

## Sexual, Racial and Other Forms of Harassment *Administrative Procedure*

### AP 212.1

#### I. Purpose

The College is committed to maintaining a safe and healthy educational and employment environment that is free from unlawful discrimination, harassment and misconduct on the basis of sex, which includes sexual orientation or gender-related identity. The purpose of this administrative procedure is to implement the College's policy prohibiting sex-based misconduct and Board Policy 212 – Sexual, Racial and Other Forms of Harassment, ensure a safe and healthy educational and employment environment, and meet legal requirements in accordance with: Title IX of the *Education Amendments of 1972* ("Title IX"), which prohibits discrimination on the basis of sex in the College's education programs or activities; relevant sections of the *Violence Against Women Reauthorization Act* ("VAWA"); Title VII of the *Civil Rights Act of 1964* ("Title VII"), which prohibits discrimination on the basis of sex in employment; relevant sections of the *Illinois Human Rights Act*, which prohibits discrimination on the basis of sex or sexual orientation, including gender-related identity; the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* ("Clery Act"), which requires timely warning to the community of certain immediate threats; the *Preventing Sexual Violence in Higher Education Act*, and other applicable law and local ordinances.

The College has an obligation to take appropriate and reasonable action once it has actual knowledge of an act of sex-based discrimination, sexual harassment or other sex-based misconduct in any of its educational or employment programs or activities. The College will promptly and thoroughly investigate any complaints of sexual discrimination, harassment and/or misconduct in accordance with the procedures set forth below.

These procedures are intended to be consistent with Title IX requirements. In the event of conflict, Title IX requirements will prevail. Where the U.S. Department of Education utilizes other or different definitions than provided, the Department's then applicable definitions will apply.

#### II. Jurisdiction

The College's policy prohibiting sex-based misconduct applies as is consistent with the requirements of Title IX to students, faculty, staff, board members, appointees, or third parties, regardless of sexual orientation or gender-identity, in a College education program or activity, but does not apply to misconduct occurring outside of the United States.

#### III. Scope

This administrative procedure governs sex-based misconduct in various forms, many of which may trigger legal obligations under one or more state and federal laws as well as student or employee conduct requirements. This procedure applies, at a minimum, where Title IX matters are involved.

#### IV. Administration

##### A. Title IX Coordinators

The College has designated Title IX Coordinators. They are:

Where Student Harassment or Matters are Alleged:  
Dean of Student Services and Enrollment  
Tracy Orne  
John Wood Community College  
1301 S. 48<sup>th</sup> St., Quincy, IL 62305  
Telephone: (217) 641-4300

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Email: [torne@jwcc.edu](mailto:torne@jwcc.edu) Where Employee Harassment or Matters Alleged:  
Director of Human Resources  
Dana Keppner  
1301 S. 48<sup>th</sup> St., Room C229, Quincy, IL 62305  
Telephone: (217) 641-4241  
Email: [dkeppner@jwcc.edu](mailto:dkeppner@jwcc.edu)

Responsibilities of the Title IX Coordinator may include as is within the Title Coordinator's area, but are not limited to:

- Overseeing the College's response to all Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports or complaints.
- Being informed of all reports and complaints raising Title IX issues, including those initially filed with another individual or office or if the investigation will be conducted by another individual or office.
- Conducting and/or assigning Title IX investigations, including the investigation of facts relative to a complaint.
  - With respect to Title IX complaints that relates to a student and an employ, the respective Title IX Coordinator will appropriate collaborate and manage the investigation into the allegations.
  - The Title IX Coordinator must not be the decision-maker for a determination of responsibility in response to a formal Title IX complaint of sexual harassment.
- Coordinating any appropriate supportive measures and ensuring the effective implementation of any remedies.
- Ensuring that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local victim advocacy organizations and services providers, including rape crisis centers.
- Ensuring that adequate training is provided to students, faculty, staff and, as appropriate, others on Title IX issues.
- Monitoring students' participation in athletics and across academic fields to ensure that sex discrimination is not causing any disproportionate enrollment based on sex or otherwise negatively affecting a student's access to equal educational opportunities.
- Developing a method to survey the school climate and coordinating the collection and analysis of information from that survey.
- Promoting an educational and employment environment which is free of sex discrimination and gender bias.

Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to the Assistant Secretary for Civil Rights at the United States Department of Education:

Office for Civil Rights, *Chicago Office*

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U.S. Department of Education  
Citigroup Center  
500 W. Madison Street, Suite 1475  
Chicago, IL 60661-4544  
Telephone: (312) 730-1560  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

B. Referral Title IX Coordinator

Where a matter is presented to either Title IX Coordinator, it will be referred to the other Title IX Coordinator with that other Title Coordinator's area.

V. Options for Assistance Following an Incident of Sex-Based Discrimination, Harassment or Misconduct

A. On and Off Campus Counselors and Advocates

The following on and off campus counselors and advocates can provide an immediate confidential response in a crisis situation, as well as ongoing assistance and support:

Coordinator of Counseling Services  
Teresa Bertelli  
John Wood Community College  
1301 S. 48thg St., Quincy, IL 62305  
Telephone: (217) 641-4360  
Email: [tbertelli@jwcc.edu](mailto:tbertelli@jwcc.edu)

Quincy Area Network Against Domestic Abuse (QUANADA)  
2707 Maine St., Quincy, IL 62301  
Telephone: (217) 222-0069

While these counselors and advocates may maintain a reporting person's confidentiality with the College, they may have reporting or other obligations under State law.

B. Emergency Response

Anyone who experiences or observes an emergency situation should immediately call 911 and/or for on campus emergencies – Campus Police (217) 641-4949.

Dean of Operations/Chief of Police  
Bill LaTour  
John Wood Community College  
1301 S. 48thg St., Quincy, IL 62305  
Telephone: (217) 641-4290  
Email: [blatour@jwcc.edu](mailto:blatour@jwcc.edu)

C. Off Campus Health Care Options

Individuals may seek treatment for injuries, preventative treatment for sexually transmitted disease, and/or other health services by contacting a local health care provider.

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Blessing Hospital  
1005 Broadway, Quincy, IL 62301  
Telephone: (217) 223-1200

Blessing Hospital provides medical forensic services (rape kits) and/or Sexual Assault Nurse Examiners at no cost, pursuant to the *Sexual Assault Survivors Emergency Treatment Act* (410 ILCS 70).

Seeking medical treatment also serves to preserve physical evidence of sexual violence.

Off campus health care providers will generally maintain confidentiality and not share information with the College unless the reporting person requests the disclosure and signs a consent or waiver form. However, that while these health care providers may maintain a reporting person's confidentiality with the College, they may have other reporting obligations under State law.

### D. State of Illinois Sexual Harassment and Discrimination Helpline

The Illinois Department of Human Rights has established a helpline for individuals to obtain information about their reporting options and referrals to other resources. The helpline is available Monday – Friday, 8:30am – 5:00pm, at (877) 236-7703.

### VI. Making a Report of Alleged Sex-Based Misconduct

Any student, employee or community member who wishes to report sex-based misconduct and avail themselves of this procedure may do so by making a report to the Title IX Coordinator. A report to either Title IX Coordinator is a sufficient report. In addition, a report may be made to and the College will be considered as having actual knowledge of sex-based misconduct if reported to the President, the Vice President of Instructional Services, the Dean of Business Services and Institutional Effectiveness, and the Dean of Student Services. These specific persons are sometimes referred to as “responsible employee” or “responsible employees.”

#### A. Student Reporting

The College encourages students who have experienced sex-based misconduct to talk with someone about what happened so that they may get the support they need and so that the College can respond appropriately. This is not a substitute for making a report for purposes of Title IX.

Where a report is received, the College will provide the person alleged to be the victim, if identified, with concise information, written in plain language, of the person's rights and options pursuant to this procedure.

**Immunity for Good Faith Reporting:** Students who in good faith report an alleged violation of the College's policy prohibiting sex-based misconduct will not receive a disciplinary sanction for an incidental student conduct violation (such as underage drinking) revealed during the course of reporting. However, this does not apply where the student conduct violation involved is malicious, egregious, including without limitation misconduct which places the health or safety of another person at risk, or constitutes the violation of criminal law.

#### 1. Student Reporting to the Title IX Coordinator

Students are encouraged to report alleged incidents of sex-based misconduct to the Title IX Coordinator directly. The College's Title IX Coordinator is:

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Dean of Students  
Tracy Orne  
John Wood Community College  
1301 S. 48<sup>th</sup> St., Quincy, IL 62305  
Telephone: (217) 641-4300  
Email: [torne@jwcc.edu](mailto:torne@jwcc.edu)

### 2. Student Reporting to Responsible Employees

The President, the Vice President of Instructional Services, the Dean of Business Services and Institutional Effectiveness, and the Dean of Student Services are required to report to the Title IX Coordinator all relevant details about an alleged incident of sex-based misconduct reported to this by a student, including the date, time and specific location of the alleged incident, and the names of all involved individuals. To the extent possible, information shared will be disclosed only to the Title IX Coordinator and/or those individuals responsible for handling the College's response to the report.

Before a student reveals any information, the student should understand the reporting obligations to the Title IX Coordinator. If the student wants to make a confidential report, the student should be directed to the College's confidential resources.

If the student wants to explain what happened but also maintain confidentiality, the employee should inform the student that the College will consider the request, but that the College cannot guarantee it will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Title IX Coordinator will be informed of the student's request for confidentiality.

### 3. Confidential Reporting

Students who wish to confidentially report an incident of sex-based misconduct may make a confidential report to:

Coordinator of Counseling Services  
Teresa Bertelli  
John Wood Community College  
1301 S. 48thg St., Quincy, IL 62305  
Telephone: (217) 641-4360  
Email: [tbertelli@jwcc.edu](mailto:tbertelli@jwcc.edu)

Quincy Area Network Against Domestic Abuse (QUANADA)  
2707 Maine St., Quincy, IL 62301  
Telephone: (217) 222-0069

These individuals and organizations are confidential advisors. Professional, licensed counselors who provide mental health counseling to students (including counselors who act in that role under the supervision of a licensed counselor) are not required to report any information about an alleged incident to the Title IX Coordinator without a student's permission.

While these individuals and organizations may maintain a student's confidentiality with the College, they may have reporting or other obligations under State law. Any College employee who suspects or receives knowledge that a minor student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, is required to immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline; and

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follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.

If the College determines that a person alleged to be the perpetrator of sexual misconduct poses a serious and immediate threat to the College community, Campus Police may be called upon to issue a timely warning to the College community. Any such warning will not include any information that identifies the person alleged to be the victim.

#### 4. Electronic and/or Anonymous Reporting

The College maintains an online system for electronic reporting. The reporter may choose to provide their identity or may choose to report anonymously. The system will notify the user, before they enter information, that entering personally identifying information may serve as notice to the College for the purpose of triggering an investigation. Anonymous reports can be filed at <https://www.jwcc.edu/student-resources/campus-police/#silent-witness>. Where a reporter chooses to provide their identity and contact information, the College will promptly follow up the reporter.

#### 5. Student Participation in Public Awareness Events

Public awareness events such as Take Back the Night, the Clothesline Project, candlelight vigils, protests, survivor speak outs or other forums in which students disclose incidents are not considered notice to the College of sex-based discrimination, harassment or misconduct for purposes of triggering an obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students' rights at these events.

#### B. Employee Reporting

##### 1. Alleged Sex-Based Misconduct of a Student

All College employees are expected to report incidents of sex-based misconduct to the Title IX Coordinator. However, actual knowledge is imputed to the College only if the report is made to the Title IX Coordinator, the President, the Vice President of Instructional Services, the Dean of Business Services and Institutional Effectiveness, and the Dean of Student Services. Actual knowledge may result from a report made by an employee to any of these persons.

##### 2. Alleged Sex-Based Misconduct of an Employee

An employee should notify the Title IX Coordinator if they believe that the College or a member of the College community has engaged in sex discrimination, sexual harassment or other sex-based misconduct in violation of the College's policy prohibiting sex-based misconduct or Board Policy 212 – Sexual, Racial and Other Forms of Harassment.

#### VII. College Response to Reports of Alleged Sex Discrimination, Harassment or Other Misconduct

##### A. Processing of Report

Upon receipt of a report, the Title IX Coordinator will analyze the report to determine the appropriate method for processing and reviewing it.

For any report alleging sexual harassment, as defined under Title IX, and/or alleging sexual violence,

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domestic violence, dating violence or stalking pursuant to the *Preventing Sexual Violence in Higher Education Act*, the Title IX Coordinator will promptly contact the person alleged to be the complainant to:

1. Discuss the availability of supportive measures;
2. Consider the complainant's wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
4. Explain to the complainant the process for filing a formal complaint.

#### B. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a complainant or respondent, irrespective of whether a formal complaint has been filed.

Examples of supportive measures that the College may offer include, but are not limited to:

- Counseling and mental health support;
- Extensions of deadlines or other course-related adjustments;
- Leaves of absence;
- Changes to academic, transportation and/or working schedules or situations;
- Increased security and monitoring of certain areas of campus;
- Issuance and enforcement of mutual campus no contact orders; and
- Enforcement of an order of protection or no contact order entered by a State civil or criminal court.

A report of alleged sex-based misconduct may also prompt the College to consider broader remedial action, such as increased monitoring, supervision or security at locations where the alleged incident occurred; increased education and prevention efforts, including to targeted population groups; the use of climate assessments and/or victimization surveys; and/or revisions to the College's policies, procedures, and practices. Such consideration is discretionary based on the circumstances.

The College will maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair the College's ability to provide the supportive measures.

The Title IX Coordinator is responsible for coordinating the College's implementation of supportive measures.

#### C. Emergency Removals and/or Administrative Leave

Prior to initiating or completing the grievance process in response to a formal complaint or in the absence of a formal complaint, the College may remove a respondent from the College's education program or activity on an emergency basis. Where the alleged conduct, if proven, would constitute sexual harassment as defined under Title IX, the College will effectuate an emergency removal only where the College has determined, based on an individualized safety and risk analysis (for example, through the consideration of Behavioral Intervention Team), that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. In such cases, the

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College will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

In accordance with Board Policy or by action of the President, the College may also place an employee on administrative leave during the pendency of the grievance process in response to a formal complaint.

#### D. Clery Act Reporting Obligations

Pursuant to the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (Clery Act), 20 U.S.C. § 1092(f), the College will issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. The *Clery Act* also requires the College to maintain a public crime log and publish an Annual Security Report (ASR) available to all current students and employees. The ASR documents most recent full calendar year and three preceding calendar years of select campus crime statistics (including statistics regarding incidents of dating violence, domestic violence, and stalking), security policies and procedures, and information on the basic rights guaranteed to victims of sexual assault.

#### VIII. Grievance Process for Complaints Alleging Title IX Sexual Harassment and/or Alleging Sexual Violence, Domestic Violence, Dating Violence or Stalking

For purposes of this grievance process, a formal complaint is a document filed by a complainant or signed by the Title IX Coordinator, alleging sexual harassment in violation of Title IX and/or sexual violence, domestic violence, dating violence or stalking in violation of the *Preventing Sexual Violence in Higher Education Act*, and requesting that the College investigate the allegation. At the time of filing a formal complaint pursuant to this grievance process, the complainant must be participating in or attempting to participate in the College's education programs or activities, either as a student or an employee. Should a formal complaint be filed, the Title IX Coordinator will investigate the formal complaint or cause a qualified person to undertake the investigation on their behalf.

#### A. Notice of Allegations

Generally, within 10 business days after signing a formal complaint or receiving a formal complaint filed by a complainant, the Title IX Coordinator will provide written notice to the parties who are known of the following:

1. This grievance process, including the informal resolution process, where applicable.
2. The allegations potentially constituting sexual harassment under Title IX and/or sexual violence, domestic violence, dating violence or stalking under the *Preventing Sexual Violence in Higher Education Act*, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.



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5. That the parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source.
6. The College policy prohibiting knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of an investigation, the College decides to investigate allegations that are not included in the initial written notice of allegations, the Title IX Coordinator will provide subsequent written notice of the additional allegations to all known parties.

### B. Informal Resolution

At any time after receiving the initial notice of allegations, and prior to a determination regarding responsibility being reached, the complainant and respondent may request to participate in an informal resolution process such as mediation. Informal resolution will only occur with both parties' voluntary, written consent. At any time prior to agreeing to a resolution, any party will have the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. The mediator or facilitation of the informal resolution process will not be called to testify at any formal hearing. The College, in general, does not permit informal resolution in cases involving alleged sexual harassment, sexual violence, domestic violence, dating violence or stalking by a College employee toward a student. Any informal resolution, however, will not preclude disciplinary action being taken against the employee by the College.

### C. Consolidation of Formal Complaints

The Title IX Coordinator may consolidate formal complaints as to allegations against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

### D. Dismissal of Formal Complaints

If, during the course of an investigation or following an investigation into a formal complaint, the Title IX Coordinator or investigator determines that the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 C.F.R. § 106.30 (Title IX) even if proved, that the conduct did not occur in the College's education program or activity, or that the conduct did not occur against a person in the United States, then the Title IX Coordinator will dismiss the formal complaint with regard to that conduct for purposes of Title IX. In cases where the College determines that Title IX is not applicable, but the College still intends to apply this grievance process to resolve the alleged misconduct, the College will inform the parties that Title IX is inapplicable but that such process will nevertheless be applied. In addition, dismissal of a formal complaint for purposes of Title IX does not preclude action under other College policies and procedures.

The Title IX Coordinator may dismiss a formal complaint, or any allegations therein, at any time during an investigation if the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the College; or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

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Upon dismissal, either of a complaint altogether, or of a complaint for purposes of Title IX, the Title IX Coordinator or investigator will promptly send written notice of the dismissal and reason(s) for the dismissal simultaneously to the parties. Dismissal of a formal complaint under this process does not preclude action against a student or employee under other College policies and procedures.

#### E. Investigation of Formal Complaint

The Title IX Coordinator will appoint one or more trained investigators to undertake an investigation into a formal complaint. Throughout the investigation, the parties will be afforded an equal opportunity to present witnesses including fact and expert witnesses, and other inculpatory and exculpatory evidence. The investigator will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. Any proceeding, meeting, or hearing held to resolve formal complaints pursuant to this grievance process will protect the privacy of the participating parties and witnesses.

Both parties will be afforded an opportunity to be accompanied to any meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney. The advisor's role is limited to providing support, guidance and/or advice, and to conducting cross examination during the live hearing. A party's advisor may not speak on behalf of the party during any meeting, interview or hearing and must comply with all behavioral rules and expectations set forth in this procedure. If a party's advisor violates this procedure or engages in behavior that harasses, abuses or intimidates a party, witness or individual resolving a complaint, that advisor may be prohibited from further participation.

When a party's participation is invited or expected at an investigative interview or other meeting, the investigator will provide that party with written notice of the date, time, location, participants, and purpose of said interview or meeting, generally at least three (3) business days prior to the interview or meeting.

At the conclusion of the investigation and prior to the investigator's completion of their investigative report, the investigator will send to each party (and the party's advisor, if any) the evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. The parties will generally have 10 business days to submit a written response to the evidence, which the investigator will consider prior to completion of their investigative report.

After receiving and reviewing the parties' written responses, if any, the investigator will create an investigative report that fairly summarizes the relevant evidence and will forward a copy of their report to the Title IX Coordinator. Upon receipt of the investigator's report, the Title IX Coordinator will schedule a hearing. Generally, at least 10 business days prior to the hearing, the Title IX Coordinator will:

1. Provide both parties with written notice of the hearing date, time, location, participants (including the name of the appointed Hearing Officer) and purpose of the hearing; and
2. Send to each party (and the party's advisor, if any) the investigative report for their review and written response.

#### F. Hearings

A hearing will be conducted by a Hearing Officer appointed by the College. Both parties will have the opportunity to request a substitution if the participation of the appointed Hearing Officer poses a conflict of interest. Such a request must state the specific reasons or cause for the request. A party wishing to request a substitution must contact the Title IX Coordinator generally within three (3) business days after the party's receipt of the notice of hearing to make such a request.

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At the request of either party, the College will arrange for the live hearing to occur with the parties located in separate rooms, with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or witness answering questions. A party wishing to request that the live hearing occur with the parties located in separate rooms must contact the Title IX Coordinator to request such an arrangement generally at least three (3) business days in advance of the hearing. The College may conduct any live hearing virtually, with the participants in one or more separate geographical locations, and with technology enabling participants simultaneously to see and hear each other.

At the live hearing, each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow up questions, including those that challenge credibility. Such cross examination will be conducted directly, orally, and in real time by the party's advisor of choice and may never be conducted by a party personally.

If a party does not have an advisor who is available to conduct cross examination on behalf of that party at the live hearing, the College will provide the party with an advisor of the College's choice, free of charge, to conduct cross examination on behalf of that party. To invoke this right, the party must notify the Title IX Coordinator generally at least three (3) business days in advance of the hearing that the party does not have an advisor to conduct cross examination. A party who fails to notify the College that they do not have an advisor within the generally required three (3) business day timeframe will waive the right to request that an advisor be appointed. However, the College should take reasonable steps to ask either party, in advance of the hearing, whether they have an advisor to conduct cross examination.

Only relevant questions, as determined by the Hearing Officer, may be asked of a party or witness. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, except where:

1. The questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or
2. The questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross examination at the live hearing, either due to absence from the hearing or due to the party's or witness's refusal to answer cross examination or other questions, the Hearing Officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; however, the Hearing Officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

The College will make all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint available for the parties' inspection and review during the hearing. In addition, the College will create an audio or audiovisual recording, or transcript, of the live hearing, which the Title IX Coordinator will make available to the parties for inspection and review upon request.

A live hearing may not be waived unless permitted under Title IX. Where a party has been provided notice of the hearing, the hearing may proceed in the absence of a party but may not be determined by default.

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### G. Determination Regarding Responsibility

Generally, within ten (10) business days after the conclusion of the hearing, the Hearing Officer will decide regarding responsibility. The Hearing Officer will apply a preponderance of the evidence standard when determining responsibility. Generally, within seven (7) business days of reaching their decision, the Hearing Officer will issue a written determination to both parties simultaneously. The written determination will include:

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 C.F.R. § 106.30 (Title IX) and/or constituting sexual violence, domestic violence, dating violence or stalking pursuant to the *Preventing Sexual Violence in Higher Education Act*;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the College policy or other conduct standards to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
6. The procedures and permissible basis for the complainant and respondent to appeal.

### H. Appeals

Both parties will have the right to appeal any determination regarding responsibility, and any dismissal of a formal complaint or allegations therein, to the Appeals Reviewer. The Appeals Reviewer will be the College President or designee. An appeal must be based on one or more of the following grounds:

1. A procedural irregularity occurred;
2. New evidence or information exists that could affect the outcome of the matter;
3. The Title IX Coordinator, investigator or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the matter which was unknown at the time of the hearing; and/or
4. The sanction is disproportionate with the violation.

A party who wishes to appeal a determination regarding responsibility or a dismissal of a formal complaint

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or allegations therein must submit a written appeal request to the Title IX Coordinator generally within seven (7) business days of the party's receipt of the written determination or written dismissal notice. The written appeal request must identify the grounds on which the party seeks to appeal the determination or dismissal.

Generally, within seven (7) business days of the Title IX Coordinator's receipt of an appeal request, the Title IX Coordinator will forward the appeal request to the Appeals Reviewer and will notify the other party in writing that an appeal has been filed. Before reaching a determination regarding the appeal, the Appeals Reviewer will afford both parties an equal opportunity to submit a statement in support of, or challenging, the determination or responsibility or dismissal that is the subject of the appeal. Generally, within seven (7) business days after the Appeals Reviewer has concluded their review of the appeal, the Appeals Reviewer will issue a written decision simultaneously to both parties, describing the outcome of the appeal and the rationale for the outcome. The Appeals Reviewer's decision is final.

#### IX. Prevention and Education for Students

The College will review on an ongoing basis, its sexual discrimination, harassment and misconduct prevention and education programming to ensure students and employees are provided substantive opportunities to learn about sexual discrimination, harassment and misconduct, including primary prevention, bystander intervention, risk reduction, consent, reporting methods, relevant College policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

The College, in conjunction with its Violence Prevention Committee established pursuant to the Campus Security Enhancement Act of 2008 (110 ILCS 12/10), will annually review its prevention and education offerings to identify ways in which to enhance its effectiveness.

#### X. Training

The Title IX Coordinator, Campus Police, and anyone else involved in the receipt of reports of, responding to, investigating or adjudicating alleged incidents of sexual discrimination, harassment or other misconduct, or involved in the referral or provision of services to survivors receive annual education and training on primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures, confidentiality requirements, relevant College policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

In addition to the above training, individuals who investigate or resolve complaints, including through informal resolutions, receive at least 8 hours of annual training on issues related to *Preventing Sexual Violence in Higher Education Act* offenses including sexual violence, domestic violence, dating violence, and stalking; the scope of the College's education program or activity; the Title IX and College definitions of sexual harassment; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and how to conduct the College's grievance process. Hearing Officers in particular receive training on any technology to be used at live hearings and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators in particular receive training on issues of relevance so as to enable them to create an investigative report that fairly summarizes relevant evidence.

All confidential advisors receive 40 hours of training on sexual violence or are licensed in an appropriate related field before being designated a confidential advisor. Annually thereafter, confidential advisors attend a minimum of six (6) hours of ongoing educational training on issues related to sexual violence. Confidential advisors also receive periodic training on the College administrative process, interim protective measures and accommodations, and the College's grievance process.

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The College, in conjunction with its Violence Prevention Committee established pursuant to the *Campus Security Enhancement Act of 2008* (110 ILCS 12/10), will annually review its training offerings to identify ways in which to enhance its effectiveness.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

#### Definitions

- A. **Bystander Intervention:** Includes without limitation the act of challenging the social norms that support, condone, or permit sexual violence.
- B. **Complainant:** An individual who is alleged to be the victim of conduct that could constitute sex-based misconduct.
- C. **Confidential Advisor:** A person who is employed or contracted by the College to provide emergency and ongoing support to student survivors of sexual violence. Confidential Advisors may include persons employed by a community-based sexual assault crisis center with whom the College partners.
- D. **Consent:** Knowing and voluntary agreement to engage in sexual activity. Coercion, force, or the threat of either invalidates consent. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person's manner of dress does not constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: the person is incapacitated due to the use or influence of alcohol or drugs; the person is asleep or unconscious; the person is under age; or the person is incapacitated due to a mental disability.
- E. **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; and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- F. **Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Illinois, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Illinois.
- G. **Education Program or Activity:** A location, event, or circumstance over which the College exercised substantial control over both the respondent and the context in which the sex-based misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College.

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- H. Hate Crime: An act or an attempted act that violates a criminal statute by any person that in any way constitutes an expression of hostility toward the victim because of their sex, race, ethnicity, religion, age, disability, national origin, sexual orientation, or gender-related identity, color, marital status, military status or unfavorable military discharge.
- I. Hostile Environment Caused by Sexual Harassment: A sexually harassing hostile environment is created when conduct by an individual is so severe, pervasive or persistent that it denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the College's educational programs or activities or the individual's employment access, benefits or opportunities. In determining whether a hostile environment has been created, the conduct in question will be considered from both a subjective and an objective perspective of a reasonable person in the alleged victim's position, considering all the circumstances.
- J. Incapacitation: When a person is incapable of giving consent due to the person's age, use of drugs or alcohol, or because an intellectual or other disability which prevents the person from having the capacity to give consent.
- K. Intimidation: To intentionally make another timid or fearful, to compel or deter by or as if by threats. Intimidation is a form of retaliation prohibited by the College's policy prohibiting sex-based misconduct and this procedure.
- L. Preponderance of the Evidence: When considering all the evidence in the case, the decision-maker is persuaded that the allegations are more probably true than not true.
- M. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sex-based misconduct.
- N. Responsible Employee; Actual Knowledge: A College employee who has the authority to redress sex-based misconduct. These include only the President, the Vice President of Instructional Services, the Dean of Business Services and Institutional Effectiveness, and the Dean of Student Services. Reports also may be made to the Title IX Coordinator. Actual knowledge will not otherwise be imputed to the College but all employees are encouraged to relay information about alleged sex-based misconduct to these persons.
- O. Retaliation: Any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging sexual discrimination, harassment or misconduct or any person cooperating in the investigation of such allegations (including testifying, assisting or participating in any manner in an investigation) is strictly prohibited. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by the College's sex-based misconduct policy and this procedure. Retaliation may result in disciplinary or other action independent of the sanctions or supportive measures imposed in response to the allegations of sexual discrimination, harassment or misconduct.
- P. Sexual Assault: Any type of sexual contact or behavior that occurs by force or coercion, without consent of the recipient of the unwanted sexual activity, or in a familial relationship of a degree that would prohibit marriage. It includes sexual acts against a person who is unable to consent either due to age or lack of capacity or impairment. Examples include

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forcible sexual intercourse, forcible sodomy, forcible fondling, child molestation, incest, attempted rape, statutory rape and rape. Sexual assault can occur between members of the same or opposite sex. Sexual assault includes any forced act against one's will where sex is the weapon.

- Q. Sex-Based Misconduct: Misconduct on the basis of sex, sexual orientation or gender-related identity. Such misconduct includes sex discrimination, sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, sexual violence and stalking.
- R. Sexual Exploitation: When a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or a sexually transmitted disease to another, or exposing one's genitals to another in non-consensual circumstances.
- S. Sexual Harassment: Unwelcome sexual advances, requests for sexual acts or favors, and other verbal, non-verbal or physical conduct of a sexual nature when:
- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, academic advancement, evaluation, or grades;
  - Submission to or rejection of such conduct by an individual is used as a basis for employment, academic advancement, evaluation, or grading decisions affecting that individual;
  - Such conduct has the purpose or effect of substantially interfering with an individual's employment or educational performance or creating an intimidating, hostile, or offensive employment or educational environment; or
  - Such conduct denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the College's educational programs or activities or the individual's employment access, benefits or opportunities.

Examples of conduct of a sexual nature may include:

- Verbal: Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats, whether spoken or in emails, articles, documents, or other writings.
  - Non-Verbal: Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures.
  - Physical: Touching, pinching, brushing the body, or any unwelcome or coerced sexual activity, including sexual assault.
- T. Sexual Violence: Physical sexual acts attempted or perpetuated against a person's will or where a person is incapable of giving consent (e.g., due to the person's age, use of drugs



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or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

- U. Survivor: An individual who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled, employed, or attending an event at a higher education institution.
- V. Survivor-Centered: A systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that ensures the compassionate and sensitive delivery of services in a nonjudgmental manner; ensures an understanding of how trauma affects survivor behavior; maintains survivor safety, privacy, and, if possible, confidentiality; and recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.
- W. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.
- X. Threat: Any oral or written expression or gesture that could be interpreted by a reasonable person as conveying an intent to cause harm to persons or property.
- Y. Trauma-Informed Response: A response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.
- Z. Where the U.S. Department of Education utilizes other or different definitions, the Department's then applicable definitions will apply.

**Primary Responsibility: DIRECTOR OF HUMAN RESOURCES; DEAN OF STUDENTS**

8/14/2020