

APPENDIX A

**SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE POLICY:
GRIEVANCE RESOLUTION PROCEDURES
FOR REPORTS OF POLICY VIOLATIONS AGAINST STUDENTS¹**

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¹ These procedures describe the process for resolving complaints filed pursuant to Providence College’s Sexual Misconduct or Relationship Violence Policy and they should be read and interpreted in conjunction with the Policy, including the behavioral standards, definitions, and prohibition against retaliation, which are part of the Policy. References to “this Policy” or “the Policy” in Appendix A refer to the Sexual Misconduct or Relationship Violence Policy.

I. KEY DEFINITIONS AND ROLE DESCRIPTIONS

A. Advisor. Complainants and respondents may each identify one Advisor for support and consultation during any related meetings or proceedings.

Who: In sexual misconduct or relationship violence cases only, an Advisor can be ANYONE from within the College or outside the College, including an attorney. No restrictions apply; however, a person asked to serve as an Advisor may decline to serve. Knowledge of the grievance resolution process is important to the Advisor's role; therefore, an Advisor must participate in a brief orientation program as a condition for service in this capacity. College employees who provide confidential support services, or who have an actual or perceived conflict of interest, may decline to serve as an Advisor. An Advisor cannot also be a witness in an investigation and/or hearing. Even though complainants and respondents are not obligated to be accompanied by an Advisor at each stage of the disciplinary process, it is strongly recommended.

What: The Advisor's role is limited to providing support and consultation. The Advisor may not speak on behalf of a party nor actively participate in an investigation or proceeding; however, the Advisor may ask for procedural clarifications before, during, or after meetings or proceedings, and the Advisor may ask for a brief break for the benefit of the advisee. The College reserves the right to remove any individual whose actions are disruptive to a meeting or proceeding. A party (i.e., a complainant or respondent) should select as an Advisor a person whose schedule allows attendance at the scheduled date and time of the meeting or proceeding because, normally, delays will not be allowed due to the scheduling conflicts of an Advisor. All communications regarding the case, including notices about meetings and proceedings, will take place between the College and each party. It is the choice and responsibility of each party to notify the Advisor of any communications.

B. Community Standards Hearing Board. The three-member group of trained individuals authorized by the director of community standards to determine whether the respondent is "responsible" or "not responsible" for violating the Policy, and thus the Code of Conduct. The Hearing Board is drawn from the Hearing Board Pool and is comprised of faculty and staff/administrators. One member of the Hearing Board shall be appointed to serve as the Hearing Board Chair.

C. Community Standards Hearing Board Pool. Title IX Hearing Board members are volunteers drawn from the faculty and staff of the College. They receive annual training from the Office of the General Counsel and the Office of Community Standards.

D. Complainant or Complaining Party. The person who files a claim alleging victimization under this Policy. When a student or employee believes she/he has been a victim of another person's misconduct, that person will have the same rights under the Policy as are provided to a complainant, even if another member of the College community

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submitted the actual complaint. When referenced together, the complainant and the respondent may be referred to as “the parties.”

E. Employee. Generally, an individual hired by the College to perform assigned duties. (IF there is a question as to the predominant category of the Respondent, the Title IX Coordinator will determine which procedures apply based on the facts and circumstances. For example, if the Respondent is a full-time employee but not a full-time student, Appendix B will apply.)

F. Faculty. Generally, an individual hired by the College to perform assigned duties as described in the Faculty handbook (includes instructors, part-time, full-time, tenured and tenure-track employees). Appendix C applies to employees in this category.

G. Hearing Officer. An individual assigned to decide whether a respondent is responsible or not responsible for a Policy violation.

H. Interim Measures – Availability of Supportive Services. Interim measures are actions the College can take at any point in time in order to help protect the safety and health of a person who has disclosed behavior that would constitute a violation of the Sexual Misconduct or Relationship Violence Policy. Such disclosure can be to a confidential resource (e.g., Personal Counseling Center, Student Health Center, V.A.S.E. coordinator, Chaplain), to a Title IX coordinator/deputy coordinator, or to the Office of Public Safety, and the reporter does not have to file any type of complaint in order to speak with a College official about the implementation of interim measures. Depending on the specific circumstances, remedial or protective measures taken on an interim basis may be modified; they also may be temporary or permanent. The College will promptly address violations of protective measures.

The College will maintain the privacy of any remedial or protective measures to the extent practicable. Types of interim supportive and protective measures that may be provided include medical and mental health services and referrals, academic accommodations, living accommodations, campus escort and transportation accommodations, work accommodations, suspension and other disciplinary action, and the issuance of a No-Contact Directive. The College will make every effort to honor requests for interim measures if such changes are reasonably available. Students and employees may use the VAWA Visa and Immigration Resources for visa and immigration information as the College does not provide these legal services. The Office of Public Safety can help a complainant file an external complaint with law enforcement authorities

An employee-respondent may request interim measures. These may involve measures to support the employee’s work effectiveness as well as his/her mental and physical health. These measures could involve reasonable workplace adjustments and/or referral to the

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Employee Assistance Program. Requests will be considered by the employee's supervisors, who will consult with other College officials as necessary.

I. Member of the College Community. The term "member of the College community" includes any person who is a student, faculty member, administrator/staff member, or any other person employed by the College. A person's status in a particular situation shall be determined by the Title IX Coordinator.

J. No-Contact Directive. A written document that informs the person to whom it is issued that certain conduct directed toward a specific person is prohibited and that violation of the Directive will result in disciplinary action.

K. Reporter. A person who informs a College official of a suspected violation of this Policy. This person does not have to be the alleged victim and may report the matter anonymously. A reporter may be a witness to the incident, a person to whom an alleged victim or an accused person tells about the incident, or a person who otherwise learns about the incident.

L. Respondent or Responding Party. Any student, or any student club, organization, team, or group, alleged to have violated this Policy and against whom a complaint has been filed. When referenced together, the complainant and respondent may be referred to as "the parties."

M. Student. All persons (other than faculty, staff, or administrators) who pay an acceptance fee, register, or take a course, whether or not for credit, either on a full-time or part-time basis, at Providence College. Persons approved to study in a domestic or foreign program, are students. For purposes of this Policy and its procedures, the following persons are students: persons who are registered for courses but withdraw after allegedly violating the Code; persons who are not officially enrolled for a particular term/semester but have a continuing relationship with the College; and, persons who have been accepted to the College and are participants in new/transfer student orientation. If there is a question as to the predominant category of the Respondent, the Title IX Coordinator will determine which procedures apply based on the facts and circumstances.

N. Title IX of the Education Amendments of 1972. Title IX is a federal law that protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that: "No person in the United States shall, 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." Title IX's sex discrimination prohibition protects against sexual and gender-based harassment, sexual violence or relationship violence, and extends to claims of

discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.

O. Title IX Coordinator. The College official charged with ensuring the College's overall compliance with Title IX and related College policy. The Coordinator is available to meet with any student, employee, or third party to discuss the College's policy and grievance resolution procedures. The Title IX Coordinator is assisted by Deputy Coordinators. The College's Title IX Coordinator reserves the right, in his/her sole discretion, to amend procedures as necessary to assure a fair and impartial process, and/or to protect the integrity of the process.

P. VASE (Victim Advocacy, Support, and Education). The VASE Coordinator is available to speak and meet with students who are seeking information and support on a confidential basis. The Coordinator can direct students to professional resources of aid, care, and recourse both on- and off-campus.

Q. Witness. A person who has relevant information about an alleged violation or attempted violation of this Policy.

II. RIGHTS PROVIDED TO, AND RESPONSIBILITIES OF, COMPLAINANTS AND RESPONDENTS

Consistent with the search for truth is a process that treats complainants and respondents fairly, with due care for their well-being, and in a dignified manner. The following rights and responsibilities are applicable:

1. The right to be treated with dignity, respect, and sensitivity throughout the process;
2. The right to receive, or be referred to, supportive services, and to receive assistance from the Office of Public Safety to file a criminal report, and to receive reasonably available interim remedial and protective measures;
3. The protection of one's privacy, with disclosures made on a need-to-know basis only and in accordance with legal requirements;
4. The protection against retaliation for making a good-faith report or participating in any proceeding under the Policy;
5. The responsibility to refrain from retaliating against anyone who makes a good-faith report or participates in any proceeding under the Policy;
6. The opportunity to have an Advisor of one's own choosing and the opportunity to have the Advisor attend any meeting or proceeding at which the party's presence is anticipated by these procedures;

7. The right to receive notice of meetings or proceedings at which the party's presence is anticipated by these procedures; the right to receive notice of any charges;
8. The responsibility to provide truthful information in connection with any report, investigation, or resolution of a complaint;
9. The right of the respondent, prior to an initial interview with an Investigator, to receive (a) written notice of the claim constituting a potential violation, to include sufficient details as applicable and to the extent known (e.g., identities of the parties involved, specific section(s) of the Policy allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the alleged incident), and (b) sufficient time to prepare for the interview;
10. The fair opportunity to provide information and to identify witnesses during an investigation;
11. The opportunity to challenge the impartiality of a Hearing Board member or Investigator;
12. The right to refrain from providing incriminating statements during the investigation and/or any proceeding, knowing that the process will continue without delay with the information available;
13. The right to a reasonable and fair outcome, applying the preponderance of evidence standard of proof (i.e., Is it more likely than not that this Policy was violated?);
14. The right to be informed in writing of the outcome;
15. The opportunity to appeal the outcome for grounds specified in these procedures;
16. The right to expect that any sanctions are implemented and completed, and that any necessary follow-up, remedial actions are taken; and,
17. The right to be informed that information gathered by the College may be subpoenaed in criminal or civil proceedings and/or may be shared with law enforcement authorities.

III. PRELIMINARY EXCHANGE OF INFORMATION; HEALTH AND SAFETY ASSESSMENTS

A. Intake Meeting and Subsequent Decisions

The College is required by law and this Policy to investigate, to the extent possible, good-faith complaints of sexual misconduct when the behavior as it is reported would constitute a Policy violation. The College's Title IX Coordinator reserves the right, in his/her sole discretion, to amend procedures as necessary to assure a fair and impartial process, and/or to protect the integrity of the process.

All reports of sexual misconduct or relationship violence (as defined in this Policy) made to a "responsible employee" (as defined in the College's *Mandatory Reporting of Sexual Misconduct Policy*) must be shared in a timely manner by the employee (staff, administrator,

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faculty) with the Title IX Coordinator who will directly coordinate the College's response to the report, or assign a Deputy Coordinator(s) to manage that responsibility, for the parties.² Once the College receives a report of a possible Policy violation, the Title IX Coordinator/Deputy Coordinator(s) will schedule Intake Meetings with the complainant and respondent (if known). Coordinators have separate Intake Meetings with the complainant and the respondent (if known), provide them with an Intake Letter and a copy of the Policy, review procedures, and inform them of available resources, support services, and options. Coordinators serve as the primary point of contact with the complainant and respondent going forward, and will provide periodic status updates to them. The complainant will be notified when the respondent is made aware of the complaint. If a written No-Contact Directive is issued to the respondent, the complainant will be notified and will be provided with a copy of the Directive.

After meeting with the complainant, the College will decide what steps must be taken, considering all the information available at the time. When the complainant reports prohibited conduct and requests an investigation and disciplinary action, the Coordinator will promptly initiate the resolution process.

If, due to lack of information or other compelling reasons, the College is unable to conduct a formal investigation, the complainant will be informed. Even if the College does not conduct a formal investigation, the College may take other steps to address and remediate the circumstances; these steps may include education and training, monitoring, systemic changes, interim and protective measures.

When the complainant reports prohibited conduct and requests anonymity (i.e., that no personally identifiable information be shared with the respondent), requests that an investigation not be conducted, and/or requests that no disciplinary action be taken, the College will seek to honor the complainant's request(s) if it is possible to do so while also protecting the health and safety of the complainant and the College community. When the College determines that it cannot honor the complainant's request(s), the Coordinator will notify the complainant that the College intends to proceed with an investigation to the extent possible, but that the complainant is not required to participate in the investigation or in any other actions or proceedings the College pursues.

B. Interim Remedial and Protective Measures

This section of the procedures incorporates by reference Section III.A. ("Interim Measures – Availability of Supportive Services") of the Policy. Additionally, at any point in time prior to the final resolution of charges, the Executive Director of Public Safety, Title IX

² If the reporting party (the complainant) is an employee (a member of the staff, administration, or faculty), two Title IX deputy coordinators will be assigned to the case – one for the student-respondent and one for the complainant.

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Coordinator and/or the Associate Vice President/Dean of Students will consider, and are authorized to take, interim action of a protective and/or remedial nature including, but not limited to, interim suspension from all College programs and activities and/or issuance of a No-Contact Directive. Other possible interim measures in the form of limitations imposed on the accused include but are not limited to: restricting access to certain areas or buildings on campus; modification of on-campus residential status; or, temporary suspension from participation in one or more College activities or programs, or from employment at the College.

The respondent may be placed on interim suspension when: a) the continued presence of the respondent on campus is deemed likely to interfere with the educational process or the orderly operation of the College; b) the continued presence of the respondent on campus is likely to endanger the health, safety, or welfare of the College community, or is objectively intimidating or threatening to another individual within the College community; or, c) the offense allegedly committed by the respondent is of such a serious nature as to adversely affect his/her suitability as a member of the College community. A respondent who has been placed on interim suspension has the right to an opportunity to present oral and written arguments to the Dean of Students (or designee) against the imposition of the suspension within five (5) days of the notice of suspension. If a respondent is placed on interim suspension, the formal resolution process should be completed as quickly as possible. The College will not reimburse a respondent for any expenses incurred during the interim suspension period. The College reserves the right to contact a parent/legal guardian of a student who has been placed on interim suspension.

The decision to place a student on interim suspension, or to impose restrictions (such as altering or suspending privileges, or altering or suspending access to specific College's programs or activities) for an interim period, shall be communicated in writing to the respondent, shall be effective immediately, and shall remain in effect until the conclusion of the disciplinary process unless it is revised or rescinded in writing.

The College may notify the community of the incident (without disclosing the complainant's identity to preserve privacy) in a Timely Warning-Crime Alert or Safety Advisory. Other steps meant to reduce or eliminate health or safety risks may be taken.

IV. ADVISORS; PRIVACY

A. Advisors

Complainants and respondents may each identify one Advisor for support and consultation during any related meetings or proceedings. The parties will be provided with a list of

trained advisors; however, parties may choose someone to serve as advisor who is not on this list.

Who: In sexual misconduct or relationship violence cases only, an Advisor can be ANYONE from within the College or outside the College, including an attorney. No restrictions apply; however, a person asked to serve as an Advisor may decline to serve. Knowledge of the grievance resolution process is important to the Advisor's role; therefore, an Advisor must participate in a brief orientation program as a condition for service in this capacity. College employees who provide confidential support services, or who have an actual or perceived conflict of interest, may decline to serve as an Advisor. An Advisor cannot also be a witness in an investigation, proceeding, and/or hearing. Even though complainants and respondents are not obligated to be accompanied by an Advisor at each stage of the disciplinary process, it is strongly recommended.

What: The Advisor's role is limited to providing support and consultation. The Advisor may not speak on behalf of a party nor actively participate in an investigation or proceeding; however, the Advisor may ask for procedural clarifications before, during, or after meetings or proceedings, and the Advisor may ask for a brief break for the benefit of the advisee. The College reserves the right to remove any individual whose actions are disruptive to a meeting or proceeding. A party (i.e., a complainant or respondent) should select as an Advisor a person whose schedule allows attendance at the scheduled date and time of the meeting or proceeding because, normally, delays will not be allowed due to the scheduling conflicts of an Advisor. All communications regarding the case, including notices about meetings and proceedings, will take place between the College and each party. It is the choice and responsibility of each party to notify the Advisor of any communications.

B. Privacy and Confidentiality: Protecting the Integrity of the Process and Individuals Involved in the Process

The College will take reasonable steps to protect the privacy of individuals involved in the matter and will disclose information only to persons with a need for specific information regarding the complaint, its investigation, and/or its resolution. The identity of persons with whom information has been disclosed by the College will be made available to the parties.

Complainants and respondents may seek support and advice from individuals they trust both to protect their privacy and to refrain from taking retaliatory behavior. These trusted individuals may include family, friends, colleagues, medical and mental health treatment providers, spiritual counselors, attorneys, law enforcement authorities, and advisors (as advisors are defined in this Policy), and other trusted individuals. Otherwise, complainants and respondents will be asked to maintain confidentiality until the matter is finally resolved.

When seeking support and advice, parties should be aware that confidentiality is an important consideration. Disclosures of information about the case prior to resolution not only can interfere with the integrity of the grievance resolution process, but they also can

cause serious and lasting harm to persons who are directly involved in the process. At each stage in the process, the complainant, respondent, advisors, and any witnesses will be asked to maintain confidentiality by refraining from making inappropriate disclosures that could compromise the integrity of the process and cause harm to the persons directly involved.

Retaliation at any time – prior to final resolution and after final resolution – is prohibited. For example, if, prior to final resolution, a respondent (or someone acting on the respondent’s behalf) contacts the complainant or a witness for the complainant, the complainant may make a retaliation claim. Retaliation of any kind is a severe and separate violation of this Policy; if the College finds that a retaliation claim has merit, the conduct may result in an additional complaint and consequences.

V. “INFORMAL RESOLUTION” BY THE COLLEGE

Grievance procedures are intended to resolve a situation fairly, prevent further harassment (if it occurred), and mitigate harm. In cases involving claims of sexual harassment or gender bias, depending on the circumstances, an informal resolution may be considered. It is unlikely that an informal resolution will be permitted in cases involving complaints of sexual assault as defined in this Policy. The complainant, the respondent, and the College must be in agreement that an informal resolution is appropriate, and the terms of the informal resolution must be agreed upon by the complainant, the respondent, and the College. An informal resolution is designed to officially resolve complaints in a fair, impartial, and prompt manner. At any time prior to the conclusion of the informal resolution process, the College or the complainant may decide to end the informal process and begin a formal resolution process, or the complainant may decide not to pursue either type of resolution.

The Deputy Coordinator(s), in consultation with other College officials as needed, determines whether an informal resolution may be appropriate; if so, the Coordinator(s) has a discussion with each party. Informal resolutions provide a path for addressing the situation at the most proximate level – as close to the source of concern – as possible. Factors relevant to the decision may include: the degree of severity of the reported behavior; whether the key facts are in dispute; an assessment of intent and impact; whether the information gathered thus far suggests that there is no policy violation; and, other key considerations. Common remedies and components include but are not limited to: explicit agreements about future conduct with post-resolution monitoring; third-party assistance to the complainant and the respondent to establish guidelines for future interactions; modifications to academic, living, transportation, and working situations; issuance of a No-Contact Directive and/or other protective measures; limitations placed upon the respondent regarding access to academic programs or activities, or access to specific spaces or buildings on campus; a written apology, which may include an explanation; educational programming for the respondent; or, other appropriate relief not resulting from a formal disciplinary process.

The College normally will conclude the informal resolution process within thirty (30) business days and will provide each party with an Outcome Letter. This timeframe may be extended for good cause, such as to account for College breaks or vacations, or other compelling reasons. In the event of an extension of this timeframe, the Title IX Coordinator (or Deputy) will notify the parties in writing and provide the reason(s) for such extension.

If the respondent accepts responsibility for a Policy violation, in either an informal or formal process, the College may consider such matters in the context of a subsequent complaint against the respondent.

VI. “FORMAL RESOLUTION” BY THE COLLEGE

A. Timeframe – From Commencement of Investigation to Communication of Final Outcome (Excluding the Timeframe for an Appeal, if Any)

The College will make a good-faith effort to conclude the investigation and hearing and communicate the decision via the Final Outcome Letter to the parties in a reasonably prompt manner, normally within sixty (60) business days. All time frames referenced in these Grievance Procedures may be extended for good cause. Although not all-inclusive, examples of circumstances that would support a ‘good-cause’ determination are: (a) law enforcement authorities are conducting a criminal investigation and gathering evidence regarding the incident, and they have formally asked the College to temporarily delay our investigation; (b) additional time is necessary to ensure the integrity and completeness of the investigation; (c) in order to accommodate the availability of witnesses; (d) in order to account for College breaks or vacations; (e) in order to account for complexities of a case (e.g., the number of witnesses and the volume of information provided by the parties); (f) in order to account for other legitimate reasons. In the event of an extension of this timeframe, the Title IX Coordinator/Deputy will notify the parties in writing and provide the reason(s) for such extension.

B. The Investigation

The Title IX Coordinator/Deputy will notify each party in writing that an investigation will commence and will provide each party with important information about the investigation, including the identity of the investigator(s) and the prohibition against retaliation. The Title IX Coordinator/Deputy will inform other College officials of the investigation on a need-to-know basis. If the respondent is a Providence College student, the Office of Public Safety may commence, direct, and/or oversee the investigation in consultation with the Coordinator/Deputy. An Investigative Report will be prepared and submitted to the Director of Community Standards. The investigation will be impartial, equitable, adequate, and reasonably prompt.

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The investigation is a neutral fact-gathering process that will include interviewing and obtaining statements, and other relevant information, from the complainant, the respondent, and witnesses, if any. The parties will have equal opportunity to submit factual and corroborating information – in any format or medium, including electronic records – and to identify witnesses who may have relevant information. The investigator(s) may visit relevant sites or locations and record observations through written, photographic, or other means. The investigator(s) may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. The College retains authority to investigate a complaint and issue finding against a student who voluntarily withdraws from, or otherwise leaves, the College.

The investigator(s) has discretion to determine the relevance of any information offered by the parties and to include or exclude certain types of information. Generally, investigator(s) will not consider statements of personal opinion over direct observations or reasonable inferences drawn from the facts, nor statements as to any party's general reputation for any character trait.

If the complainant is unwilling to participate in one or more stages of the grievance resolution process, the College's ability to present a case against the respondent may be compromised and its ability to discipline the respondent may be severely limited. The College will respect the complainant's choices and continue to provide support, no matter what she/he decides to do, and continue to investigate to the extent possible. If the respondent is unwilling to participate in the investigation and/or a subsequent proceeding, the grievance resolution process will continue with the information available. The Investigators will not draw any adverse inference from a decision by either of the parties not to participate.

Investigators conclude whether or not there is sufficient information to support charging the respondent with a Policy violation. The College retains authority to bring conduct charges against students who withdraw or are suspended from the College after an incident of sexual misconduct or relationship violence is claimed to have occurred. The College also may withhold a student's diploma when a report of sexual misconduct or relationship violence is pending.

C. Community Standards Procedures

1) Opportunity to Review the Preliminary Investigative Report. After the investigation has been preliminarily concluded, the Office of Community Standards shall notify in writing the complainant and the respondent to provide them with an opportunity to review the Preliminary Investigative Report within two (2) business days of notification. Additionally, the Director of Community Standards will schedule a meeting with each of the parties to discuss the process, answer questions, and receive input. Each party will have the

opportunity to respond in writing, within two (2) business days, to the Preliminary Report, and each party will have the opportunity to review the response of the other. If either or both of the responses identify information that, in the sole judgment of the Director of Community Standards (or designee), merit further inquiry, the Office of Community Standards will direct the investigators to follow up on this information. In that event, the subsequent iteration of the report, in the sole judgment of the Director of Community Standards (or designee), shall be the final version of the Investigative Report. If there is no further inquiry directed, the Report, with any responses submitted by the parties, will be deemed complete and final.

2) Notification of Charges, if Any, Hearing Date and Opportunity to Review Information. Once the report is final, within five (5) business days, the Office of Community Standards shall notify in writing the respondent and complainant of all charges, if any. If the Director of Community Standards decides not to file charges, the parties shall be notified. If a decision is made to file charges, the respondent and complainant shall receive reasonable notice of the date, time, and location of the hearing (at least 5 business days in advance). In cases for which, in the sole discretion of the Director of Community Standards, a finding of responsibility would not result in suspension or dismissal from the College, the Office of Community Standards may convene a Formal Hearing as that process is described in the Student Handbook. Also at this time, the parties will be provided with an opportunity to review the Investigative Report, any other information that will be made available to the Hearing Board (except as otherwise prohibited by FERPA), and the names of the Hearing Officers. The parties may file a written challenge to a Hearing Officer based on a conflict of interest or bias (this challenge must be substantiated and factual). The Director of Community Standards (or designee) will decide whether or not a challenge has merit and then communicate the decision in writing to the parties.

Typically, the sole witness at the hearing will be the investigator; however, the Director of Community Standards (or designee), in his/her sole discretion, reserves the right to determine that there is a compelling need to call one or more additional witnesses.

Cases in which more than one student is charged with violating the same Code section(s) and which depend on common information may, at the discretion of the Director of Community Standards, either be considered jointly in a single consolidated hearing or be assigned to separate, individual hearings. If charged students do not voluntarily waive their right to privacy, the hearing shall not be consolidated.

3) Hearing Procedures

a) The College may determine that it is necessary to make accommodations to alleviate concerns and fears regarding confrontation during hearings.

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- b) Each party may choose to attend or not to attend the hearing. If a party who has participated in the investigation chooses not to attend the hearing, he/she may submit an opening and/or closing statement in writing for the Board to consider.
- c) The hearing shall be closed to persons other than those who are directly involved. The complainant, the respondent, and their respective advisors, if any, shall be allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Witnesses are permitted to attend the hearing only when they are providing information.
- d) Hearings are internal to the College and are not an extension of any external judicial system. Procedures are fundamentally fair to students and are notably different from those used in a civil or criminal proceeding. Witnesses will provide information directly to, and answer questions from, the Board.
- e) In consultation with the Director of Community Standards/Protector of the Process, the Board Chair shall resolve any questions of procedure arising during the Hearing. The Chair may disallow any questions that are irrelevant, redundant, or improper, and may reframe any question.
- f) Information either party wishes to be considered by the Hearing Board must be submitted to the investigator(s) during the investigative process. In the absence of good cause, as determined by the Chair in consultation with the Director of Community Standards/Protector of the Process, the parties will not be permitted to provide documents, items, or other information, or names of potential witnesses, at the hearing that were not provided to the investigator(s) during the investigation.
- g) Questions as to whether new information will be received shall be resolved at the discretion of the Chair in consultation with the Director of Community Standards/Protector of the Process. If the Chair determines that unresolved issues exist that would be clarified by the presentation of new information, the Hearing may be suspended and reconvened in a timely manner to receive such additional information.
- h) The sexual history of either party will not be used to prove character or reputation. Further, information about an individual's sexual history and practices generally is not relevant to the determination of a Policy violation and will be considered only when it is determined that the information is directly relevant to the claims and essential to fair resolution of the matter. For example, if the existence of consent is at issue, sexual history between the parties may be relevant to help understand the manner and nature of communications between them and the context of the relationship because it may be relevant as to whether consent was sought and given during the incident in question. Yet, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another act, and consent on one occasion does not, by itself, constitute consent on a

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subsequent occasion. Additionally, prior sexual history may be relevant to explain the presence of physical injury or to help resolve another question raised by the sexual assault report. Investigators determine the relevance of such information and both parties will be informed if information about prior sexual history is deemed relevant.

i) After the Board has concluded its questioning, the parties may suggest questions to be answered by the investigator. The Board Chair, in consultation with the Director of Community Standards/Protector of the Process, will review suggested questions. The Chair may disallow any questions that are irrelevant, redundant, or improper, and may reframe any question.

j) After all witnesses have provided information, the respondent and the complainant may make or submit a closing statement and request a short recess to prepare it.

k) Following closing statements (if any) from the parties, the parties and their advisors will be dismissed and the Board will begin the process of deliberation.

l) There will be a single verbatim record, such as a tape recording, of the Board Hearing (excluding deliberation). The audio recording is created for two limited purposes only: for reference by the Hearing Board during deliberations and for review by the Appeals Officer during an appeal. No other recordings of Hearings are allowed, and no other access to the recording is permitted. This recording, and all other records associated with the case, are the property of the College.

m) The standard of proof for determining whether the respondent violated the Code of Conduct for all hearings is a preponderance of evidence. If the respondent is found responsible by a majority of the Hearing Officers, the Director of Community Standards/Protector of the Process, who is a non-participating attendee of the Hearing and deliberations, shall determine the sanction(s).

n) Within five (5) business days of the conclusion of deliberations, the parties will receive via email “Final Outcome Letters”; the Letters will notify the parties of the outcome and the rationale, and the right to appeal for specified grounds. Additionally, the complainant shall be notified of any sanction imposed against the respondent that has an impact on the complainant; the Family Educational Rights and Privacy Act of 1974, as amended (FERPA), permits disclosure of this information.

o) Students found to have violated this Policy will receive appropriate, fair, and timely sanctions, and the full range of sanctions outlined in the Student Handbook for Code of Conduct violations may be imposed. Possible sanctions include: dismissal; suspension; revocation or withholding of degree; deferred suspension; deferred or actual disciplinary probation, or disciplinary warning; and, other sanctions such as community service,

educational assignment, loss or denial of certain privileges, residence hall suspension, community mentor assignment, parental notification, and restitution. Sanctions are imposed with the goal of eliminating prohibited conduct, preventing its recurrence, and remedying its effects, while supporting the College's educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components.

VII. Opportunity and Grounds for Appeal

A. Grounds for Appeal

The respondent and the complainant have the right to appeal a finding based on one or more of the 3 grounds specified below to the Vice President for Student Affairs (or designee). An appeal must clearly argue one or more of the following grounds:

1. Procedural Error – The departure from designated procedures resulted in significant prejudice, thereby adversely affecting the outcome.
2. New Information – Information or relevant facts that would have altered the decision were not presented during the investigation because such information or facts were not known and were not reasonably available to the person appealing the decision at the time of the investigation.
3. Excessive or Inappropriate Sanction – The sanction imposed is either excessive or not appropriate for the violation.

B. Procedures for Appeals

Within five (5) business days of the emailing of the Final Outcome Letter(s), either the respondent or the complainant may submit a written appeal to the appellate officer specified in the Letter. The complainant and respondent may review the appellate letter and submit a written response within three (3) business days of the notification that an appeal has been filed. The appeals officer may decide the appeal based on a separate meeting with each party, a meeting with the investigator(s) and other officials involved in the case, and/or written submissions and the case file. The respondent and the complainant will receive via email an Appeal(s) Outcome Letter within ten (10) business days of the filing of the last filed appeal. The appeals officer has authority to grant or deny the appeal(s), to modify the findings and/or sanctions, or to remand the case for further proceedings as directed.

If the appellate officer affirms a finding of “not responsible,” the decision is final. If the appellate officer affirms a finding of “responsible” and the sanction, the decision is final; however, a sanction of dismissal from the College **only** may be appealed in writing, within five (5) business days of the emailing of the Appeals Outcome Letter to the Executive Vice President (“EVP”). The complainant may review the respondent's appeal letter and submit

a written response within three (3) business days of the notification that an appeal has been filed. The EVP may decide the appeal based on a separate meeting with each party and/or written submissions and the case file. The parties will receive via email a Dismissal Appeal Outcome Letter within ten (10) business days of receipt of the appeal. The decision of the EVP (or designee) is final.

VIII. RECORDS

In accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, conduct records are part of a student's educational record. The Office of Student Conduct will maintain conduct records regarding the Sexual Misconduct or Relationship Violence Policy for seven (7) years after a student's date of graduation or date of withdrawal. These records can be released with the student's written consent or pursuant to federal and/or state law, or as otherwise required or permitted by law (e.g., a lawfully issued subpoena or judicial order). With a student's written consent (e.g., records are needed for graduate school or transfer applications, prospective employers, governmental agencies), the college typically will report findings that resulted in a sanction of deferred suspension, suspension, or dismissal; and, if the student withdrew or otherwise left the College with a pending allegation of misconduct, the College will report that fact. A student's disciplinary record may be shared with faculty, administrative staff, and other authorized employees and agents of the College who have a legitimate educational interest in the information, including but not limited to employees associated with study abroad, alcohol assessment referrals, and leadership assessments. The College's FERPA Guidelines provide additional information about a student's right to privacy and the disclosure of confidential records.