers services for domestic violence and sexual assault. Sexual assault services include individual counseling sessions and support groups. Crisis intervention advocates for domestic violence assist with providing crisis support, identifying options, and assistance obtaining orders of protection. Mutual Ground also oversees a shelter.

www.mutualground.org

Domestic Violence Hotline (630) 897-0080

Sexual Assault Hotline (630) 897-8383

II. REPORTING OPTIONS

A. Local Law Enforcement and Campus Safety

The College supports the right of individuals to report to law enforcement but also acknowledges that some individuals do not want to report their experiences with sexual misconduct to law enforcement. The College will assist an individual who would like to report to law enforcement through the DWC advocate or Campus Safety.

Naperville Police Department

Naperville Police Department is located at 1350 Aurora in Naperville and can be contacted by dialing 911 (Emergency) or calling (630) 420-6666 (Non-Emergency) to make a police report.

Campus Safety

A report can also be made to Campus Safety located in New Hall at 451 S. Brainard and can be contacted by dialing (630)637-5911 or x5911 on campus. Campus Safety officers can assist with making reports to law enforcement and the Title IX Coordinator. Campus Safety can provide transport to the Edward Hospital Emergency Room for a forensic evidence collection exam and post-assault medical care including STI testing. Campus Safety can also provide transportation to the following medical providers: Edward Care at Jewel Osco on Washington, Cadence Care Center at Raymond & Ogden, or CVS Clinic at Ogden & Naper Blvd. Campus Safety can also provide escort to and from on campus programs, classes, and residence halls.

B. Reporting to the College

All employees receiving reports of sexual misconduct are expected to promptly contact the Title IX Coordinator for sex or gender-based discrimination, violence or harassment, or to the Assistant Vice President of Human Resources for discrimination, misconduct or harassment committed on the basis of the other protected classes covered by this policy, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to the College's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation.

There may be situations or circumstances when a member of the College community is subjected to discrimination, harassment, sexual misconduct and/or retaliation, but does not wish to come forward or pursue a resolutions process, or when a person who observes discrimination, harassment, sexual misconduct and/or retaliation directed at another member of the College community reports it to the College. Whether reported directly or by a third-party, the College will do all it can to: 1) respect an

individual's desire to make an anonymous or confidential report; 2) to engage in an informal process; or 3) to pursue an investigation. The Title IX Coordinator will evaluate requests for confidential or anonymous reporting and may grant such a request in cases in which there is not a continued individual or community risk for cases of sexual misconduct. Regardless, with all reports interim supports and remedies may be offered to the reporting party and the community. In cases indicating pattern, predation, multiple offenders, threat, weapons and/or violence, it is unlikely the College will be able to honor a request for anonymity, confidentiality or to take no action. If the Title IX Coordinator determines that an investigation must be pursued, the reporting party will be informed and can participate in as much or as little of the process as they so choose. The College will maintain privacy to the extent possible.

Anonymous Reporting

Anyone wishing to make an anonymous report can contact the Campus Conduct Hotline at (866) 943-5787, which is available **24-hours a day**.

Sexual Misconduct Online Reporting Form

The online reporting form for discrimination, harassment, sexual misconduct and retaliation can be located at: https://cm.maxient.com/reportingform.php?NorthCentralCollege&layout_id=6. The online reporting form can also be accessed from the Title IX website at: <https://www.northcentralcollege.edu/TitleIX>. Online reports can be made by Responsible Employees, individuals impacted by sexual misconduct or third-parties, and will be reviewed by the Title IX Coordinator and responded to within 24 hours. Individuals who have experienced sexual misconduct will receive a Title IX outreach letter with a copy of this policy that outlines their options, resources, and rights.

Bias Related Incident Online Reporting Form

The online reporting form for bias related incidents can be found at: https://publicdocs.maxient.com/reportingform.php?NorthCentralCollege&layout_id=5&layout_id=2. Online reports can be made by anyone, including individuals impacted by the bias related incident and will be reviewed by the Bias Incident Response Team and responded to promptly. Individuals who have experienced a bias related incident will typically be contacted by a member of the Bias Incident Response Team to outline their options, resources, and rights.

Title IX Coordinator

In responding to incidents of sexual or gender-based violence or harassment, the Title IX Coordinator assists individuals with 1) understanding the available options; 2) implementing interim safety measures such as changing offices or housing assignments, issuing College No Contact or Trespass Orders, or issuing interim suspensions; 3) obtaining academic accommodations which could include flexible deadlines, excused absences, support of academically related petitions or withdrawal from classes without academic or financial penalty; 4) overseeing Title IX related investigations and appeals processes; and 5) making referrals. The Title IX Coordinator works closely with various offices on campus to coordinate the College's response to and support of individuals who experience sexual and gender-based violence and harassment.

Assistant Vice President of Human Resources

Is responsible for overseeing the response to complaints made about discrimination, misconduct or harassment committed on the basis of protected classes covered in this policy, other than sex/gender, and

will assist individuals with 1) understanding the available options; 2) implement an immediate response to reports, including safety measures 3) oversee related investigations and appeals processes; and 4) providing referrals. The Assistant Vice President of Human Resources works closely with various offices on campus to coordinate the College's response to and support of individuals who experience discrimination, misconduct, or harassment on the basis of protected class status.

Places to call to assist you in reporting to the College

- Campus Safety: Officer on Call – (630) 637-5911, **24-hours**
- Campus Safety: Director of Campus Safety – (630) 637-5910, M-F: 8AM-5PM
- Human Resources: Assistant Vice President for Human Resources – (630) 637-5757, M-F: 8AM-5PM
- Residence Life: Director of Residence Life – (630) 637-5861, M-F: 8AM-5PM
- Residence Life: Area Hall Director on Call – (630) 816-5298, **24-hours**
- Student Affairs: Vice President for Student Affairs and Dean of Students – (630) 637-5153, M-F: 8AM-5PM
- Student Affairs: Associate Dean of Students – (630) 637-5152 or (630) -637-5147, M-F: 8AM-5PM
- Campus Ministry: Director of Ministry and Service – (630) 637-5417, M-F: 8AM-
- Multicultural Affairs: Director of Multicultural Affairs – (630) 637-5156
- Deputy Title IX Coordinators:
 - John Acardo, Assistant Vice President of Human Resources (Old Main, 30 N Brainard, Suite 507, jjacardo@noctrl.edu, (630) 637-5754)
 - Stephen Caliendo, Dean of the College of Arts and Sciences (Goldspohn Hall, 31 N Loomis, Room 19C, smcaliendo@noctrl.edu, (630) 637- 5344)
 - Susan Kane, Assistant Athletic Director (Merner Field House, 450 S Brainard, Room 106C, smkane@noctrl.edu, (630) 637-5501)
 - Jeremy Gudauskas, Associate Dean of Students (Old Main, 30 N Brainard, Suite 501, jkgudauskas@noctrl.edu, (630) 637-5147)
 - Lisa Long, Dean of College Programs and Special Assistant to the Provost (Old Main, 30 N Brainard, Suite 530, lalong@noctrl.edu, (630) 637- 5286)
 - Sharon Merrill, Director of Human Resource Services (Old Main, 30 N Brainard, Suite 507, semerrill@noctrl.edu, (630) 637-5718)
 - Kevin McCarthy, Associate Dean of Students (Old Main,30 N Brainard, Suite 501, kemccarthy@noctrl.edu, (630) 637-5152)
- Faculty, staff, supervisor

III. COMPLAINT RESPONSE AND RESOLUTION PROCEDURES

A. Filing a Complaint

Prompt reporting of discrimination, harassment, sexual misconduct and/or retaliation as defined in this policy is strongly encouraged, as it facilitates expedient resolution of a complaint. The College may decide to investigate and take appropriate action in response to all complaints regardless of when or where the alleged conduct occurred. The ability of the College to respond is limited if the responding party is no longer a member of the North Central College community. If a College staff member or faculty member wishes to leave North Central College with an allegation of misconduct pending, the College may continue to investigate and resolve the allegations through the outlined resolution procedures. Students with an allegation of misconduct pending will not be permitted to withdraw from the College until all allegations

are resolved.

Any member of the College community, faculty, staff, student, guest, or visitor who wishes to file a complaint with College regarding an incident of discrimination, harassment, sexual misconduct or retaliation as defined by this policy should first bring this matter to the Title IX Coordinator for sexual misconduct or to the Assistant Vice President of Human Resources for discrimination, misconduct or harassment committed on the basis of the other protected classes covered by this policy. Complaints may be made orally, in writing or online. Under no circumstances is an impacted individual required to report discrimination, harassment, sexual misconduct, dating or domestic violence, stalking and/or retaliation to the person who is the alleged source of/reason for the allegation.

Reporting Structural or Procedural Concerns

The campus community benefits from an environment in which concerns are shared regarding potential structures or procedures which might result in discrimination or bias. The exchange of ideas and problem solving serves an educative function and contributes to the climate of fairness and respect for all members of the College community. When concerns about specific behaviors rise to the level of potential discrimination or bias, the parties should consider sharing their concerns with a supervisor or with the relevant group or program on campus that serves as a resource for communication (i.e., faculty or student governance, the Welfare and Benefits Committee).

Retaliation Prohibited

Retaliation is defined as any materially adverse action taken against an individual because of their participation in a protected activity such as alleging harassment or discrimination, supporting a party bringing an allegation, or for assisting in providing information relevant to a claim of harassment or discrimination. Retaliatory actions include, but are not limited to, threats or actual violence against the person or their property, adverse educational or employment consequences, ridicule, intimidation, bullying or ostracism. Retaliation is a serious violation of College policy and will be treated as another possible instance of harassment or discrimination that is investigated, with violations resulting in additional sanctions. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly addressed. The College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Some examples/scenarios of Retaliation include:

- A student-athlete files an allegation against a coach for sexual harassment; the coach subsequently cuts the student-athlete's playing time in half without a legitimate justification.
- A faculty member complains of gender inequity in pay within her department; the Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member's tendency to "ruffle feathers".
- A member of a student organization participates in a sexual misconduct hearing against the organization president; the student member is subsequently removed as a member of the organization because he participated in the hearing.

Amnesty for Reporting Party and Witnesses

The College community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to College officials or

participate in resolution processes because they fear that they themselves may be accused of policy violations, such as violating the drug or alcohol policy at the time of the incident. It is in the best interest of this community that as many reporting parties as possible choose to report to College officials, and that witnesses come forward to share what they know. To encourage reporting, the College pursues a policy of offering reporting parties and witnesses amnesty from minor drug or alcohol policy violations related to the incident. While some policy violations cannot be completely overlooked, the College will provide educational options, rather than discipline, to those who offer assistance to others in need. Amnesty may be granted on a case-by-case basis for other policy violations and will be evaluated by the Title IX Coordinator or Assistant Vice President of Human Resources.

Reports about Students

To make a report or allegation of discrimination, harassment, sexual misconduct or retaliation involving a student responding party, contact the Title IX Coordinator (Rebecca Gordon: (630) 637-5134), the Associate Deans of Students in the Office of Student Affairs (Jeremy Gudauskas: (630) 637-5147, Kevin McCarthy: (630) 637-5152), or the Director of Campus Safety (630) 637-5912). After business hours, please contact the Area Hall Director on Call at (630) 816-5298 or Campus Safety at (630) 637-5911 in order to make a report with one of the parties listed above.

Reports about Faculty Members

To make a report or allegation of discrimination, harassment, sexual misconduct or retaliation involving a faculty member as the responding party, contact: the Title IX Coordinator (Rebecca Gordon: (630) 637-5134), the Associate Provost and Dean of Academic Services (Marti Bogart: (630) 637-5355), the Dean of College Programs and Special Assistant to the Provost (Lisa Long: (630) 637-5286), Director of the Office of Institutional Effectiveness and Planning (Peter Barger: (630) 637-5362), the Dean of College of Arts and Science (Stephen Caliendo: (630) 637-5344), the Assistant Vice President for Human Resources (John Acardo: (630) 637-5754) or the Director of Human Resource Services (Sharon Merrill: (630) 637-5718). After business hours, please contact Campus Safety at (630) 637-5911 in order to make a report with one of the parties listed above.

Reports about Administrators, Staff, Groups/Programs, and Third-Parties

To make a report or allegation of discrimination, harassment, sexual misconduct or retaliation involving an administrator, staff member, group/program, or third-party contractor/consultant as the responding party, contact the Title IX Coordinator (Rebecca Gordon: (630) 637-5134), the Assistant Vice President for Human Resources (John Acardo: (630) 637-5754) or the Director of Human Resource Services (Sharon Merrill: (630) 637-5718). After business hours, please contact Campus Safety at (630) 637-5911 in order to make a report with one of the parties listed above.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the Vice President for Student Affairs and Dean of Students (Kimberly Sluis, OM 504, kasluis@noctrl.edu, (630) 637-5153), the Provost and Vice President for Academic Affairs (Abiodun Goke-Pariola, OM 538, agokepariola@noctrl.edu, (630) 637-5354) or the College President (Troy Hammond, OM 424, president@noctrl.edu, (630) 637-5454).

The College monitors all resolutions for potential conflicts, and asks all employees involved in the resolution process to immediately identify potential conflicts to the Title IX Coordinator. Similarly, any participant in the process who is concerned about a conflict should immediately identify that concern to

the Title IX Coordinator. In the event that there is a potential conflict of interest involving the Title IX Coordinator, participants in the resolution process should raise that concern promptly with the Provost and Vice President for Academic Affairs or the Vice President of Student Affairs and Dean of Students. If circumstances require, the Provost and Vice President for Academic Affairs, the Vice President of Student Affairs and Dean of Students, or the Title IX Coordinator may designate another person to oversee the process below, should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. For the person who experienced the sexual misconduct, the College will make every effort to ensure that their name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations

Deliberately false and/or malicious accusations of harassment, as opposed to allegations which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to investigation and appropriate disciplinary action.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on- or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the person who experienced the sexual misconduct and may be done anonymously.

Reports Made by Third-Parties

In cases where the alleged violation is reported to the College by a third-party, the reporting party will be notified by the Title IX Coordinator or Assistant Vice President of Human Resources that a report has been received. The Title IX Coordinator and/or responsible administrator will meet with the reporting party to discuss options and available support resources. If the allegation was received electronically, information will be sent to the individual submitting the report within 12 hours outlining campus resources, policy, rights, and options.

B. Preliminary Inquiries

Following receipt of notice or a report of discrimination, harassment, sexual misconduct or retaliation, the Title IX Coordinator or Assistant Vice President of Human Resources engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 1-3 days in duration.

A reporting party can report an incident and ask for confidentiality or for a complaint not to be investigated. While confidentiality will limit the Title IX Coordinator or Assistant Vice President of Human Resources' ability to respond, the Title IX Coordinator or Assistant Vice President of Human Resources will attempt to honor these requests when it can maintain a safe, nondiscriminatory environment for the reporting party and the campus community. In these cases, the Title IX Coordinator or Assistant Vice President for Human Resources would conduct a preliminary inquiry to determine appropriate remedies and necessary steps to prevent recurrence of the alleged behavior. If, however, the preliminary inquiry provides information that indicates a presence of violence, threat, pattern, predation and/or use of a weapon, or the vulnerability of minors, the Title IX Coordinator or Assistant Vice President of Human Resources reserves the right to initiate an investigation without a formal report or participation by the reporting party. The reporting party would be informed that an investigation was being initiated and could participate in as much or as little of the investigation as they so choose.

In cases where the reporting party wishes to proceed, or the Title IX Coordinator or Assistant Vice President of Human Resources determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator or Assistant Vice President of Human Resources will initiate a formal investigation and the allegation will be resolved through an investigation and determination of findings regarding policy violations.

If an informal resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to a formal investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation is commenced, the Title IX Coordinator or Assistant Vice President of Human Resources will provide written notification of the investigation to the responding party at an appropriate time during the investigation. The Title IX Coordinator or Assistant Vice President of Human Resources aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator or Assistant Vice President of Human Resources with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator or Assistant Vice President of Human Resources determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX Coordinator or Assistant Vice President of Human Resources makes an extraordinary determination to reopen the investigation. This decision lies at the discretion of the Title IX Coordinator or Assistant Vice President of Human Resources.

C. Informal Resolution Procedures

NOTE: The informal resolution procedure will not apply to any allegation of discrimination involving the Promotion and Tenure Committee (*see Formal Resolution Procedures-Section III, E*).

When an incident arises in which a person believes that they have been subjected to discrimination or harassment as defined in this policy, it should be addressed as soon as possible. In many cases, informal actions can be taken that will effectively stop the behavior or actions; however, informal resolution is never required to resolve a concern. If the attempts made by the reporting party do not stop the misconduct, or if the reporting party does not feel that they can confront the offending individual or needs help in the process, then contact with the following individuals may be made:

- If the responding party is a student, the Title IX Coordinator (Rebecca Gordon: (630) 637-5134), the Associate Deans of Students in the Office of Student Affairs (Jeremy Gudauskas: (630) 637-5147, Kevin McCarthy: (630) 637-5152), or the Director of Campus Safety (630) 637-5912.
- If the responding party is a faculty member, the Title IX Coordinator (Rebecca Gordon: (630) 637-5134), the Associate Provost and Dean of Academic Services (Marti Bogart: 630-637-5355), the Dean of College Programs and Special Assistant to the Provost (Lisa Long: (630) 637-5286), Director of the Office of Institutional Effectiveness and Planning (Peter Barger: (630) 637-5362), and the Dean of College of Arts and Science (Stephen Caliendo: (630) 637-5344), the Assistant Vice President for Human Resources (John Acardo: (630) -637-5754) or the Director of Human Resource Services (Sharon Merrill: (630) 637-5718).
- If the responding party is a member of the administration, staff, group/program, or a third-party consultant/contractor the Title IX Coordinator (Rebecca Gordon: (630) 637-5134), the Assistant Vice President for Human Resources (John Acardo: (630) 637-5754) or the Director of Human Resource Services (Sharon Merrill: (630) 637-5718).

At the reporting party's request, the Title IX Coordinator or Assistant Vice President of Human Resources may intervene directly with the party who allegedly engaged in the conduct. In this case, the Title IX Coordinator or Assistant Vice President of Human Resources will provide an opportunity to the party who allegedly engaged in the conduct to respond to the allegation and, after discussions with both parties, may attempt to facilitate a solution, which may result in a written agreement between the parties. The Title IX Coordinator will make every effort to resolve informal allegations in a timely manner. When the informal process is initiated, the College aims to complete the process within a thirty (30) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator or Assistant Vice President for Human Resources with notice to the parties. The informal resolution process may also be utilized when a responding party accepts responsibility for all allegations.

The Title IX Coordinator or Assistant Vice President for Human Resources may take steps to limit and remedy the effects of the alleged misconduct and prevent its recurrence without initiating formal action to discipline the alleged responding party or reveal the identity of the reporting party. The actions available to the College include, but are not limited to: providing increased monitoring, supervision or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the College's policies on discrimination, harassment, sexual misconduct and/or retaliation; and conducting climate surveys.

At any time, either party may end the informal process and begin the formal allegation and resolution procedure. The formal allegation and resolution procedure may also be started if the informal allegation and resolution procedure has not resulted in satisfactory resolution to the reporting party or the College.

D. Interim Measures

Persons bringing an allegation of discrimination, harassment, sexual misconduct and/or retaliation under this policy may seek the following arrangements from the Title IX Coordinator or Assistant Vice President for Human Resources handling the allegation, who will consult with the appropriate individuals to ensure that arrangements are reasonably available. The Title IX Coordinator or Assistant Vice President of Human Resources may take whatever measures are deemed necessary in response to an allegation in order to protect the personal safety and well-being of the parties, the safety of the College community and/or College property. Interim measures may also be imposed in instances where it is determined that the responding party may pose a potential threat to another person, as well as in cases where the responding

party poses a threat of disruption or interference with the normal operations of the College. Failure to adhere to the parameters of any interim measure is a violation of College policy and may lead to additional disciplinary action. Interim measures include, but are not limited to:

- An interim suspension or reassignment (immediate, temporary suspension pending the outcome of the resolution process or student conduct process),
- Suspension with or without pay pending an investigation,
- A no contact order (an order that an individual refrain from direct/indirect contact with another person[s]),
- Providing an escort to ensure movement safely between classes, activities or work assignments,
- Restrictions on access to campus or areas of campus (i.e. no trespass order),
- Restrictions on participation in College athletic programs,
- Appropriate changes in academic schedule (for the reporting party and/or responding party), housing arrangements, transportation, office location or work assignment arrangements,
- Assistance with enforcing locally-obtained protection orders on campus,
- Access to counseling and/or health services, and/or
- Assistance in reporting the matter to local police.

Interim measures will be determined in the following ways:

- If the responding party is a student, the Title IX Coordinator will consult with the Vice President for Student Affairs and Dean of Students, the Associate Dean of Students, and/or the Director of Campus Safety.
- If the responding party is a faculty member, the Title IX Coordinator will consult with the Provost and Vice President for Academic Affairs, the hiring manager, and the Assistant Vice President for Human Resources.
- If the responding party is a staff member, group/program, or a third-party consultant/contractor, the Title IX Coordinator will consult with the Assistant Vice President for Human Resources or the Director of Human Resource Services.
- If the responding party is a member of the College administration the Title IX Coordinator will consult with the Assistant Vice President for Human Resources and the College President.

The Title IX Coordinator or Assistant Vice President of Human Resources will maintain as confidential any program modifications and/or protective measures, provided confidentiality does not impair the College's ability to provide the modifications or protective measures.

For students, it is also recognized that experiences with sex discrimination, sexual or gender-based harassment, sexual misconduct, and/or retaliation can also interfere with their academic performance. Therefore, the Title IX Coordinator will review with the parties their rights to academic accommodations and will assist making these requests to the appropriate advisors, faculty, department chair or dean, or College administrator. Academic accommodations include but are not limited to:

- Working with College staff to minimize the negative impact on the student's completion rate and financial aid awards.
- Working with faculty to request academic accommodations such as extra time to complete assignments, projects, or exams.
- Arranging for test or class re-takes, or withdrawal from a class or campus without academic or financial penalty, to the extent possible.
- Reviewing any sanctions imposed on the reporting party to determine if there may be a causal

connection between those sanctions and the sex discrimination, sexual or gender-based harassment, sexual misconduct, and/or retaliation experienced by the reporting party.

The Title IX Coordinator has the authority to determine that such accommodations are necessary and appropriate and will maintain documentation related to accommodations. The Title IX Coordinator may inform faculty members or the College of the need to adjust academic parameters accordingly. A request for accommodations from a student will be shared with faculty and staff only to the extent necessary to provide reasonable accommodation.

Additional Individual and Community Remedies:

Imposing sanctions on the responding party found in violation of the policy may not be sufficient to eliminate a hostile environment or create a safe campus environment for the College. Consequently, additional community remedies may be necessary. These may include:

- Providing increased monitoring, supervision, or security at locations or activities where sexual misconduct has occurred;
- Offering comprehensive, holistic services to the reporting party such as medical, counseling, advocacy support, and academic support services;
- Training or re-training College employees on how to effectively handle reports of sexual misconduct;
- Developing additional resources;
- Conducting bystander training or sexual misconduct prevention programs;
- Re-issuing policy statements or taking additional steps to communicate that the College does not tolerate sex discrimination, sexual or gender-based harassment, sexual misconduct, or retaliation and will take steps to respond to any and all reports;
- Conducting climate surveys or focus groups; and
- Conducting targeted training for specific student groups or employees.

E. Formal Resolution Procedures

The following outlines the formal resolution procedure that will be used to address alleged violations of this policy and any appeals based on the same. The formal resolution procedure has been created based on the principle of fundamental fairness, equity, and transparency that affords an opportunity for both parties to provide information, identify witnesses, suggest questions, and review all of the information collected before a decision is rendered. All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, submission of evidentiary information by the parties and witnesses, an independent gathering of pertinent facts and materials, and identifying sources of expert information, as necessary. Both parties will be provided the names of the individuals who will be appointed to serve as the investigative team, hearing panel and/or appeals committee. Each party has an opportunity to identify conflicts of interest posed by the individuals determining the finding and/or sanctions in the complaint resolution process and request a substitution. Each party has the opportunity to have an advisor of choice present for all meetings and proceedings and to receive notification about the outcome of the investigation, simultaneously in writing. Both parties have an equal opportunity to appeal the finding and/or sanction. For investigations that involve employees, the hiring manager and appropriate Vice President are informed and will be consulted by the Title IX Coordinator to review the sanctions/remedies. In allegations involving the classroom or other instances in which academic freedom may be a consideration, one (1) of the trained investigators assigned will be a

faculty member or staff member in the Office of Academic Affairs. An exception to this will be if the Title IX Coordinator or Assistant Vice President of Human Resources determines, in its sole discretion, to engage an external party to investigate.

Advisors

Each party is allowed to have an advisor of their choice present with them for all resolution process meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually not otherwise involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney, advocate or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The College has trained individuals that can serve in the role as an advisor for the reporting and responding parties. Please contact the Title IX Coordinator or Assistant Vice President of Human Resources to be provided with an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The Title IX Coordinator or Assistant Vice President of Human Resources cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

Responding parties may wish to contact organizations such as:

- Illinois State Bar Association
IllinoisLawyerFinder, <https://www.isba.org/public/illinoislawyerfinder>
- FACE (<http://www.facecampusequality.org>)

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the Title IX Coordinator or Assistant Vice President of Human Resources an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who

steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

Parties frequently share documentation related to the allegations with their advisors. In order for information directly to an advisor, a consent form must be completed by the party in question. Parties may share any information they receive directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The Title IX Coordinator or Assistant Vice President of Human Resources may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

An advisor is expected to adjust their schedule to allow them to attend College meetings when scheduled. Scheduled meetings are not typically changed to accommodate an advisor's inability to attend. Reasonable provisions will be made, however, to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout. The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

Investigation Time Line

Investigations are completed expeditiously, normally within 45-60 calendar days, though some investigations take significantly longer, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

Once the decision is made to initiate a formal investigation, the Title IX Coordinator or Assistant Vice President of Human Resources will appoint the investigation team and provide the parties with a notice of allegation and/or investigation generally within two (2) business days. Within the notice of investigation, both parties are invited to attend a meeting to review the allegation, investigation process, their rights and resources (including right to have an advisor present and report to law enforcement), and to identify any potential conflicts with the investigative team members. This meeting is typically held with the Title IX Coordinator or Assistant Vice President of Human Resources and the responsible administrator assigned to the investigation team.

In most cases, scheduling and conducting interviews with the parties and witnesses, transcribing interviews and having the parties and witnesses review their transcriptions, collecting information from the parties and witnesses, independently gathering relevant information takes between 15-30 calendar days.

The investigators create an investigative summary of all of the information that has been collected in the neutral fact-finding process (approximately 7-9 calendar days). The parties are usually afforded three (3) calendar days to review the investigative summary, list of witnesses, and all the information used to render a decision before a determination is made. The parties can provide clarifications and suggest additional

questions or witnesses. The investigative team takes typically between 10-12 calendar days to review the information gathered, determine if a policy violation occurred, finalize the investigation report, recommend sanctions if appropriate, and notify the parties.

The Title IX Coordinator or Assistant Vice President of Human Resources may undertake a short delay in its investigation (typically days to weeks) to allow evidence collection when criminal charges are being investigated on the basis of the same behaviors that invoke this process. The Title IX Coordinator or Assistant Vice President of Human Resources will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

Investigation Process

The investigation team typically includes two investigators, a responsible administrator, and a Deputy Title IX Coordinator. The investigators are neutral fact-finders in charge of interviewing both parties and witnesses, collecting information submitted by the parties and witnesses, independently gathering evidentiary information and pertinent facts, and drafting an investigative summary and report. The responsible administrator oversees the investigation, monitors the timeline, provides regular updates to the parties, reviews the evidence, and assists in writing investigative summary and report. The Deputy Title IX Coordinator facilitates the investigative team's review of the evidence, analysis of credibility, determination of findings regarding policy violations, assists in writing the investigative report, and selection of appropriate recommended sanctions if there is a finding of in violation.

The investigative team has the authority to investigate all collateral misconduct, meaning that it will investigate all allegations of discrimination, sexual misconduct, harassment and retaliation, but also may identify any additional alleged policy violations that have occurred in concert with the discrimination, sexual misconduct, harassment or retaliation, even though those collateral allegations may not specifically fall within the jurisdiction of these procedures. Accordingly, investigations are conducted with as wide a scope as necessary.

The Title IX Coordinator or Assistant Vice President of Human Resources, in conjunction with the investigation team, will typically take the following steps, if not already completed (not necessarily in order):

- The Title IX Coordinator and responsible administrator or Assistant Vice President of Human Resources will meet with both the reporting and responding parties to review the complaint, related policies, the resolution procedures and provide an opportunity for all parties to identify any bias concerns related to the investigation team that has been assembled to respond to the allegations, and request substitutions. The Title IX Coordinator or Assistant Vice President of Human Resources will also identify support resources and interventions or interim measures available to both parties;
- In coordination with campus partners (e.g. Campus Safety, Financial Aid), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Conduct preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy;
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed

with no further action.

- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of allegations on the basis of the preliminary inquiry;
- Meet with the reporting party to take their statement, if necessary;
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of an advisor or advocate of their choosing present for all meetings;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Conduct interviews as needed with all appropriate individuals, including the reporting and responding party and identified witnesses, and will independently gather any pertinent facts and evidentiary materials;
 - Throughout the investigation the parties will have an equal opportunity to present relevant witnesses and other evidence, to fully understand the details of the allegations and to respond. Typically, character witnesses will not be included in a resolution process.
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Provide parties with the investigation summary and access to all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
 - The investigators may incorporate feedback from the parties as appropriate. Each party will be able to respond to the content and provide suggested follow-up questions, areas of inquiry, additional witnesses, and/or provide additional corroborating information. The investigators, in consultation with the Title IX Coordinator and responsible administrator, will determine the appropriateness of the suggested inquiry by the parties.
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party and to the responding party, throughout the investigation, as appropriate;
- The investigative team will make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not) and provide the investigative report and finding to the Title IX Coordinator. For student responding parties, the investigative team will also determine sanctions;
- The Title IX Coordinator will review the investigative report, finding, and sanctions for student responding parties found in violation of the policy;
- Title IX Coordinator will finalize and present the findings to the parties, without undue delay between notifications.

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy has been violated, the Title IX Coordinator or Assistant Vice President of Human Resources has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the College's investigation. Failure of a witness to cooperate with and/or participate in the investigation may constitute a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. The Title IX Coordinator or Assistant Vice President for Human Resources can determine if a witness is exempt from being compelled to participate.

All interviews conducted by the investigators will typically be recorded and transcribed. Participants are strictly forbidden to surreptitiously record the proceedings and doing so is a violation of policy. All participants in the process will have the opportunity to review their transcripts and provide additional information, clarifications or corrections. No unauthorized audio or video recording of any kind is permitted during investigation meetings or appeal processes.

Determination of Finding

The investigative team reviews all the materials collected in the investigation, analyzes the credibility of the parties and witness, and on this basis determines the finding of whether or not a policy violation occurred. The investigation team provides a rationale for its decision based on the preponderance of the evidence and recommends sanctions and remedies if appropriate. During these deliberations, the investigative team can consult with the Title IX Coordinator and/or Assistant Vice President of Human Resources about precedent, parity, and sanctioning guidelines.

- For student responding parties, the investigative team decides whether or not there is sufficient information to support finding a policy violation and also recommends sanctions and remedies (see *Section-III, G*).
- For responding parties that are faculty, staff members, or the Promotion and Tenure Committee, the investigative team decides whether or not there is sufficient information to support a policy violation. Sanctions can then be determined by the investigative team. Any findings of “**in violation**” and/or sanctions contested by the responding party will be reviewed by the hearing panel process (see *Hearing Panel Process, Section III, F*).

The Title IX Coordinator or the Assistant Vice President of Human Resources will review any finding and recommend sanctions/remedies to assure equitable and remedial mandates have been met. Based on this review, the Title IX Coordinator or Assistant Vice President of Human Resources can recommend changes, include additional corrective actions that should be taken in order to remedy the effects of a hostile environment for the reporting party, and implement remedies required for the broader campus community.

- For student sexual misconduct, the recommended finding and sanctions/remedies are finalized by the Title IX Coordinator.
- For faculty or staff members, recommended sanctions are provided to and finalized by the hiring manager and appropriate administrator.
- For the Promotion and Tenure Committee recommended sanctions are finalized by the Chairperson of the Promotion and Tenure Committee and the Provost and Vice President for Academic Affairs.

The Title IX Coordinator or Assistant Vice President of Human Resources will not require the parties to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of the investigation (see *Privacy--Section VI*). The parties have

discretion to share their own experiences if they so choose. It is recommended that the parties discuss disclosures with their advisors. Faculty and staff members who are witnesses are expected to maintain privacy, subject to College consequences for failure to do so.

Once a finding has been made by the investigative team, the following will take place:

Finding of NOT In Violation:

If the investigative team finds the responding party not responsible for a policy violation, the investigation will be closed and the parties will be notified in writing, without undue delay between notifications. If the investigative team finds violations of other policies (for violations outside the policy on Discrimination, Harassment, Sexual Misconduct and Retaliation) this information will be included in the notification letter.

- a. The parties will typically receive written notification of the outcome of the investigation within 1-2 days of the Title IX Coordinator's or Assistant Vice President of Human Resources' review. This written notification will inform the parties about the findings and rationale for the determination, when a decision is considered final, and will include information on the right to appeal and the procedures for doing so in accordance with the standards for appeal established by this policy.
- b. In some circumstances involving a finding of "**Not in violation**," the Title IX Coordinator or Assistant Vice President of Human Resources may institute other forms of remedial, community-based responses, such as educational initiatives and/or trainings, as the Title IX Coordinator or Assistant Vice President of Human Resources determines appropriate under the circumstances.
- c. The reporting party may appeal the finding of "**Not in violation**" via the appeals process for a student responding party (*see Appeals Process – Section IV*). For a responding party who is a member of the faculty or staff, the reporting party can appeal through a hearing process (*see Hearing Panel Process, Section III, F*).

Finding of In Violation for Student Responding Party:

If the investigative team finds that the responding party is responsible for a policy violation, the Title IX Coordinator or Assistant Vice President of Human Resources will notify the reporting party and the responding party of the finding, sanctions, and remedies in writing, without undue delay between notifications. If the investigative team finds violations of other policies (for offenses outside the policy on Discrimination, Harassment, Sexual Misconduct and Retaliation), this information will be included in the notification letter.

- a. The parties will receive written notification of the outcome of the investigation typically within 1-2 days of the Title IX Coordinator's or Assistant Vice President of Human Resources' review. This written notification will inform the parties about the finding, sanctions, and remedies, rationale for the determination, when a decision is considered final, that sanctions are in effect immediately unless otherwise indicated by the Title IX Coordinator or Assistant Vice President of Human Resources, and will include information on the right to appeal, and the procedures for doing so in accordance with the standards for appeal established by the policy.

- b. In some circumstances involving a finding of “**in violation**,” the Title IX Coordinator or Assistant Vice President of Human Resources may institute other forms of remedial, community-based responses, such as educational initiatives and/or trainings, as the Title IX Coordinator or Assistant Vice President of Human Resources determine appropriate under the circumstances.
- c. The reporting and/or responding party may appeal the outcome of the investigation (*see Appeals Process – Section IV*).

Finding of In Violation for a Responding Party who is faculty, staff, or the Promotion and Tenure Committee:

In allegations involving a responding party who is faculty, staff, or the Promotion and Tenure Committee, where the finding is that a violation of one or more policies has occurred, the parties will be notified of the finding, recommended sanctions, and remedies in writing, as indicated below, by the Title IX Coordinator or Assistant Vice President for Human Resources. As further outlined below, the responding party may (1) accept the findings and recommend sanctions as presented, 2) accept the findings and recommended sanctions in part and reject them in part, or (3) reject all the findings and recommended sanctions.

- a. The parties will receive written notification of the outcome of the investigation typically within 1-2 days of the Title IX Coordinator’s or Assistant Vice President of Human Resources’ review without undue delay between notifications to the parties. This written notification will inform the parties about the finding, recommended sanctions, and remedies, rationale for the determination, when a decision of the College is considered final, that recommended sanctions are in effect immediately unless otherwise indicated by the Title IX Coordinator or Assistant Vice President of Human Resources, and will include information on the right to appeal, and the procedures for doing so in accordance with the standards for appeal established by the policy.
- b. If the responding party accepts the finding and recommended sanctions the complaint resolution process is concluded.
- c. If the responding party rejects the finding and/or recommended sanctions the Title IX Coordinator will forward the allegation to begin the hearing panel process (*see Hearing Panel Process-Section III, F*).
- d. In cases in which the responding party accepts some findings and/or recommended sanctions and rejects others, the findings and/or recommended sanctions accepted by the responding party will stand, and a hearing panel will be convened solely to resolve the contested findings. The implementation of the sanctions is usually delayed until the outcome of the hearing on the contested findings and/or recommended sanctions is determined and is subject to appeal in accordance with the standards for appeal established by the policy.

F. Hearing Panel Process

NOTE: The hearing panel process is utilized for a responding party who is faculty, staff, or the Promotion and Tenure Committee and who has been found in violation through the investigation process and the responding party rejected the findings and/or sanctions, in whole or in part.

Contested findings involving a faculty or staff responding party are decided by a five-person panel. Hearings typically occur within ten (10) business days of notification of a contested finding. Five (5) hearing panel members and one alternate member will be appointed by the Title IX Coordinator or Assistant Vice President of Human Resources as follows:

- a. If the responding party is a faculty member, a minimum of two (2) hearing panel members will be selected from the faculty. In allegations involving the classroom or other instances in which academic freedom may be a consideration, three (3) hearing panel members will be selected from the faculty.
- b. If the responding party is a staff member, a minimum of two (2) hearing panel members will be selected from the staff.

In addition, each hearing panel may include one of the following responsible administrators:

- a. If the responding party is a faculty member: the Associate Provost and Dean of Academic Services, the Dean of College Programs and Special Assistant to the Provost, or the Director of the Office of Institutional Effectiveness and Planning.
- b. If the responding party is a staff member, group/program, or third party consultant/contractor: the Assistant Vice President of Human Resources, or the Director of Human Resource Services.
- c. If the reporting party is a student: the VP for student Affairs and Dean of Students, the Associate/Assistant Dean of Students, the Director of Campus Safety, other responsible administrator within Student Affairs, or the Associate Registrar for Publications and Graduate and Professional Studies.

If a discrimination allegation relates to Promotion and Tenure Committee action, including, but not exclusive to retention and tenure decisions, the hearing panel will consist of two (2) hearing panel members appointed by the Title IX Coordinator or Assistant Vice President of Human Resources and additionally supplemented by representation of three (3) of the ten (10) members of the Grievance Panel as defined in the Faculty Handbook. The Title IX Coordinator or Assistant Vice President of Human Resources will select these additional hearing panel members by lot from among the ten (10) Grievance Panel members. If a Grievance Panel representative identified by lot recuses themselves due to a conflict of interest or is recused for conflict of interest, the Title IX Coordinator or Assistant Vice President of Human Resources will again make a selection by lot until the full hearing panel is constituted.

All hearing panel decisions will be made by majority vote. The Title IX Coordinator or the Assistant Vice President of Human Resources will designate one of the panelists to serve as the Chair for the hearing.

Notification of Allegations

At least five (5) business days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Title IX Coordinator or Assistant Vice President of Human Resources will send a letter to the parties with the following information. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The letter will contain:

- a. A description of the alleged violation(s), a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result.
- b. The time, date and location of the hearing. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Title IX Coordinator and/or

Chair may reschedule the hearing.

- c. The parties may have the assistance of any advisor of their choosing.
- d. Hearings for possible violations that occur near or after the end of an academic term and are unable to be resolved prior to the end of term, will typically be held as soon as possible the next term and/or during the summer, as needed, to meet the resolution timeline outlined in the policy and remain within the sixty (60) day goal for resolution.

Hearing Procedures

Hearing panels are conducted in private. The panel has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, sexual misconduct, harassment and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with or are related to the allegations of discrimination, sexual misconduct, harassment or retaliation, even though those collateral allegations may not specifically fall within the jurisdiction of these procedures. Accordingly, investigations are conducted with as wide a scope as necessary.

Participants in the hearing panel include the Chair, the members of the panel, the investigator(s) who conducted the investigation, the parties (or three (3) representatives from the organization where an organization is alleged to have violated policy), advisors to the parties and any called witnesses. The Title IX Coordinator may attend the hearing as an advisor to the proceedings.

The Title IX Coordinator or Assistant Vice President of Human Resources will exchange the names of witnesses who will be participating in the hearing, all pertinent documentary evidence, and investigation report between the parties at least two (2) business days prior to the hearing. Any witness scheduled to participate in a hearing must have been interviewed first by investigators (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing. In addition, the parties will be given a list of the names of each of the hearing panel members and an alternate at least two (2) business days in advance of the hearing. Should either (any) party object to any panelist, they must raise all objections, in writing, to the Title IX Coordinator or Assistant Vice President for Human Resources as soon as possible. Hearing panel members will only be unseated if the Title IX Coordinator or Assistant Vice President for Human Resources concludes that their bias precludes an impartial hearing of the allegation. Additionally, any panelist or Chair who feels they cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing. When a recusal occurs, the Title IX Coordinator or Assistant Vice President for Human Resources will seat an alternate as a panelist, and appoint another panelist as the new alternate in accordance with the guidelines above.

The Chair, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing. Any party wishing for a specific witness or witnesses to be present at the hearing should make that request to the Title IX Coordinator or Assistant Vice President for Human Resources in advance. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the parties. If alternative attendance or questioning mechanisms are desired, such as the reporting party not wanting to be in the same room as the responding party for the hearing (screens, Skype, questions directed through the Chair, etc.), the parties should request them from the Title IX Coordinator or Assistant Vice President of Human Resources at least two (2) business days prior to the hearing. In the case of documented disabilities for which accommodations in the process are necessary, the Title IX Coordinator or Assistant Vice President of Human Resources will make

reasonable accommodations for the parties when requested in advance.

Once the procedures are explained and the participants are introduced, the investigator will present the report of the investigation first, and be subject to questioning by the parties and the panelists. The investigator(s) will be present during the entire hearing process, but will only be present during deliberations at the request of the Chair. The findings of the investigation are not binding on the panel. Any uncontested findings of the investigation report will be shared with the panel, but will not be revisited by the panel, except as necessary to determine sanctions/responsive actions. Once the investigator(s) present their report and are questioned, the panel will permit the parties to provide relevant information in turn and permit questioning of and by the parties. The panel will then permit all present witnesses to provide relevant information and the panel and the parties will each be allowed to ask questions of the witnesses. Questions may be directed through the panel at the discretion of the Chair.

Formal rules of evidence will not apply. Any evidence that the panel believes is relevant and credible may be considered, including history and pattern evidence. The Chair, in consultation with the Title IX Coordinator or Assistant Vice President of Human Resources, will address any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence and may ask the panel to disregard evidence lacking in credibility or that is improperly prejudicial. The Chair, in consultation with the Title IX Coordinator or Assistant Vice President of Human Resources, will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the general character of the reporting or responding parties. There will be no observers in the hearing. The Chair may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the panel or the parties involved. The panel does not hear from character witnesses, but will accept up to two (2) letters supporting the character of the individuals involved at the sanctioning phase. The Title IX Coordinator or Assistant Vice President of Human Resources may attend the hearing as an advisor to the proceedings.

In hearings involving more than one responding faculty or staff member or in which two (2) or more reporting parties have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly; however, the Title IX Coordinator or Assistant Vice President of Human Resources may permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party. Sanctioning is conducted jointly.

Proceedings are private. All persons present at any time during the hearing are asked to maintain the privacy of the proceedings, and may be subject to College consequences for failure to do so. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors (*see Privacy-Section VI*).

Hearings (except for deliberations) are recorded for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. Panel members, the parties and/or the persons who initiated the action, and appropriate administrative officers of the College will be allowed to listen to the recording in a location determined by the Title IX Coordinator or Assistant Vice President of Human Resources. No person will be given or be allowed to make a copy of

the recording without permission of the Title IX Coordinator or Assistant Vice President of Human Resources. Persons given access to the recording will be required to sign an agreement confirming that they will protect the privacy of the information contained in the recording.

Once all evidence is presented, the hearing panel will then deliberate in private to review the investigative report, finding, recommended sanctions, and remedies, any responses made by the parties, and any other information presented at the hearing. During these deliberations, the hearing panel can consult with the Title IX Coordinator and/or Assistant Vice President of Human Resources about precedent, parity, and sanctioning guidelines.

The hearing panel will then determine whether the original investigative finding and recommended sanctions/remedies, were appropriate based on the fact pattern from the investigation, all available information, and on the preponderance of the evidence. The hearing panel will provide a rationale for its decision regarding the finding, recommended sanctions, and remedies.

The Title IX Coordinator or the Assistant Vice President of Human Resources will review any finding and recommend sanctions/remedies to assure equitable and remedial mandates have been met. Based on this review, the Title IX Coordinator or Assistant Vice President of Human Resources can recommend changes, include additional corrective actions that should be taken in order to remedy the effects of a hostile environment for the reporting party, and implement remedies required for the broader campus community.

Finding of NOT In Violation:

If the hearing panel finds that the faculty or staff responding party is not responsible for a policy violation, the investigation will be closed, and the Title IX Coordinator or Assistant Vice President of Human Resources will notify the reporting party and the responding party of the findings in writing, without undue delay between notifications to the parties.

- a. The written notification will include the outcome of the resolution process (finding and rationale) and will be administered usually within 1-2 business days of the conclusion of the Title IX Coordinator or Assistant Vice President for Human Resources' review. This written notification will inform the parties when a decision is considered final and will include any changes to the finding, recommended sanction, or remedies, the rationale for the determination, information on the right to appeal, and the procedure for pursuing an appeal.
- b. In some circumstances involving a finding of "**not in violation**," the Title IX Coordinator or Assistant Vice President of Human Resources may institute other forms of remedial, community-based responses, such as educational initiatives and/or trainings, as the Title IX Coordinator or Assistant Vice President for Human Resources determine appropriate under the circumstances.
- c. The reporting party may appeal the outcome of the hearing panel (*see Appeals Process – Section V*).

Finding of In Violation:

If the hearing panel finds that the responding party is responsible for a policy violation, the panel will recommend sanctions/remedies appropriate for the violation(s) (*see Sanctions/Remedies-Section III, G*). After reviewing the findings and recommended sanctions, and remedies the Title IX Coordinator or Assistant Vice President for Human Resources will then notify the reporting party and the responding party of the findings in

writing without undue delay between notifications to the parties.

- a. The written notification will include the outcome of the resolution process (finding, sanctions and rationale) and will be administered usually within 1-2 business days of the Title IX Coordinator or Assistant Vice President for Human Resources' review. This written notification will inform the parties when a decision is considered final, any changes to the finding, recommended sanction, or remedies, the rationale for the determination, and will include information on the right to appeal and the procedures for doing so in accordance with the standards for appeal established by the policy.
- b. The reporting or responding party may appeal the outcome of the hearing panel (*see Appeals Process – Section V*).

G. Sanctions/Remedies

The following may be considered by the investigative team as appropriate in making recommendations about sanctions when it is determined that the responding party has violated the *Discrimination, Harassment, Sexual Misconduct and Retaliation* policy:

- the nature of and the circumstances surrounding the violation including the use of force, incapacitation, and/or the presence of weapons,
- the impact of the conduct and level of disruption the conduct had on the reporting party's ability to participate in the educational program or workplace,
- the responding party's prior disciplinary record,
- precedent decisions,
- College safety concerns,
- the rights of both the reporting party and the responding party,
- the degree to which the responding party accepted responsibility for the prohibited conduct,
- any mitigating, aggravating or compelling factors, and
- any other information deemed relevant.

The sanction(s) will be structured to end the misconduct, prevent its recurrence, and remedy its effects on the reporting party and the College community. The College takes seriously behavior found in violation of its policy. Those violations that have resulted in creating a hostile environment through emotional, physical, and/or sexual harm receive the most severe sanctions, including suspension or expulsion for students and termination for employees. The College reserves the right, however, to impose sanctions based on the facts of the case and circumstances of the particular allegations. Possible sanctions/remedies include, but are not limited to:

- **For a Student Responding Party:** an oral warning, a written letter of warning, a letter of reprimand, mandatory attendance in an educational program on discrimination, harassment, and/or sexual misconduct, mandatory referral for psychological or chemical dependency assessment and compliance with any resulting treatment plan, change in room assignment, barring participation in student organizations, official College programs, or college sponsored activities, probation, suspension or expulsion from residence halls and/or from non-academic campus activities, suspension or expulsion from the College.
- **For a Faculty Responding Party:** an oral warning, a written warning, a letter of reprimand, mandatory attendance of an educational program on discrimination, harassment, sexual

misconduct and/or retaliation, mandatory referral for psychological assessment and compliance with any resulting treatment plan, restriction of responsibilities, reassignment, barring leadership or participation in domestic or international off-campus educational programs, canceling College related travel, denial of salary increase, suspension without pay or dismissal/termination of employment. Sanctions/remedies that include dismissal/termination of employment will be carried out in accordance with the Faculty Handbook, under Terms and Conditions of Faculty Employment, Separation.

- **For a Staff Responding Party:** an oral warning, a written warning, a letter of reprimand, mandatory attendance of an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation, mandatory referral for psychological assessment and compliance with any resulting treatment plan, restriction of responsibilities, reassignment or transfer to another department, denial of salary increase, suspension without pay, final written warning or dismissal/termination of employment. Should the responding party be a member of the President's Cabinet, communication of the outcome will go to the College President. Should the responding party be the College President, communication of the outcome will go to the Chair of the Board of Trustees.
- **For a Group/Program Responding Party:** an oral warning, a written warning, a letter of reprimand, mandatory attendance of an education program on discrimination, harassment, sexual misconduct and/or retaliation, restriction of responsibilities, reassignment, or other sanctions or remedies required to redress the discriminatory behavior/actions.
- **Promotion and Tenure Committee Decision-making:** a communication to the Provost and Vice President for Academic Affairs will include remedies that are required to redress the discriminatory behavior/actions.
- **For a Third-Party Consultant/Contractor Responding Party:** up to and including removal from campus and termination of contractual arrangements.

The sanctions/remedies described in this policy are not exclusive of and may be in addition to other actions taken or sanctions/remedies imposed by outside authorities (*see Coordination with Local Law Enforcement-Section VII*).

The imposed sanctions/remedies will be implemented by the appropriate administrator. The Title IX Coordinator will implement student related sanctions/remedies for sexual misconduct. The Vice President for Student Affairs and Dean of Students will implement sanctions/remedies determined by this process for other bias-related policy violations. The appropriate hiring manager will implement the recommended sanctions/remedies determined by this process for staff. When the responding party is a faculty member, the sanctions/remedies will be instituted through responding party's department head and/or Provost and Vice President of Academic Affairs. Sanctions that include revoking tenure or termination of a tenured faculty member will be addressed through the Faculty Handbook under Terms and Conditions of Faculty Employment, Separation.

Unless otherwise determined by the Title IX Coordinator or Assistant Vice President of Human Resources, the sanctions/remedies will be in effect upon the responding party's receipt of the finding letter and finalized Investigative Report, and will remain in effect pending the outcome of any appeal. Both parties have the opportunity to appeal the finding and sanction/remedies. The appeal process is included in the next section.

IV. APPEALS PROCESS

An appeal is not intended to be a new investigation. In most cases, an appeal is confined to a review of the written documentation and pertinent documentation regarding the grounds for appeal. An appeal is not an

opportunity to substitute judgment for that of the investigation team or hearing panel merely because of disagreement with the finding and/or recommended sanction/remedy. Appeal decisions are to be deferential to the investigative team and/or hearing panel, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

Disagreement with the finding or sanctions/remedy is not, by itself, grounds for an appeal. The ONLY grounds upon which an appeal may be made are:

- **Procedural Error:** A procedural error occurred that significantly impacted the outcome of the investigation and/or hearing panel as it applies to the appealing party (e.g. substantiated bias, material deviation from established procedures, etc.). A description of the error and its impact on the outcome of the case as it applies to the appealing party must be included in the written appeal;
- **New Information:** New information has arisen which was not available or known to the appealing party during the investigation or hearing panel and that could have substantially impacted the original finding or sanction(s)/remedy(ies) had it been available at that time. Information that was known to the appealing party at the time of the investigation or hearing panel but which the party chose not to present is not new information. A summary of this new evidence and its potential impact on the findings and/or sanctions/remedies must be included in the written appeal; or
- **Disproportionate Sanction(s):** The sanctions/remedies imposed are substantially disproportionate to the severity of the violation(s). An explanation of why the sanction(s)/remedy(ies) are disproportionate to the severity of the violation must be included. Mere dislike or disagreement with the sanction(s)/remedy(ies) or the impact of the sanction(s)/remedy(ies) on the appealing party is not grounds for an appeal.

Either the reporting party or the responding party may appeal the investigative team's decision regarding finding and/or recommended sanctions. The written appeal should be submitted to the Title IX Coordinator within five (5) business days following the receipt date of the investigation report and finding letter. The non-appealing party will receive notice of the appeal from the Title IX Coordinator or Assistant Vice President of Human Resources and will have five (5) business days to submit a written response to the appeal to the Title IX Coordinator or Assistant Vice President of Human Resources. Where each party appeals, these appeal requests and responses will be exchanged accordingly. In cases where the Title IX Coordinator or Assistant Vice President of Human Resources has a conflict of interest with the appeal, a Deputy Title IX Coordinator will assume responsibility for the appeal.

Appeal Committee Selection

The Title IX Coordinator or Assistant Vice President of Human Resources will assemble at least three (3) individuals from the trained pool of Deputy Title IX Coordinators, responsible administrators, investigators, faculty, staff, and/or members of the Grievance Panel to form an appeals committee to review the case and appeal statements, and determine if the grounds for the appeal are substantiated. Every effort is made to identify and mitigate potential conflicts or bias in selecting members of the appeal committee. Each party has the opportunity to identify potential conflicts and those individuals will be replaced unless individuals remaining in the trained pool have been exhausted. The review of an appeal typically occurs within ten (10) business days of notification of a contested finding and/or sanction.

Composition of the appeals committee for contested findings and/or sanctions are as follows:

- If the responding party is a student, a minimum of two (2) hearing panel members will be selected from Student Affairs.

- If the responding party is a faculty member, a minimum of two (2) hearing panel members will be selected from the faculty. In allegations involving the classroom or other instances in which academic freedom may be a consideration, three (3) hearing panel members will be selected from the faculty.
- If the responding party is a member of the administration or staff, a minimum of two (2) hearing panel members will be selected from the administration or staff.

In addition, for faculty and staff, each appeal committee may include one of the following responsible administrators:

- If the responding party is a faculty member: the Associate Provost and Dean of Academic Services, the Dean of College Programs and Special Assistant to the Provost, or the Director of the Office of Institutional Effectiveness and Planning.
- If the responding party is a member of the administration or staff: the Assistant Vice President of Human Resources, or the Director of Human Resource Services.

If a discrimination allegation relates to a Promotion and Tenure Committee action, including, but not exclusive to retention and tenure decisions, the appeals committee will consist of two (2) members appointed by the Title IX Coordinator or the Assistant Vice President of Human Resources and additionally supplemented by representation of three (3) of the ten (10) members of the Grievance Panel as defined in the Faculty Handbook. The Title IX Coordinator or the Assistant Vice President of Human Resources will select these additional hearing panel members by lot from among the ten (10) member Grievance Panel members. If a Grievance Panel representative identified by lot recuses themselves due to a conflict of interest or is recused for conflict of interest, the Title IX Coordinator/Deputy Coordinator will again make a selection by lot until the full hearing panel is constituted.

Appeal

If the grounds for appeal are not substantiated, the appeal will be denied and the parties will be notified in writing, under the provisions of notification described above. If the appeal is substantiated, the appeal officers, in conjunction with the Title IX Coordinator, will take appropriate action as indicated below.

- **Procedural Error:** If the appeals committee determines that a procedural error occurred that was substantially prejudicial to the outcome of the investigation, they will return the allegation to the Title IX Coordinator or Assistant Vice President of Human Resources with instructions to reconvene the investigative team or hearing panel in order to cure the error. In rare cases, where the procedural error cannot be cured by the investigative team (as in cases of bias), the appeals committee may order a new investigation or hearing with a new investigation team or panel. The results of a reconvened investigation cannot be appealed. The results of a new investigation or hearing can be appealed once, on the applicable grounds for appeals.
- **New Information:** If the appeals officers determine that new information should be considered, it will return the allegation to the original investigative team or hearing panel to reconsider the allegation in light of the new information only. The findings of the investigative team or hearing based on consideration of the new information are not appealable.
- **Disproportionate Sanction(s):** If the appeals officers determine that the sanctions/remedies imposed are substantially disproportionate to the severity of the violation(s), the appeals committee may return the allegation to the Title IX Coordinator with instructions to review the sanctions/remedies in light of the appeals committee's recommendations and make the appropriate changes to the sanctions.

The appeals committee will render a decision within ten (10) days after the receipt of the written appeal and response from the non-appealing party. The appeal decision and subsequent changes made by the investigative team are final, except in the event a new investigation has been recommended.

All parties will be informed of the status of requests for appeal in a timely manner and will be informed of the outcome in the same manner in which the investigation outcome was shared.

Following the appeal process, the Title IX Coordinator will evaluate whether there are additional remedies required for the reporting party or the community to eliminate a hostile environment and prevent its recurrence (*see Interim Measures-Section III, D*).

V. STATEMENT OF THE RIGHTS OF THE PARTIES

A. Statement of the Reporting Party's rights:

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to College officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released by the College to the public, without their consent;
- The right to be treated with respect by College officials;
- The right to have College policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no contact order (or a no trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of, options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
 - Change of an on-campus student's housing to a different on-campus location;
 - Assistance from College support staff in completing the relocation;
 - Transportation accommodations;
 - Arranging to dissolve a housing contract and pro-rating a refund;
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;

- Transferring class sections;
- Temporary withdrawal; and
- Alternative course completion options.
- The right to have the College maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to be informed of the individuals who will be appointed to serve in the complaint resolution process, identify conflicts of interest posed by the individuals determining the finding and/or sanctions, and request a substitution.
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to a finding by the investigation team;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence;
- The right to regular updates on the status of the investigation and/or resolution;
- The right to have reports addressed by investigators and responsible administrators who have received at least eight (8) hours of annual sexual misconduct training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings and/or interviews that are closed to the public;
- The right to have the College compel the participation of student, faculty and staff witnesses, and the opportunity to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
- The right to petition that any College representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
- The right to bring an advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties; and
- The right to be informed in writing of when a decision by the College is considered final and any changes to the sanction to occur before the decision is finalized.

B. Statement of the Responding Party's rights:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to College administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report;
- The right to be treated with respect by College officials;
- The right to have College policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling,

and advisory services;

- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions;
- The right to be informed of the individuals who will be appointed to serve in the complaint resolution process, identify conflicts of interest posed by the individuals determining the finding and/or sanctions, and request a substitution;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to the finding;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators and responsible administrators who have received at least eight hours of annual training;
- The right to petition that any College representative be recused from the complaint resolution process on the basis of demonstrated bias and/or conflict-of-interest;
- The right to meetings and interviews that are closed to the public;
- The right to have the College compel the participation of student, faculty and staff witnesses, and the opportunity to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
- The right to have an advisor of their choice to accompany and assist throughout the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties; and
- The right to be informed in writing of when a decision of the College is considered final and any changes to the sanction to occur before the decision is finalized.

VI. PRIVACY

Allegations involving discrimination, harassment, sexual misconduct and/or retaliation are particularly sensitive and demand special attention to issues of privacy. Those responsible for carrying out procedures in this policy will respect the privacy of the individuals involved, to the extent reasonably possible and mandated by law. Absolute confidentiality may not be maintained in all circumstances, including when the College is required to disclose information in response to legal process or when the College's need to protect the safety of others must outweigh privacy concerns. In addition, College personnel responsible for handling or investigating these matters may consult with legal counsel at any point during the process. The parties and witnesses involved in an allegation of discrimination, harassment, sexual misconduct and/or retaliation are encouraged to keep the matter as private as is reasonably possible. Faculty and staff involved in the investigation are expected to maintain privacy, subject to College consequences for failure to do so. For the parties, the College does not prevent the re-disclosure of information related to the outcome of the investigation or appeal. The parties have discretion to share their own experiences if they so choose. It is recommended that the parties discuss disclosures with their advisors.

VII. COORDINATION WITH LOCAL LAW ENFORCEMENT

In allegations involving potential crimes, including sexual assault, dating or domestic violence or stalking, individuals are encouraged to file a report with the Naperville Police Department.

The College's resolution procedures and the legal system work independently from one another and the College will proceed with its process, regardless of action or inaction by outside authorities. While the College's resolution procedures are separate, the College will make every effort to cooperate with active investigation and may delay its process in order to allow law enforcement the opportunity to complete the evidence collection process without disruption. These delays typically are not longer than ten (10) days. Decisions made or sanctions/remedies imposed through these grievance/student conduct procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the responding party.

In certain instances, North Central College may need to report conduct to law enforcement authorities even when the reporting party has not decided to do so. Such circumstances include incidents that warrant the undertaking of additional safety and security measures for the protection of the reporting party and the campus community or other situations in which there is clear and imminent danger or when a minor is involved.

VIII. ANONYMOUS REPORTS

The College will reasonably respond to all allegations of discrimination, harassment, sexual misconduct and/or retaliation. However, due to the inherent difficulty of investigating and resolving allegations from unknown persons, it may be difficult for the College to resolve an anonymous report. The College may be unable to properly investigate or impose disciplinary action if a reporting party insists that his/her name not be revealed. Community remedies will be provided when possible to address anonymous reports.

IX. MALICIOUS ALLEGATIONS PROHIBITED

The purpose of this policy is to promote and maintain an environment at North Central College that is free from discrimination, harassment, sexual misconduct and/or retaliation. Any member of the College community who believes that he/she has been subjected to discrimination, harassment, sexual misconduct (including dating/domestic violence or stalking) and/or retaliation is encouraged to use the procedures provided in this policy, not only for the benefit and protection of that individual, but ultimately for the entire College community. However, knowingly false allegations of discrimination, harassment, sexual misconduct (including dating/domestic violence or stalking) and/or retaliation undermine the purpose and effectiveness of this policy. Accordingly, persons who knowingly make false or malicious allegations of discrimination, harassment, sexual misconduct (including dating/domestic violence or stalking) and/or retaliation may be subject to disciplinary action. The failure of an allegation to result in a finding of discrimination, harassment, sexual misconduct (including dating/domestic violence or stalking) and/or retaliation is not alone evidence that the allegations were knowingly false.

X. TRAINING

North Central College is committed to providing effective educational and training programs to students, faculty and staff as a key component in maintaining an environment free from discrimination, harassment, sexual misconduct and retaliation. This policy will be available via the College's website as well as be included in other sources of media as is deemed appropriate. Educational programs on discrimination, harassment, sexual misconduct (including dating/domestic violence or stalking), retaliation, bystander intervention and other related topics will be provided for all new faculty and staff, including student employees and graduate assistants. Periodic refresher programs will also be provided, as will training to

individuals with specific responsibilities as defined within this policy to ensure their ability to carry out those responsibilities effectively.

XI. RECORD RETENTION

Records of investigations and hearings are maintained by the Title IX Coordinator or Assistant Vice President of Human Resources for a minimum of seven (7) years as indicated below.

Students: If the responding party is a student, the records will be maintained for a minimum of seven (7) years past the student's graduation, or, if the student leaves the College before graduation, for a minimum of seven (7) years past the date of the incident and in accordance with the Family Educational Rights and Privacy Act (FERPA), which protects the privacy of student education records.

Faculty or Staff: If the responding party is a faculty or staff member, the records will be maintained for a minimum of seven (7) years past the conclusion of the investigation and any hearing.

Groups/Programs: If the responding party is a group, the records will be maintained for a minimum of seven (7) years past the conclusion of the investigation and any hearing.

XII. INFORMATION CONCERNING REGISTERED SEX OFFENDERS

As required by the federal Campus Sex Crimes Prevention Act, institutions of higher education must issue a statement advising College community members where information concerning registered sex offenders may be obtained. This information can be found through the following web links:

Illinois Sex Offender Information: www.isp.state.il.us/sor/

North Central College Sex Offender Information: www.northcentralcollege.edu/content/registered-sex-offenders

Persons convicted of certain sex offenses are required by law to register with the State. Information on registered sex offenders is available at the Illinois State Police website and the Illinois Child Murderer and Violent Offender Against Youth Registry Database. The Department of Justice National Sex Offender Public Website is also a source for sex offender information. For information on registered sex offenders attending or employed at North Central College, contact the local police department or Campus Safety.

Definitions/Glossary of Terms and Examples

The following terms are used throughout this policy for the complaint resolution process and are defined by the main headings identified below:

Complaint Resolution Process and Parties to an Allegation of Policy Violation for Sexual discrimination, harassment, misconduct and/or retaliation:

Advisors: The parties may each have any advisor of their choosing (as long as the individual is not a witness or otherwise a part of the investigation) to accompany them to all meetings involved in reporting and the complaint resolution process. The advisor may attend, but does not participate in meetings except to provide advice and support to their advisee, rather than advocacy and/or representation. If any party prefers a current member of the North Central College community to act in this capacity, the Office of Academic Affairs, Student Affairs or Human Resources will help the party to identify an appropriate advisor. Advisors may not be someone who could be called as a possible witness to the allegation, and must be compliant with the College's expectations for advisor conduct and decorum (*for more information on advisors see Procedure for Reporting Violations of this Policy - Section V*).

Appeals Committee: As part of the formal resolution of an allegation for student responding parties, an appeals committee will be charged with reviewing the appeals from both parties on the basis that there were procedural errors, new information not available at the time of the investigation, or disproportionate sanctions.

Complaint and Resolution Process: The process followed to ensure a thorough, reliable, impartial, prompt, and fair approach to facilitating and resolving allegations of misconduct. A resolution process may include a formal and/or an informal approach to resolving issues, as appropriate, except in the case of a faculty discrimination allegation arising out of Promotion and Tenure Committee action where the resolution process will always be the formal approach.

Confidential Advisor or Advocate: A College employee who is trained in providing technical assistance to reporting parties who experience any form of sexual violence, sexual or gender-based harassment, intimate partner violence, and or stalking. Reports made to this person are confidential unless the reporting party signs a release of information. The confidential advisor/advocate provides crisis support, an overview of on- and off campus options, referrals and will accompany the reporting party to meetings related to any process that is chosen.

Deputy Title IX Coordinators: Staff and faculty who receive specialized training in Title IX and sexual and gender-based violence and harassment. Deputy Title IX Coordinators serve as part of the College's response to report and investigate incidents of sex or gender based discrimination, harassment, sexual misconduct or retaliation.

Hearing Panel: As part of the formal resolution of an allegation, a hearing panel will be charged with conducting a hearing to determine, based on a preponderance of the evidence, whether or not the responding party violated any College policy specific to the alleged misconduct.

Hearing Panelist: An individual who has been selected and trained to serve on a panel that will review a discrimination, harassment, sexual misconduct and/or retaliation allegation through the process defined by this policy. Hearing panelists will receive training to support the conduct of their review of an allegation in an equitable, fair and impartial way that protects the safety of victims and promotes accountability. Panelists will be chosen to participate on a given panel on the basis of such considerations as diversity, balance, and the absence of conflict of interest. All hearing panelists annually receive special training on issues pertaining to sexual misconduct, sexual harassment, discrimination, stalking, and intimate partner violence.

Investigator: An impartial individual who is free from any conflict of interest, who coordinates the gathering of information from parties who may have information relevant to the allegation as a neutral fact-finder. An investigator synthesizes this information in a report setting forth the facts gathered. An investigator has specific training and experience to investigate allegations of discrimination, harassment, sexual misconduct and/or retaliation including trauma informed investigation techniques. Investigators serve on the investigation team tasked with reviewing all of the pertinent information making a determination about policy violations and recommending sanctions. This person may be a faculty or staff member or, at the sole discretion of the College, an external party as determined by the circumstances. To meet legislative requirements, internal investigators receive annual training coordinated by the Title IX Coordinator.

Preponderance of Evidence Standard: The preponderance of evidence is the standard by which policy

violations are determined and means evidence that shows a policy violation is more likely than not.

Reporting Party: The person who reports an allegation of discrimination, harassment, sexual misconduct and/or retaliation. Reporting parties may be individuals or groups of individuals who have been impacted by discrimination, harassment, sexual misconduct and/or retaliation, or a third-party who brings an allegation on behalf of another member(s) of the College community. Allegations may be brought forth in person, in writing, by phone, via email, or by other means of notice.

Responding Party: The individual who is alleged to have engaged in discrimination, harassment, sexual misconduct and/or retaliation. A responding party may be an individual or a group/program.

Responsible Administrator: An administrator who is the College representative and who works with the Title IX Coordinator to receive and/or manage allegations of discrimination, harassment, sexual misconduct and/or retaliation. The responsible administrator receives specialized training in conducting investigations and manages the investigation process by regularly communicating with the parties to provide updates and managing deadlines. A responsible administrator is obligated to act in accordance with this policy upon learning of a potential violation of this policy.

Responsible Employee: Is a College employee who has or is perceived to have the authority to take action or address observations or disclosures of sexual assault, dating or domestic violence, stalking, and sexual or gender-based harassment. Responsible Employees are required to report all observations or disclosures to the Title IX Coordinator within 24 hours. Employees not considered to be Responsible Employees are those who are afforded confidentiality as part of their professional role in the College such as professional or pastoral counselors, medical health professionals, and advocates.

Title IX Coordinator: The school official designated to oversee the Discrimination, Harassment, Sexual Misconduct and Retaliation policy in respect to sexual discrimination, sexual or gender-based violence or harassment. The Title IX Coordinator responds to reports of sexual or gender based harassment, sexual assault, dating and domestic violence, and stalking, oversees investigations and offers interim safety measures as well as academic and other accommodations to ameliorate the impact of a hostile environment based on sex or gender. The Title IX Coordinator receives annual training.

Witness: An individual who may offer relevant knowledge or information regarding the allegations being investigated. Typically, character witnesses will not be included in a resolution process.

Terminology Defining Standard of Affirmative Consent and Prohibited Conduct:

Affirmative Consent: Affirmative consent is defined as a clear, active, informed, and voluntary agreement to engage in specific sexual activity. Affirmative consent maintains the value that all persons have the right to feel respected, acknowledged, and safe during sexual interactions. The following points are important aspects of affirmative consent:

- Consent must be mutual and ongoing throughout a sexual encounter and can be revoked at any time. If at any time consent is withdrawn, the activity must stop immediately.
- Consent can be communicated verbally or by action(s). In whatever way consent is communicated, it must be mutually understandable and clear. Although consent does not need to be verbal, verbal communication is the most reliable form of communicating consent. Non-verbal communication heightens the potential for ambiguity, even in long-term relationships. Talking with sexual partners about desires and limits is necessary as the basis for positive sexual experiences shaped by mutual willingness and respect.

- Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply present or future consent.
- Silence or passivity alone (absent a non-verbal action clearly demonstrating consent) is not considered consent. Consent cannot be inferred from the absence of a “no”; a clear “yes”, verbal or otherwise, is necessary.
- Affirmative consent may be called in to question with respect to minors or mentally disabled individuals.
- Affirmative consent is not possible during sexual activity with someone the responding party knows to be, or should know to be, incapacitated. Examples of incapacitation can include, but are not limited to, being highly intoxicated to the point where rational judgments are not possible, being blacked out, passed out, asleep, unable to respond or communicate. Alcohol consumption by the responding party does not excuse a policy violation, or compromise what a reasonable person (who is sober and using good judgment) would have known about the situation.
- Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing, alcohol consumption, or dancing) are unwarranted, and should not be considered as evidence for consent.
- Affirmative consent cannot result from force, or threat of force, coercion, fraud, intimidation, or threat. Physical force includes but is not limited to: hitting, kicking and restraining. Intimidation can include deterring a person from some action by inducing fear or inducing action by implied threat. Coercion is shown by an unreasonable amount of pressure for sexual activity. Threatening someone can come in the form of words, gestures, or non-verbal actions that create consequences for non-compliance. It is not possible to obtain affirmative consent for a sexual act through the above described means, though nothing in this policy is intended to limit consensual sexual behaviors such as bondage, discipline, dominance and submission, sadomasochism, or other non-conventional sexual practices between consenting adults.

Below are some examples/scenarios where Affirmative Consent is **NOT** present:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Amanda would never have done it but for Bill’s incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn’t want it, she could have left. **Bill is responsible for violating the College’s sexual misconduct policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda is unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**
- Jiang is a junior at the College. Beth is a sophomore. Jiang comes to Beth’s residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth

has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Jiang would be held responsible in this scenario for sexual misconduct. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, a verbal “yes” is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one’s partner may not be in a position to provide as clear an indication as the affirmative consent policy requires. As the policy makes clear, consent must be actively, not passively, given.**

- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it’s a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says “yes”. Clothes go flying, and they end up in John’s bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks John may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can’t help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. **This is a violation of the sexual misconduct policy. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of affirmative consent and respectful conduct the College expects.**

Discrimination: Conduct that is based upon an individual’s race, color, ethnicity, religion, national origin, sex, gender identity or expression, age, marital status, citizenship, mental or physical disability status, religion, sexual orientation, order of protection status, military or veteran status, genetic information, unfavorable military discharge (except dishonorable discharges) or any other characteristic protected by law that has the effect of excluding individuals from participation in, denies the benefits of, or results in an adverse impact in an individual’s employment, education, living environment or participation in a College program or activity.

Gender-Based Harassment: Unwelcome conduct based on gender identity or expression, including acts of verbal, nonverbal, or physical aggression, intimidation, harassment, stalking or hostility. Gender-based harassment can occur if one is harassed either for exhibiting what is perceived as a stereotypical characteristic for one’s sex, or for failing to conform to stereotypical notions of masculinity or femininity regardless of actual sex or gender identity. Gender-based harassment can include comments like “You’re not a real woman,” questioning why a student or staff member has elected to use a particular restroom, or failing to use a student’s preferred pronouns or name, once known, in the classroom, residence halls or during other interactions with the College. These actions can lead to the creation of a hostile environment in which the conduct is sufficiently severe or pervasive to cause substantial emotional distress or interfere with an individual’s work, learning, or living environment. Students have the option to provide a chosen name which will be used in place of the individual’s legal name in such areas as the network login, email, Blackboard, class photo roster. For a full list of the areas in which a chosen name can be used and process for requesting a chosen name substitution can be found at <https://cardinalnet.northcentralcollege.edu/node/3675>

Harassment: Unwelcome actions on the basis of actual or perceived protected class status (protected classes are defined above). Such conduct may include, but is not limited to repeated infliction of verbal abuse, such as the use of derogatory remarks, insult and epithets; written communication or physical conduct of a hostile or humiliating nature; the sabotage or undermining of an individual's work or academic performance; or attempts to exploit an individual's known psychological or physical vulnerability; changing someone's mail address or sending unwanted subscriptions; unwanted and repeated phone calls, text messages or emails, contact over social media sites; or showing up or creating a disturbance at the person's residence, work, educational, or other setting.

These are acts that a reasonable person would find offensive based on the severity, nature and frequency of the conduct. A single act may not typically constitute harassment unless it is severe. Harassment may be perpetrated in person, via third parties, electronic means or social media, or in print – all of which are a violation of College policy. All harassment should be reported to the College, and remedies will be afforded appropriately, under this policy.

Hate Crime: Is when an individual or group commits acts such as, but not limited to: murder or manslaughter, physical or sexual violence, harassment, threats or intimidation, damage/destruction/vandalism to property, theft, burglary, robbery, mob action, disorderly conduct, and/or arson based on their bias against another person's or group's perceived or actual race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, disability or other protected identity.

Intimate Partner Violence (Dating and Domestic Violence): Encompasses a broad range of abusive behavior committed by a person who has an intimate relationship with the person who is the target of abuse. Abusive behaviors include: emotional/psychological abuse, physical and/or sexual abuse, violence, harassment, threats, intimidation, forcing someone to participate in illegal activities such as selling drugs or stealing, or depriving someone of necessities such as food or medicine. The intimate relationship includes a past or present dating relationship, spouse or romantic partner, and a person with whom a child is shared in common. While covered under Illinois Domestic Violence Act (750 ILCS 60), abusive behaviors committed by a student living in the same residence (such as a roommate) or by a caregiver may be considered a violation of the Student Handbook, specifically the Conduct that Endangers policy under the Responsibility to the College and its Members section of the handbook. Potential violations of the Conduct that Endangers policy will be adjudicated through the process outlined in the Student Handbook.

Below are some examples/scenarios of Intimate Partner Violence:

- The partner of a transgender student prevents them from going to their doctor's appointment to receive their weekly hormone injection.
- A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
- An ex-girlfriend shames her female partner, threatening to out her as a lesbian to her partner's parents if she doesn't give her another chance. Threats are a form of Intimate Partner Violence.
- A graduate student refuses to wear a condom and forces his girlfriend to take hormonal birth control, though it makes her ill, in order to prevent pregnancy.
- Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.

Non-Consensual Sexual Contact: Defined as any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes

intentional contact with the breasts, groin, genitals, buttocks, or mouth or touching another with any of these body parts, or making another touch you, or themselves, with, or on, any of these body parts either directly or through clothing; or any other bodily contact in a sexual manner. Non-consensual sexual contact can take place even over an individual's clothing.

Non-Consensual Sexual Intercourse: Defined as sexual penetration, no matter how slight, with any object, by a person upon another person that is without consent and/or by force. Sexual intercourse includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

Sexual Exploitation: Occurs when a person takes non-consensual or abusive sexual advantage of another person for his/her own benefit or for the benefit of anyone other than the person being exploited and does not otherwise constitute sexual misconduct under this policy. Examples of prohibited conduct include, but are not limited to: non-consensual video/audio taping of sexual activity by any electronic device; non-consensual sharing of a consensually made video/audio tape of sexual activity; prostitution; going beyond the boundaries of consent given, such as by secretly allowing others to watch consensual sex; or voyeurism of a sexual nature. Sexual exploitation also includes viewing or disseminating child pornography, which includes pornographic images that are consensually sent by or to minors (i.e. sexting) or coercing minors to send images pornographic images. Sexual Exploitation is prohibited and will be treated as sexual misconduct.

Sexual Harassment: Unwelcome sex-based conduct, or unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal and physical conduct of a sexual nature constitutes sexual harassment. Types of sexual harassment may include *quid pro quo* sexual harassment or hostile environment harassment.

Typically, a single act or offensive comment would not meet the criteria for sexual harassment, however, a single or isolated incident can be sufficiently severe to be considered sexual harassment as would be the case with sexual or physical assault. While it is not possible to list all of the conduct or circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness.

- Unwelcome sexual advances -- whether they involve physical touching or not -- and unwanted discussions of sexual matters;
- Sexual epithets, jokes, written or oral references to sexual conduct; gossip regarding one's sex life; comment on an individual's body; comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Sexist remarks/ behaviors that are delivered with the intent to belittle, control, embarrass or hurt others;
- Requests or demands for sexual favors accompanied by implicit or explicit promised rewards or threatened punishment;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

The definitions of sexual harassment are intended to be illustrative and are not limited to the stated

definitions.

Hostile Work, Learning, or Living Environment: Unwelcome conduct creates a hostile environment when it is severe or pervasive (persistent), and objectively offensive, whether intended or not. To constitute a hostile environment, the harassment must be sufficiently severe or pervasive to affect the conditions of the reporting party's employment, academic standing or participation in an education program, social or residential activity, or cause significant emotional distress. Such conduct may create a hostile environment for individuals other than those at whom the conduct is directed. Harassment that creates a hostile environment includes peer harassment, such as student-to-student or colleague-to-colleague. A single incident or isolated incidents of offensive conduct or remarks may create a hostile environment, but generally do not unless the conduct is quite severe. Not all harassment creates a hostile environment, but even instances that may not constitute a hostile environment should be addressed under the informal procedures of this policy so that they are not repeated, and so that remedial actions can be taken for the reporting party and the College community.

Hostile Learning Environments and Academic Freedom: Robust discussion and debate are fundamental to the life of the College. Classroom instruction requires appropriate latitude for germane pedagogical discussions, as well as other methodologies used to fully engage students. This policy will be interpreted in a manner that is consistent with academic freedom. Free speech rights apply in the classroom and in all other educational programs and activities of the College. Great care must be taken not to inhibit open discussion, academic debate, expressive activity, and expression of personal opinion, particularly in the classroom and within academic forums. Nonetheless, speech or conduct of a sexual or hostile nature which occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited discrimination, harassment, sexual misconduct, or retaliation if it meets the definitions of misconduct provided throughout this policy and a) is reasonably regarded as non-professional speech (i.e., advances a personal interest of the faculty member or a student as opposed to furthering the learning process or legitimate objectives of the course), or b) lacks accepted pedagogical purpose and/or is not germane to the academic subject matter.

Quid Pro Quo Harassment: A type of sexual harassment, *quid pro quo* sexual harassment, may occur when anyone in a position of power or authority over another uses that power to subject such other person to unwelcome sexual attention or verbal or physical conduct of a sexual nature. In general, *quid pro quo* sexual harassment means: unwelcome sexual advances, requests for sexual favors, or other verbal and physical conduct of a sexual nature by one in a position of power or influence when:

- Submission by an individual is made either an explicit or implicit term or condition of employment or of academic standing; or
- Submission to, or rejection of, such conduct is used as the basis for academic or employment decisions affecting that student or employee; or
- Such conduct creates an intimidating, hostile or offensive working or educational environment (*See definition of Hostile Work, Learning or Living Environment listed above*).

Most often *quid pro quo* sexual harassment arises in the context of an authority relationship or power differential. This relationship may be direct (as in the case of a supervisor/subordinate or teacher/student), or it may be indirect (when the harasser has the power to influence others who have authority over the targeted person or persons.) This definition is intended to be illustrative and is not limited to the stated definition.

Some examples/scenarios of possible Sexual Harassment include:

- A professor insists that a student have sex with them in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list they created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

Sexual Misconduct: Includes sexual and gender-based harassment, non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, intimate partner violence and stalking. Additionally, in Illinois, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 17 years old is a crime, as well as a violation of this policy, even if the minor consented to engage in the act.

Stalking: Stalking is engaging in a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to fear for their safety or the safety of family members or intimate/dating partners, or to suffer significant emotional distress. Stalking may include a pattern of repetitive and menacing behavior such as pursuit, unwelcome attention, surveillance, following, harassing, threats of immediate or future harm, and/or interfering with the peace and/or safety of another. Stalking can be perpetrated in person, via email, phone, text messaging, and social networking sites or other electronic means – all of which are a violation of College policy. Stalking someone on the basis of their actual or perceived membership in a protected class (age, race, sex, etc.) is also form of sexual, gender or biased-related, harassment and is prohibited.

Some examples of possible stalking include:

- Avery and Scout began dating at the start of the school year. Scout ended the romantic relationship after a month. After the breakup, Scout blocked Avery on Facebook. Avery would then create multiple new Facebook accounts in an attempt to get around the fact that Scout had blocked him on Facebook. Additionally, Scout noticed that Avery was showing up at many of the same events and programs he was attending, even ones that occurred off-campus. Scout later discovered that Avery had installed spyware on his computer that allowed Avery to take screen shots of Scout's computer. Scout believes this is how Avery was determining where Scout was going to be at any given time.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate the gift deliveries

to stop. The student then started leaving notes of love and gratitude on the graduate assistant's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together." This is a form of stalking and is against College policy.

Illinois Statutory Definitions

Criminal Sexual Assault, 720 ILCS 5/11-1.20(a)

A person commits criminal sexual assault if that person commits an act of sexual penetration and: (1) uses force or threat of force; (2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent; (3) is a family member of the victim, and the victim is under 18 years of age; or (4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.

Sexual Penetration, 720 ILCS 5/11-0.1

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

Consent, 720 ILCS 5/11-1.70

(a) "Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

(c) A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct.

Aggravated Criminal Sexual Assault, 720 ILCS 5/11-1.30

(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

- (1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;
- (2) the person causes bodily harm to the victim, except as provided in paragraph (10);
- (3) the person acts in a manner that threatens or endangers the life of the victim or any other person;
- (4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;
- (5) the victim is 60 years of age or older;
- (6) the victim is a physically handicapped person;
- (7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;

(8) the person is armed with a firearm;
(9) the person personally discharges a firearm during the commission of the offense; or
(10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) A person commits aggravated criminal sexual assault if that person is under 17 years of age and: (i) commits an act of sexual penetration with a victim who is under 9 years of age; or (ii) commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.

(c) A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a severely or profoundly intellectually disabled person.

Predatory Criminal Sexual Assault of a Child, 720 ILCS 5/11-1.40(a)

A person commits predatory criminal sexual assault of a child if that person is 17 years of age or older, and commits an act of contact, however slight, between the sex organ or anus of one person and the part of the body of another for the purpose of sexual gratification or arousal of the victim or the accused, or an act of sexual penetration, and: (1) the victim is under 13 years of age; or (2) the victim is under 13 years of age and that person: (A) is armed with a firearm; (B) personally discharges a firearm during the commission of the offense; (C) causes great bodily harm to the victim that: (i) results in permanent disability; or (ii) is life threatening; or (D) delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception, for other than medical purposes.

Criminal Sexual Abuse, 720 ILCS 5/11-1.50

(a) A person commits criminal sexual abuse if that person: (1) commits an act of sexual conduct by the use of force or threat of force; or (2) commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.

(b) A person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age.

(c) A person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim.

Aggravated Criminal Sexual Abuse, 720 ILCS 5/11-1.60

(a) A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim;

(3) the victim is 60 years of age or older;

(4) the victim is a physically handicapped person;

(5) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(6) the person commits the criminal sexual abuse during the course of committing or attempting to

commit any other felony; or

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception.

(b) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member.

(c) A person commits aggravated criminal sexual abuse if:

(1) that person is 17 years of age or over and: (i) commits an act of sexual conduct with a victim who is under 13 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or

(2) that person is under 17 years of age and: (i) commits an act of sexual conduct with a victim who is under 9 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act.

(d) A person commits aggravated criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least 5 years older than the victim.

(e) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is a severely or profoundly intellectually disabled person.

(f) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is at least 13 years of age but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim.

Domestic Violence, 750 ILCS 60/103

Domestic violence means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.

Physical abuse includes sexual abuse and means any of the following: (i) knowing or reckless use of physical force, confinement or restraint; (ii) knowing, repeated and unnecessary sleep deprivation; or (iii) knowing or reckless conduct which creates an immediate risk of physical harm.

Harassment means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress: (i) creating a disturbance at petitioner's place of employment or school; (ii) repeatedly telephoning petitioner's place of employment, home or residence; (iii) repeatedly following petitioner about in a public place or places; (iv) repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle or other place occupied by petitioner or by peering in petitioner's windows; (v) improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner's from the jurisdiction or from the physical care of petitioner, repeatedly threatening to

conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing an incident or pattern of domestic violence; or (vi) threatening physical force, confinement or restraint on one or more occasions.

Intimidation of a dependent means subjecting a person who is dependent because of age, health or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in this Act, regardless of whether the abused person is a family or household member.

Interference with personal liberty means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.

Willful deprivation means willfully denying a person who because of age, health or disability requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care or treatment when the dependent person has expressed an intent to forgo such medical care or treatment. This paragraph does not create any new affirmative duty to provide support to dependent persons.

Domestic Battery, 720 ILCS 5/12-3.2, 720 ILCS 5/12-0.1

(a) A person commits domestic battery if he or she knowingly without legal justification by any means: (1) causes bodily harm to any family or household member; (2) makes physical contact of an insulting or provoking nature with any family or household member.

"Family or household members" include spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in Section 12-4.4a of this Code. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

Stalking, 720 ILCS 5/12-7.3

(a) A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to: (1) fear for his or her safety or the safety of a third person; or (2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and: (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or (2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person.

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion: (1) follows that same person or places that same person under surveillance; and (2) transmits a threat of immediate or future bodily harm, sexual

assault, confinement or restraint to that person or a family member of that person.

For purposes of this Section:

(1) Course of conduct means 2 or more acts, including but not limited to acts in which a defendant 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, engages in other non-consensual contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.

(2) Electronic communication means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) Emotional distress means significant mental suffering, anxiety or alarm.

(4) Family member means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(5) Follows another person means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.

(6) Non-consensual contact means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(7) Places a person under surveillance means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.

(8) Reasonable person means a person in the victim's situation.

(9) Transmits a threat means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including

health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

Aggravated Stalking, 720 ILCS 5/12-7.4

(a) A person commits aggravated stalking when he or she commits stalking and: (1) causes bodily harm to the victim; (2) confines or restrains the victim; or (3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

(a-1) A person commits aggravated stalking when he or she is required to register under the Sex Offender Registration Act or has been previously required to register under that Act and commits the offense of stalking when the victim of the stalking is also the victim of the offense for which the sex offender is required to register under the Sex Offender Registration Act or a family member of the victim.

(c) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

Cyberstalking, 720 ILCS 5/12-7.5

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to: (1) fear for his or her safety or the safety of a third person; or (2) suffer other emotional distress.

(a-3) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and: (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; or (2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or (3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(a-5) A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

- (1) which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person, or
- (2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or
- (3) which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(c) For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant 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, engages in other non-consensual contact, or interferes with or damages a person's property or pet. The incarceration in a penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.

(5) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(6) "Reasonable person" means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.

(7) "Third party" means any person other than the person violating these provisions and the person or

persons towards whom the violator's actions are directed.

(d) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

Violence Against Women Act Amendment 304 Definitions

34 C.F.R. 668.46(a)

Sexual assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and included in Appendix A of this subpart.

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.

(i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of relationship, the type of the relationship, and the frequency of the interaction between the persons involved in the relationship.

(ii) For the purposes of this definition—

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence.

(ii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for purposes of Clery Act reporting.

Domestic violence: (i) A felony or misdemeanor crime of violence committed—

(A) By a current or former spouse or intimate partner of the victim;

(B) By a person with whom the victim shares a child in common;

(C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

(D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

(E) By any other person against an adult or youth alleged victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

(ii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for purposes of Clery Act reporting.

Stalking: (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to –

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

(ii) For purposes of this definition –

(A) 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, surveils, or threatens, or communicates to or about a person, or interferes with a person's property.

(B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

(C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(iii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for purposes of Clery Act reporting.

Informing Legislation

While the intent of listing pertinent legislation is to share the wide scope of federal and state mandates that this policy covers, it is not intended to be a complete and all-inclusive listing of all applicable legislation.

Age Discrimination in Employment Act (ADEA) (1967): Forbids employment discrimination against anyone at least 40 years of age. The ADEA includes a broad ban against age discrimination and also specifically prohibits discrimination in hiring, promotions, wages, or termination of employment and layoffs, statements or specifications in job notices or advertisements of age preference and limitations, denial of benefits to older employees. Since 1986 it has prohibited mandatory retirement in most sectors, with phased elimination of mandatory retirement for tenured workers, such as college professors, in 1993.

Americans with Disabilities: Prohibits discrimination against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. Requires an employer to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on disability or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADA.

Equal Pay Act of 1963 (EPA): Amends the Fair Labor Standards Act, aimed at abolishing wage disparity based on sex. Prohibits "employer[s] from discriminating on the basis of sex by paying wages to employees at a rate less than the rate paid to employees of the opposite sex for equal work on jobs requiring equal skill, effort, and responsibility, and which are performed under similar working conditions."

Hate Crimes Law: Protects against hate crimes (also known as *bias crimes*) motivated by enmity or animus against a protected class. Although state laws vary, current statutes permit federal prosecution of hate crimes committed on the basis of a person's protected characteristics of race, religion, ethnicity, nationality, gender, sexual orientation, gender identity, and disability. The U.S. Department of Justice (DOJ)/FBI, as well as campus security authorities, are required to collect and publish hate crime statistics.

Illinois 'At Will' Employment: States that Illinois is an "at-will" employment state. As an "at-will" employment state, it does not have any regulations or laws that prohibit an employer from firing an employee at any time for whatever reason (except a reason based on race, gender or ethnicity). At the same time, employees are not required to give an employer notice that they are leaving their job. An employee is free to leave the job at any time for any reason.

Illinois Domestic Violence Laws: Asserts that any person who physically assaults (which includes but is not limited to: hitting, choking, kicking, shoving, raping, destruction of personal property), threatens, harasses, exploits, neglects, deprives, intimidates dependents, stalks, or interferes with the personal liberty of another family or household member has broken the Illinois Domestic Violence law. Under Illinois law

family or household members are defined as family members related by blood; people who are married or used to be married; people who share or used to share a home, apartment, or other common dwelling; people who have or allegedly have a child in common or a blood relationship through a child in common; people who are dating or engaged or used to date, including same sex couples; and people with disabilities and their personal assistants.

Illinois Preventing Sexual Violence in Higher Education Act: Requires institutions of higher education in Illinois to provide prevention education to incoming and current students and employees, trauma informed training to those individuals who respond to reports of sexual violence and to those who conduct investigations and hearings. The legislation requires the designation and training of confidential advisors for victims of sexual violence. Institutions of higher education are also required to form a campus-wide or regional task force with local law enforcement, community advocacy agencies, local state's attorneys, faculty, staff, and students in order to improve policy and coordinated community response.

Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act: The Clery Act, named for Jeanne Clery, a 19-year-old Lehigh University freshman who was raped and murdered in her campus residence hall in 1986, requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. Compliance is monitored by the United States Department of Education.

The Rehabilitation Act of 1973: Prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment, and in the employment practices of federal contractors. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in Title I of the Americans with Disabilities Act. Section 504 has provided opportunities for children and adults with disabilities in education, employment and various other settings. It allows for reasonable accommodations such as special study area and assistance as necessary for each student.

The Victims' Economic Security and Safety Act (VESSA): Allows employees who are victims of domestic or sexual violence or who have family or household members who are victims of such violence to take up to twelve (12) weeks of unpaid leave per any twelve (12) month period to seek medical help, legal assistance, counseling, safety planning, and other assistance. The Act also prohibits employers from discriminating against employees who are victims of domestic or sexual violence or who have family or household members who are victims of domestic or sexual violence.

Title VI of the Civil Rights Act of 1964: Protects people from discrimination on the basis of race, color, or national origin in any program, or activity receiving Federal financial assistance, where the primary purpose is employment or where the discriminatory practice has an impact on program beneficiaries [students].

Title VII of the Civil Rights Act of 1964: Prohibits discrimination by covered employers on the basis of race, color, religion, sex or national origin. Title VII also prohibits discrimination against an individual because of their association with another individual of a particular race, color, religion, sex, or national origin.

Title IX of the U.S. Department of Education Amendments of 1972: Provides that no person will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance (Legal Citation: Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R., Part 106 [Title IX]). Includes the guidance issued through the "Dear Colleague" Letter of April 4, 2011, from the U.S. Department of Education, Office of Civil Rights, the "Questions and Answers on Title IX and Sexual Violence" guidance

document of April 29, 2014 and the website www.notalone.gov. The College acknowledges its obligations under Title IX and is committed to complying with all Title IX requirements.

Uniformed Services Employment and Re-employment Rights Act (USERRA): Clarifies and strengthens the Veterans' Reemployment Rights (VRR) Statute by protecting civilian job rights and benefits for veterans, members of reserve components, and even individuals activated by the President of the United States to provide Federal Response for National Emergencies.

Violence Against Women Reauthorization Act (VAWA): Addresses the rights of victims of sexual misconduct, stalking and domestic violence by complementing and expanding the scope of Title IX. Includes the Campus Sexual Violence Elimination Act (Campus SaVE). Addresses requirements for procedures, structures and the need for trained officials to investigate, resolve and communicate the outcome of allegations; establishes standards of evidence; provides insight into sanctions and remedies; requires sharing information regarding available support services; requires the establishment of prevention and awareness programs, and outlines specifications regarding institutional reporting and documentation.

Whistleblower Laws (the Illinois Whistleblower Act): Protects every citizen when he/she blows the whistle on government corruption. A State agency cannot retaliate through a reprimand, discharge, suspension, demotion or denial of promotion or transfer.

Related Policies

These related policies can be found on Cardinalnet under Human Resources. Select HR Knowledge Base and the link HR Policies and Procedures.

- I. **CONSENSUAL RELATIONSHIPS:** https://nchr.groovehq.com/knowledge_base/topics/consensual-relationships-policy?from_search=true
- II. **PREGNANT AND PARENTING STUDENTS:**
- III. **SERVICE AND ASSISTANCE ANIMAL:** https://nchr.groovehq.com/knowledge_base/topics/service-and-assistance-animal-policy?from_search=true

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