



**SEXUAL MISCONDUCT POLICY  
& PROCEDURES FOR STUDENTS**

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## **I. NOTICE OF NON-DISCRIMINATION AND POLICY STATEMENT**

The health, safety, and well being of all members of Iona College (the “College”) community are the College’s primary concerns. In accordance with Title IX of the Education Amendments of 1972 (“Title IX”), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by the Violence Against Women Act/Campus Sexual Violence Act (“Campus SaVE Act”), and Article 129-B of the New York State Education Law, the College is committed to providing a safe community, free from all forms of sex discrimination, including sexual misconduct. In accordance with Title IX, the College does not discriminate on the basis of sex in its education programs and activities. Under Title IX, discrimination on the basis of sex includes sexual harassment and sexual violence.

The College will not tolerate any form of sexual misconduct. Sexual misconduct can occur in many forms and will not be tolerated in the College’s education programs or activities. Sexual harassment and sexual violence, including the offenses of sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking, are all forms of sexual misconduct. Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity.

The purpose of the Sexual Misconduct Policy & Procedures for Students (the “Policy”) is to ensure that our community members live, work and learn in a safe and respectful environment free from any form of sexual misconduct. This Policy sets forth the College’s process and procedures for responding to claims of sexual misconduct, including the investigation and fact-finding process, the process for resolution and the sanctions imposed for violating this Policy. If there is a violation of this Policy, the College will take steps to prevent further acts of sexual misconduct, to prevent any recurrence, and will take appropriate action to remedy the effects of sexual misconduct.

Inquiries regarding Title IX, the Campus SaVE Act and/or Article 129-B of the New York State Education Law may be referred to the College’s Title IX Coordinator. Questions concerning Title IX may also be referred to the Assistant Secretary of the Office for Civil Rights (OCR), U.S. Department of Education, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue, SW Washington, DC 20202-1100 or call the OCR main numbers (800) 421-3481 FREE, TDD or (800) 877-8339 FRE or email the OCR’s New York office [ocr.newyork@ed.gov](mailto:ocr.newyork@ed.gov) or by telephone at 646-428-3800.

The College’s designated Title IX Coordinator is:

**Tracey Wilmot**  
**Title IX Coordinator and Director of Human Resources**  
**715 North Avenue**  
**New Rochelle, NY 10801**  
**Office: (914) 633.2067 | Title IX Hotline: (914) 633.2167 | Fax: (914) 637.7732**  
**Email: [twilmot@iona.edu](mailto:twilmot@iona.edu)**

The Title IX Coordinator’s primary responsibility is to coordinate the College’s compliance with Title IX including, but not limited to, overseeing the College’s response to complaints of sexual misconduct, coordinating investigations into allegations of sexual misconduct, identifying and addressing any patterns or systemic problems of sexual misconduct that arise during the investigation of a complaint of sexual misconduct, and assessing the effects of sexual misconduct on the campus climate. The Title IX Coordinator addresses all reports of sexual misconduct in an equitable and neutral manner.

## II. SCOPE OF THE POLICY

This Policy governs sexual misconduct involving College students, whether part-time or full-time, and applies to such students regardless of sex, race, national origin, disability, sexual orientation, gender identity, or other protected status.

This Policy supersedes any other College policy to the extent that such policy applies to sexual misconduct. Complaints of discrimination or harassment on the basis of sex that do not involve sexual misconduct are governed by the Iona College Harassment and Discrimination Policy. If the Respondent is a College employee or other person doing business with the College, the investigation and disciplinary processes described in the College's Policy and Procedures for Reports of Employee Sexual Misconduct will apply. For information about this policy, please contact the Title IX Coordinator.

This Policy applies to any allegation of sexual misconduct that takes place on College property, including student-occupied housing, or any other property on which a College program or activity takes place. This Policy also covers conduct that takes place off-campus that occurs in the context of an education program or activity of the College and covers conduct that takes place off-campus that has a continuing effect on campus.

## III. DEFINITIONS

<b>Term</b>	<b>Definition</b>
<b>Affirmative Consent</b>	<p>A knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.</p> <p>The following six principles, along with above definition, will be used to evaluate whether sexual activity was consensual;</p> <ul style="list-style-type: none"> <li>• Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.</li> <li>• Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.</li> <li>• Consent may be initially given but withdrawn at any time.</li> <li>• Consent cannot be given when a person is incapacitated.</li> <li>• Consent cannot be given when it is the result of any coercion, intimidation, force, threat of harm.</li> <li>• When consent is withdrawn or can no longer be given, sexual activity must stop.</li> </ul>
<b>Bystander</b>	A person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the College.
<b>Complainant</b>	The individual who reportedly experienced sexual misconduct, regardless of whether such individual reports such sexual misconduct to the College or participates in the College's conduct process for responding to complaints of sexual misconduct described herein.
<b>Confidentiality</b>	May be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092 (f) and 20 U.S.C. 1681 (a). Licensed mental health counselors, medical providers, and pastoral counselors are examples of College employees who may offer Confidentiality.

<b>Dating Violence</b>	Violence or coercive behavior committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual, physical, or psychological abuse, or the threat of such abuse.
<b>Domestic Violence</b>	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 New York, 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 New York.
<b>Force</b>	The use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance. The use of force to cause someone to engage in sexual activity is, by definition, non-consensual contact, and is prohibited.
<b>Incapacitation</b>	Occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by a lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
<b>Intimidation</b>	Means implied threats that reasonably cause another to fear for his/her safety or well being.
<b>No Contact Order</b>	A directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.
<b>Privacy</b>	May be offered by an individual when such individual is unable to offer Confidentiality under the law but shall still not disclose information learned from a reporting individual or Bystander to a crime or incident more than necessary to comply with applicable laws, including informing appropriate College employees.
<b>Reporting Individual</b>	Encompasses the terms victim, survivor, Complainant, claimant, witness with victim status, or any other term used by the College to reference an individual who brings forth a report of a violation of this Policy.
<b>Respondent</b>	Means the individual alleged to have committed acts constituting sexual misconduct, regardless of whether such individual has entered into the College's conduct process for responding to complaints of sexual misconduct described herein.
<b>Responsible Employee</b>	A Responsible Employee is a College employee who has the authority to redress sexual misconduct, who has a duty to report incidents of sexual misconduct, or who a student could reasonably believe has this authority or duty. This definition encompasses virtually every College employee, including all faculty, staff, and administrators. A Responsible Employee <u>must</u> report all relevant details about the learned incident to the Title IX Coordinator.
<b>Retaliation</b>	Means taking any adverse action or attempting to take adverse action against a person for making a good faith report of sexual misconduct or participating in any proceeding under this Policy. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint of sexual misconduct or participation in an investigation or proceeding related to alleged sexual misconduct.

<b>Sexual Activity</b>	<p>Includes any “sexual act” or “sexual contact.”</p> <p>A “sexual act” means (a) contact between the penis and vulva or the penis and the anus where penetration occurs, however slight; (b) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (c) the penetration, however slight of the anal or genital opening of another by hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (d) the intentional touching, not through the clothing of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.</p> <p>“Sexual contact” means the intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.</p>
<b>Sexual Assault</b>	<p>Includes non-consensual sexual intercourse and non-consensual sexual contact.</p> <p>“Non-consensual sexual intercourse” means any form of sexual penetration or intercourse (vaginal, anal, or oral), however slight, with any object by an individual upon another individual without consent and/or by force. Intercourse means: vaginal or anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).</p> <p>“Non-consensual sexual contact” means any intentional sexual touching, however slight, with any body part or object by an individual upon another individual without consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin, or touching another with any of these body parts; making another person touch any of these body parts; and any intentional bodily contact in a sexual manner.</p>
<b>Sexual Coercion</b>	<p>The application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.</p>
<b>Sexual Exploitation</b>	<p>Means abuse or exploitation of another person’s sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited.</p> <p>Examples of Sexual Exploitation include:</p> <ul style="list-style-type: none"> <li>• Causing or attempting to cause the incapacitation of another person for purposes of comprising that person’s ability to give Affirmative Consent to the sexual activity;</li> <li>• Causing the prostitution of another person;</li> <li>• Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person without the person’s consent;</li> <li>• Disseminating or posting images of private sexual activity;</li> <li>• Engaging in voyeurism;</li> <li>• Distributing intimate or sexual information about another person; and/or</li> <li>• Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual’s knowledge.</li> </ul>

<p><b>Sexual Harassment</b></p>	<p>Means unwelcome conduct of a sexual nature, including but not limited to, sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic or physical conduct of a sexual nature, when:</p> <p>(1) Submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education or campus life activities, or used as the basis of any academic, student life or employment decision (quid pro quo); or</p> <p>(2) Such conduct is sufficiently severe, persistent, or pervasive such that it unreasonably interferes with, or limits an individual's ability to participate in, or benefit from, the College's education or work programs or activities (hostile environment). Whether a hostile environment has been created will be evaluated from both a subjective and an objective perspective.</p> <p>In evaluating whether a hostile environment exists, the College will consider the totality of known circumstances, including, but not limited to:</p> <ul style="list-style-type: none"> <li>• The degree to which the conduct affected one or more students;</li> <li>• The type, frequency, and duration of the conduct;</li> <li>• The identity of and relationship between the alleged harasser and the subject or subjects of the harassment;</li> <li>• The number of individuals involved;</li> <li>• The age and sex of the alleged harasser and the subject or subjects of the harassment;</li> <li>• The locations of the incidents, and the context in which they occurred;</li> <li>• The effect of the conduct on the Reporting Individual's mental or emotional state;</li> <li>• Whether the conduct unreasonably interfered with the Reporting Individual's educational performance or participating in College programs and activities;</li> <li>• Whether the conduct implicates concerns related to academic freedom or protected speech; and</li> <li>• Whether the conduct arose in the context of other discriminatory conduct.</li> </ul>
<p><b>Sexual Misconduct</b></p>	<p>A broad term that encompasses a wide range of prohibited behaviors of a sexual nature that is committed without consent or by intimidation, coercion, threat, or force. Sexual Misconduct includes, but is not limited to, Sexual Assault, Sexual Coercion, Sexual Exploitation, Sexual Harassment, Dating Violence, Domestic Violence, and stalking.</p>
<p><b>Sexual Violence</b></p>	<p>Refers to a sexual act perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of Sexual Violence, including Rape, Sexual Assault, Sexual Battery, Sexual Abuse, and Sexual Coercion. School employees, other students, or third parties can carry out Sexual Violence. All such acts of Sexual Violence are forms of sex discrimination prohibited by Title IX.</p>

<b>Stalking</b>	<p>Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.</p> <p>For purpose of this definition:</p> <ul style="list-style-type: none"> <li>• <b>“Course of conduct”</b> means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.</li> <li>• <b>“Substantial emotional distress”</b> means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.</li> <li>• <b>“Reasonable person”</b> means a person under similar circumstances and with similar identities to the victim.</li> </ul>
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Conduct that violates the College Policy may also violate New York State laws and subject the perpetrator to criminal prosecution. Sex Offenses under New York law are described in Sections 130.00 to 130.96 of the New York State penal Code, available at <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>.

#### **IV. STUDENTS’ BILL OF RIGHTS**

All Students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of Domestic Violence, Dating Violence, Stalking, and Sexual Assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the investigation and hearing process and/or criminal justice process free from pressure from the College;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from Retaliation by the College, any student, the accused and/or Respondent, and/or their friends, family and acquaintances within the jurisdiction of the College;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a Reporting Individual or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the College.

#### **V. RESOURCES AND REPORTING OPTIONS**

There are multiple ways to report prohibited conduct. There are also a wide range of resources for all students to provide support and guidance in response to any incident of Sexual Misconduct.

## **A. IMMEDIATE MEDICAL ASSISTANCE AND COUNSELING**

If you or someone you know is or may be the victim of any form of Sexual Misconduct, the College strongly urges you to seek immediate assistance. This is the best way to ensure that the victim receives appropriate medical care and emotional support. Assistance is available 24 hours a day, 7 days a week, from:

- Local Police and Emergency Assistance - Call 911
- New Rochelle Police Department (914) 654-2300
- Local hospitals – Call 911 to obtain contact information
  - Montefiore New Rochelle Hospital
  - Westchester Medical Center
  - White Plains Hospital
  - New York-Presbyterian/Lawrence Hospital
  - Montefiore Mount Vernon Hospital
  - St. John's Riverside Hospital
- New York State Office of Victim Services Toll Free Number – (800) 247-8035
- New York State Domestic Violence Hotline - (800) 942-6906
- National Sexual Assault Telephone Hotline - (800) 656 - HOPE (4673)
- Safe Horizon Rape and Sexual Assault Hotline - (866) 689-HELP (4357)
- Safe Horizon Domestic Violence Hotline - (800) 621-HOPE (4673)
- Gay & Lesbian Anti-Violence Project 212-714-1141
- Iona College Whistleblower Hotline, Phone: (877) 472-2110; [reports@lighthouse-services.com](mailto:reports@lighthouse-services.com); Fax: (245) 689-3885; [www.lighthouse-service.com/iona](http://www.lighthouse-service.com/iona)

Anyone who is physically injured or raped should seek a medical examination to determine the extent of injuries. It is also important to understand that physical evidence collected in a rape examination (i.e., a rape kit) is a way to preserve evidence should anyone want to pursue criminal charges with the police or a local prosecutor at a later time.

In instances involving physical injury or Sexual Assault, the College strongly encourages the victim to obtain a medical examination to determine the extent of injuries. A hospital, with the victim's permission, will collect physical evidence in a sexual offense evidence collection kit. Consenting to the completion of a sexual offense evidence collection kit does not obligate the victim to pursue criminal charges with the police; it is a way to preserve evidence should there be a choice to pursue criminal charges at a later time. Hospitals are required by law to preserve such evidence for a minimum of 30 days. Sexual Assault Forensic Examiners (SAFE) are specially equipped and trained to handle Sexual Assault and gather evidence.

## **B. LAW ENFORCEMENT NOTIFICATION**

Complainants have the right to notify or decline to notify law enforcement. If you are the victim of Sexual Misconduct, the College strongly encourages you to promptly report the incident to the police. Contacting law enforcement will ensure the preservation of evidence and facilitate a timely investigation and response. College representatives are available to assist you in notifying law enforcement of an incident of Sexual Misconduct and in contacting law enforcement or legal service organizations to learn about these remedies. Except in instances where the victim is a minor, the College will respect a victim's decision regarding whether or not to report an incident to local law enforcement. College representatives can also assist any Complainant in initiating a legal proceeding in family court or civil court.

**A person may report an incident to either the police or the College or to both simultaneously.** The filing of a complaint of Sexual Misconduct under this Policy is independent of any criminal investigation or proceeding. The College will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any necessary interim measures to protect the Complainant and the College community. However, the College may temporarily delay its investigation to enable law

enforcement to gather evidence and to engage in a preliminary investigation of Sexual Misconduct matters that may also violate the state criminal code.

### **C. COLLEGE NOTIFICATION**

The College also urges victims and anyone who becomes aware of an incident of Sexual Misconduct to report the incident immediately to the College. The College is committed to providing an adequate, reliable, prompt, and impartial investigation and resolution to all allegations of Sexual Misconduct. Incidents of Sexual Misconduct should be reported to the College's Title IX Coordinator. Any incident of Sexual Misconduct reported to another College employee, with the exception of those employees designated as confidential, as set forth herein, will be reported by the employee to the Title IX Coordinator.

**Notification of Rights at the Time of First Disclosure:** At the first instance of disclosure by a Reporting Individual to an institution representative, the following information shall be presented to the Reporting Individual: "You have the right to make a report to Campus Safety & Security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."

When the College receives a report from a student that he or she has been the victim of Sexual Misconduct, including Dating Violence, Domestic Violence, Sexual Assault or Stalking, whether the offense occurred on or off-campus, the College will provide the Reporting Individual with a written explanation of his or her rights and options. The College will provide the Reporting Individual with written notification regarding existing counseling, health, mental health, victim advocacy, legal assistance, student financial aid and other services available for victims both within the College and in the community. If the Reporting Individual is not the Complainant, and the identity of the Complainant is made known to the College, the College will provide such written notification to the Complainant.

A Reporting Individual will be advised of his or her right to have emergency access to a Title IX Coordinator, or his or her designee, or other appropriate official trained in interviewing victims of Sexual Assault who shall be available upon the first instance of disclosure by a Reporting Individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a Sexual Assault Forensic Examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. Such official shall also explain whether he or she is authorized to offer the Reporting Individual Confidentiality or Privacy, and shall inform the Reporting Individual of other reporting options.

The College will ensure that Reporting Individuals have information about resources including intervention, mental health counseling, and medical services, which shall include information on whether such resources are available at no cost or for a fee. The College will also provide information on sexually transmitted infections, sexual assault forensic examinations, and resources available through the NYS Office of Victim Services.

**College Counseling Resources:** Regardless of whether or not an official complaint of Sexual Misconduct is made, various counseling options are available from the College at the Iona College Counseling Center. Students can arrange an appointment either by calling the Counseling Center at (914) 633-2038, or by coming to the Center, which is located on the second floor of Spellman Hall.

**Complaints may also be made at the Department of Campus Safety and Security: (914) 633-2560. This line is open 24 hours a day, 7 days a week. The Title IX Coordinator, or his or her designee, can also be reached 24-hour per day via the Title IX Hotline at (914) 633.2167.**

#### **D. TIME FOR REPORTING**

Members of the College community are encouraged to report any alleged Sexual Misconduct immediately in order to maximize the College's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation. The College's ability to investigate and respond effectively may be reduced with the passage of time. However, reports may be made at any time without regard to how much time has elapsed since the Sexual Misconduct. Under no circumstances will the College allow an impending graduation to compromise its resolution of a Sexual Misconduct complaint.

While the time to resolve a reported incident will vary from case to case, depending on the specific facts and circumstances, it is expected that in most cases complaints will be resolved within 60 days. If the process will take longer than 60 days, both the Complainant and the Respondent will be notified in writing as to the delay and the reason for the delay.

#### **VI. PRIVACY AND CONFIDENTIALITY**

The College values the Privacy of its students and understands that, for many victims of Sexual Misconduct, Confidentiality is a primary concern. However, certain College employees are required by state and federal laws to share information from a report of Sexual Misconduct with the College and/or governmental agencies. Even College employees who have an obligation to report and cannot guarantee Confidentiality will maintain the Privacy of the Reporting Individual to the greatest extent possible and share information only on a need-to-know basis.

##### **A. RESPONSIBLE EMPLOYEES**

A Responsible Employee must report all relevant details (obtained directly or indirectly) about the alleged Sexual Misconduct shared by the Reporting Individual to the Title IX Coordinator. Such information includes dates, times, locations, and names of parties and witnesses. A Responsible Employee will strive to maintain Privacy, and information reported to the Responsible Employee will be shared only with those having a need to know such information in order to respond in accordance with College Policy.

The Family Educational Rights and Privacy Act (FERPA) allows a College to share information with an individual's parents if there is a health or safety emergency or if the individual is listed as a dependent on either parent's prior year federal tax income form. However, the College will generally not share information about a report of Domestic Violence, Dating Violence, Stalking, or Sexual Assault with parents without the Reporting Individual's permission.

##### **B. CONFIDENTIAL COUNSELORS**

The ability of College employees to maintain Confidentiality is as follows:

**Professional Counselors:** A professional, licensed counselor whose official responsibilities include providing mental health counseling to College students, including those who act in the role of providing mental health counseling under the supervision of a licensed counselor, are not required to report any information about an incident of Sexual Misconduct disclosed while acting within the scope of his/her license or certification to the Title IX Coordinator without a victim's permission. State law requires professional counselors to report: (i) when a patient is likely to engage in conduct that would result in serious harm to the patient or to others; or (ii) if there is reasonable cause to suspect that a minor has been sexually abused. The following is a list of the College's professional counselors:

- Brielle Stark-Adler, Ph.D., Director
- Alison Rivers, Ph.D., Psychologist/Interpersonal Violence Prevention Specialist

Students can arrange an appointment either by calling the Counseling Center at (914) 633-2038, or by coming to the Center, which is located on the second floor of Spellman Hall. For more information on counseling, please visit: <http://www.iona.edu/Student-Life/Health-Wellness-Safety/Counseling-Center.aspx>.

**Pastoral Counselors:** A pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition. A pastoral counselor is not required to report incidents of Sexual Misconduct to the Title IX Coordinator without a victim's permission.

Fr. Frank Dixon  
Phone: (914) 633-2630  
E-mail: [fdixon@iona.edu](mailto:fdixon@iona.edu)

**Non-Professional Counselors and Advocates:** College representatives who work or volunteer in the College's Counseling Center or Health Center generally may talk with and provide assistance and resources to a victim of Sexual Misconduct without being required to report any personally identifying information about the incident to the College. These individuals may maintain a victim's Confidentiality while reporting the nature, date, time, and general location of the incident to the Title IX Coordinator.

### **C. REQUESTS FOR CONFIDENTIALITY**

The College is obligated by law to investigate all allegations of Sexual Misconduct regardless of whether the Complainant wishes to file a complaint. Therefore, if a Complainant reports an incident of Sexual Misconduct to a Responsible Employee, but wishes to remain anonymous or requests that no investigation into the incident be conducted, the College will assess whether it can honor the Complainant's request while still providing a safe, nondiscriminatory environment for all members of the College community, including the Complainant. The Title IX Coordinator is designated to evaluate requests for Confidentiality once a Responsible Employee is notified of alleged Sexual Misconduct.

When determining whether the Reporting Individual's request for Confidentiality can be honored the Title IX Coordinator will consider a range of factors, including, but not limited to, the following:

- Whether there have been other Sexual Misconduct complaints about the same accused;
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the incident represents an escalation in and unlawful conduct on behalf of the Respondent from previously noted behavior;
- Whether there is an increased risk that the Respondent will commit additional acts of violence;
- Whether the Sexual Misconduct was committed by multiple perpetrators;
- Whether the Reporting Individual's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- Whether the alleged Sexual Misconduct was perpetrated with a weapon;
- The age of the victim; and
- Whether the College has other means to obtain relevant evidence (e.g., security cameras or personal, physical evidence).

The presence of one or more of these factors could lead the College to investigate the alleged Sexual Misconduct and, if appropriate, pursue disciplinary action in a manner that may require the College to disclose the Complainant's identity to the Respondent. If the College determines that an investigation is required, the College will inform the Complainant and take immediate action necessary to protect and assist the Complainant. The College will take all reasonable steps to investigate and respond to the complaint while maintaining the Complainant's Privacy to the greatest extent possible.

If, after considering these factors, the College determines that it can honor the Complainant's request for Confidentiality, the College will nevertheless take all reasonable steps to respond to the complaint consistent with the Complainant's request for Confidentiality, and will take immediate action as necessary to protect and assist the Complainant. The College will also consider broader remedial action, such as increased monitoring, supervision of security at locations where the reported Sexual Misconduct occurred, increasing training, education and prevention efforts, and conducting climate surveys. If the College honors the request for Confidentiality, the Complainant must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent may be limited.

#### **D. SEXUAL ASSAULT PUBLIC AWARENESS EVENTS**

The College will not begin an investigation based on information that a person chooses to share during public awareness events that are designed and intended to be safe spaces for victims to share experiences. These events could include candlelight vigils, "Take Back the Night," protests, or other public events. The College may decide, however, to use the information learned at such an event to inform its efforts for additional education and prevention efforts.

#### **E. CLERY ACT REPORTING**

When reporting crimes for the purposes of Clery Act compliance, the College will not release any personally identifying information about individuals involved in the Sexual Misconduct. The Clery Act also requires the College to issue timely warnings to the College community about certain crimes that have been reported and may continue to pose a serious or continuing threat to the campus community. Consistent with the Clery Act, the College will withhold the names and personally identifying information of the Reporting Individual when issuing such timely warnings.

#### **F. ANONYMOUS SOURCES**

If the College receives a report of alleged Sexual Misconduct by someone other than the Complainant (e.g., friend or roommate) or from an anonymous source, the College's Title IX Coordinator will promptly notify the Complainant of the report, and inform him/her of the available resources and assistance. In cases in which a report is made anonymously, this Policy will apply in the same manner as if the Complainant had made the initial report.

### **VII. ACCOMMODATIONS, REMEDIAL AND PROTECTIVE MEASURES**

Any individual who has been the victim of Sexual Misconduct, regardless of whether the victim wishes to pursue a complaint or investigation under this Policy, may request assistance in changing academic, transportation, and working situations. The College will grant such accommodations, provided they are reasonable and available. Such accommodations may include providing increased security, supervision or monitoring at locations or activities where the alleged misconduct occurred, adjusting a student's academic or College work schedule, and issuing a No Contact Order. When taking such interim measures and/or steps to separate the Complainant and the Respondent, the College will, to the extent practical, minimize the burden on the Complainant. Requests for accommodations in connection with incidents of Sexual Misconduct should be made to the College's Title IX Coordinator. The College will provide information about the student's request for accommodations only to those having a need to know such information in order to implement the accommodations. The College will promptly address violations of any interim measures.

#### **A. NO CONTACT ORDER**

The College may impose a No Contact Order between the Complainant and the Respondent, which typically will include a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means, pending the fact-finding and, if applicable, the

adjudication. Both the Respondent and Complainant may request a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measures, No Contact Orders, and accommodations, including potential modification, and will be allowed to submit information in support of his or her request. The Title IX Coordinator or designee will determine within a reasonable time frame whether there will be any modification. An individual who wishes to report a violation of a No Contact Order can contact the Title IX Coordinator or Campus Safety and Security. If the Respondent and the Complainant observe each other in a public place, it shall be the responsibility of the Respondent to leave the area immediately and without directly contacting the Complainant. Individuals who violate a No Contact Order are subject to disciplinary action.

In the event the Respondent is determined to present a continuing threat to the health and safety of the community, the Respondent may be subject to an interim suspension pending the final outcome of the resolution process. Both parties, upon request, will be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of such request.

#### **B. ORDERS OF PROTECTION**

A Complainant also has the right to request the assistance of the College in acquiring an order of protection from either the Family Court or Criminal Court. Designated College staff members are available to assist in obtaining an order of protection (or, if outside New York State, an equivalent protective force or restraining order) and explain the consequences of violating such an order, including but not limited to arrest, additional conduct charges, and interim suspension. The parties are entitled to receive a copy of the order of protection or equivalent when received by the College and have an opportunity to meet with an College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the Respondent's responsibility to stay away from the protected person or persons. If the order of protection is violated, the Complainant may receive assistance from the College in calling local law enforcement to inform them of the violation.

#### **C. STUDENT ALCOHOL AND DRUG-USE AMNESTY POLICY**

The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to Domestic Violence, Dating Violence, Stalking, or Sexual Assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report Domestic Violence, Dating Violence, Stalking, or Sexual Assault to institution officials. A Bystander acting in good faith or a Reporting Individual acting in good faith that discloses any incident of Domestic Violence, Dating Violence, Stalking, or Sexual Assault to College officials or law enforcement will not be subject to The College's Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the Domestic Violence, Dating Violence, Stalking, or Sexual Assault.

#### **D. ADVISORS**

Throughout the resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a complaint under this Policy. Advisors cannot actively participate or speak on behalf of the Complainant or Respondent. The choice of whether or not to invite an advisor is solely that of the Complainant and Respondent. At the Complainant's request or at the Respondent's request, the Title IX Coordinator can appoint the requesting party an advisor who has been formally trained. The Title IX Coordinator must be advised in writing that an advisor will be present at least 48 hours before any scheduled meeting, hearing or proceeding. This notification must include: (1) full name and title of the advisor of choice; and (2) contact information for the advisor of choice (phone, email, and address). The College

reserves the right to have its own legal counsel present during the adjudication process. If any advisor's conduct is not consistent with these guidelines, he or she may be excluded from the conduct process.

#### **E. RETALIATION**

The College prohibits Retaliation against any person who reports Sexual Misconduct or participates in any proceeding under this Policy, including testifying as a witness. Retaliation should be reported promptly to the College's Title IX Coordinator. Reports of Retaliation will be investigated in accordance with the investigation procedures set forth in this Policy, and individuals found to have engaged in Retaliation will be subject to disciplinary action independent of the sanction(s) or interim measures imposed in response to the underlying allegations of Sexual Misconduct.

#### **VIII. PREVENTION AND AWARENESS EDUCATION PROGRAMS**

Creating a safe and respectful environment is the responsibility of all members of the College's community. To promote and maintain this environment, the College engages in comprehensive educational programming to prevent Sexual Misconduct (including Sexual Harassment, Domestic Violence, Dating Violence, Sexual Assault, Stalking, and Retaliation). The College provides primary prevention and awareness programs for all incoming students and employees, and ongoing prevention and awareness campaigns for all students and employees. The College seeks to ensure that all programs are culturally relevant, responsive to community needs, and informed by research and assessed for value.

#### **IX. PROCEDURES FOR RESPONDING TO A COMPLAINT OF SEXUAL MISCONDUCT**

The College is committed to providing a prompt, fair, and impartial investigation and resolution of all allegations of Sexual Misconduct. The College strongly encourages students to seek support and information on available resources on and off campus. Incidents of Sexual Misconduct should be reported to the College's Title IX Coordinator. Any incident of Sexual Misconduct reported to another College Responsible Employee, with the exception of those employees designated above as confidential, will be reported by the Responsible Employee to the Title IX Coordinator.

This portion of the Policy identifies the procedures the College will follow when it receives a report of Sexual Misconduct. The College may, at its discretion, designate another trained and experienced person(s) to act in the place of the investigator and/or adjudicator in a conduct process. If there is a designation, the parties involved will be informed. The Complainant has the right to withdraw the complaint and his or her involvement in the process at any time. However, in such instances the College's ability to respond may be limited and Title IX may nevertheless require the College to complete the investigation process.

During the time the reported misconduct is being investigated and adjudicated in an impartial, timely, and thorough manner, the Respondent is presumed not to have violated the Policy. However, depending upon the circumstances of the initial allegation, the Respondent can be suspended on an interim basis pending the outcome of the final adjudication process. Additionally, other interim measures may be imposed upon the Respondent, pending the outcome of the final adjudication process, depending upon the allegations and need for the College to keep the community safe and the Complainant safe; these may include the issuance of a No Contact Order, change in housing, or other limitations.

#### **A. INTAKE MEETINGS**

Upon notice of any allegation of Sexual Misconduct, the Title IX Coordinator, or his or her designee, will schedule an individual intake meeting with the Complainant.

At the intake meeting, the Title IX Coordinator, or his or her designee, will provide the Complainant with a general understanding of this Policy, and identify forms of support or immediate assistance available to the

Complainant (e.g., referrals to appropriate law enforcement agencies; referrals for medical treatment at local hospitals and trauma centers). The Title IX Coordinator, or his or her designee, will also provide the Complainant with a written explanation of his or her rights and options with respect to his or her report of Sexual Misconduct. The intake meeting may also involve a discussion of any interim accommodations that may be appropriate concerning the Complainant's academic schedule, College housing, and/or College employment arrangements. The Title IX Coordinator will also explain the College's prohibition against Retaliation and that the College will take prompt action in response to any act of Retaliation.

At the initial intake meeting, the Title IX Coordinator, or his or her designee, will seek to determine how the Complainant wishes to proceed, i.e., whether the Complainant wishes to pursue Formal Resolution, Informal Resolution, or does not wish to pursue resolution of any kind. If the Complainant wishes to proceed with either Formal Resolution or Informal Resolution, the Title IX Coordinator will ascertain the name of the Respondent, and the date, location, and nature of the alleged Sexual Misconduct, and, within one (1) business day, or as soon as reasonably possible thereafter, will schedule an individual intake meeting with the Respondent. The College will notify the Respondent that a complaint has been filed and provide the date, time, location, and factual allegations concerning the alleged violation, and possible sanctions.

If the Complainant does not wish to pursue Formal Resolution or Informal Resolution, and either requests that his or her complaint remain confidential, or refuses to participate in the initial intake meeting with the Title IX Coordinator, the Title IX Coordinator will inform the Complainant that the College's ability to respond may be limited. In such scenarios, Title IX nevertheless requires the College to evaluate the Complainant's request(s) for no action in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment for the entire College community and therefore may require the College to engage in the investigation process.

## **B. INFORMAL RESOLUTION**

A Complainant who wishes to file a complaint but who does not wish to pursue Formal Resolution may request a less formal proceeding, known as Informal Resolution. While the Informal Resolution process is not as structured as the Formal Resolution process, it can be an effective and appropriate means to deal with the complaint. **The Informal Resolution procedure is not available for complaints of Sexual Violence.**

If the Complainant wishes to proceed with Informal Resolution, the Title IX Coordinator, or his or her designee, will ascertain the name of the Respondent, and the date, location, and nature of the alleged Sexual Misconduct, and, will schedule an individual intake meeting with the Respondent in order to provide him or her with a general understanding of the Policy.

The Complainant and the Respondent each may bring an advisor to the Informal Resolution. Advisors are subject to the same restrictions set forth in the Policy. A trained counselor, trained mediator, or, if appropriate, a College faculty member or administrator, will preside over the Informal Resolution and may be assisted by another member of the senior staff of the College or outside expert.

If, in the course of the Informal Resolution, the Respondent admits to violating the Policy, that admission will serve as a finding of responsibility after an independent investigation into the matter by the College. The College will not impose sanctions on the basis of an admission (by the Respondent) without an independent investigation into the alleged misconduct. The Vice Provost for Student Life will recommend one or more sanctions, which the Respondent can accept or reject. The sanctions that may be imposed as the result of the Informal Resolution process are the same as those outlined in the Formal Resolution process below. If the recommended sanction(s) is accepted, the process is concluded. If it is rejected, the complaint will proceed to the Formal Resolution process.

Participation in the Informal Resolution process is voluntary. The College will not compel a Complainant or a Respondent to engage in Informal Resolution, or directly confront the Respondent, and will allow a Complainant or Respondent to withdraw from the Informal Resolution process at any time, where

appropriate. The College may, at any time, elect to end such proceedings and initiate Formal Resolution instead. Pursuing Informal Resolution does not preclude later use of Formal Resolution if the Informal Resolution fails to achieve a resolution acceptable to the parties and the College. Statements or disclosures made by the parties in the course of the Informal Resolution may be considered in the Formal Resolution. In the event a Complainant or a Respondent wishes to proceed to the Formal Resolution process, he or she must provide written notification to the Title IX Coordinator.

Informal Resolution may result in the imposition of protective actions agreed upon by the parties, or (with or without such agreement) based on information derived from the Informal Resolution taken together with any other relevant information known to the College at the time of the Informal Resolution.

### **C. FORMAL RESOLUTION**

If a matter cannot be resolved through the Informal Resolution process, the matter involves Sexual Violence, or if the Complainant and/or Respondent chooses not to proceed informally, the Complainant and/or Respondent may seek Formal Resolution. All individuals involved in the Resolution process will receive training, at least annually, on the issues relating to Sexual Misconduct, including Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and how to conduct an investigation and hearing process that protects the safety of the parties and promotes accountability. During all phases of the Formal Resolution process, the parties will be provided with advance written notice of any meeting they are required or eligible to attend.

#### **i. Investigation**

When the Complainant indicates a desire to pursue Formal Resolution process, the reported allegations will be investigated promptly, thoroughly, and impartially. The investigation is a neutral fact-finding process. The Respondent is entitled to a presumption of non-responsibility until a finding of responsibility is made in accordance with the procedures set forth in this Policy.

The Title IX Coordinator, or his or her designee will, within twenty-four (24) hours of receiving notice that the Complainant would like to proceed with the Formal Resolution process, provide the Respondent with written notification that a complaint of Sexual Misconduct has been filed, the date, time, location and factual allegations concerning the alleged violation, and a list of possible sanctions. The Title IX Coordinator will promptly contact the Respondent to set up an intake meeting to discuss the allegations against the Respondent and his/her rights under this Policy.

The Title IX Coordinator will appoint a trained investigator or investigators to conduct the fact-finding within three (3) business days of the intake meeting. The Title IX Coordinator, or his or her designee, will provide the investigator(s) with the names of the Complainant and Respondent, and the date, location, and nature of the alleged Sexual Misconduct. Generally, the Department of Campus Safety and Security conducts the investigations in most student-on-student Sexual Misconduct cases.

The Title IX Coordinator will provide both the Complainant and Respondent with the name(s) of the investigator(s). A party wishing to challenge the participation of the investigator(s) must notify the Title IX Coordinator, in writing, within twenty-four (24) hours of receiving the written notice of investigation. The party must state the specific reason(s) for the party's objection. The Title IX Coordinator will then determine whether the party's objection has merit and review the appointment of the investigator(s) to reassess whether the investigator(s) will handle complaints impartially and objectively. If the party's claim has merit or if there is a conflict of interest where the investigator(s) cannot be impartial, another investigator or investigators will be appointed by the Title IX Coordinator to conduct the investigation.

The investigation will commence within five (5) business days of the Title IX Coordinator's appointment of an investigator(s). During the investigation, each party will have an equal opportunity to submit evidence, identify witnesses, and submit questions that should be directed by the investigator(s) to the other party or

to any witness (if deemed appropriate by the Title IX Coordinator). The investigator(s) will collect and review evidence it deems necessary or helpful to the investigation of the alleged Sexual Misconduct. The investigation will include individual interviews with the parties involved and with individuals who may have observed the alleged misconduct or may have other relevant knowledge. The investigation may also include examination of medical records, surveillance video, cell phone and other electronic records, and other evidence. Within five (5) business days of the investigation's completion, the investigator(s) will provide a written report of the findings of his or her investigation to the Title IX Coordinator. Within three (3) business days of receiving the report, the Title IX Coordinator will provide such report to the Hearing Committee.

The Complainant and Respondent will each have an opportunity to review the investigative report in the presence of a College official. In response to the investigative report, both the Complainant and the Respondent will be given the opportunity to submit a written statement. The written statement must be completed by the student and can be no longer than five (5) singled-spaced typed pages, using size 12 Times New Roman font and 1-inch margins. The written statement will be provided to the Title IX Coordinator, the opposing party, as well as members of the Hearing Committee. Written statements must be submitted at least three (3) days prior to the hearing date.

The Resolution process involves a hearing before a committee comprised of two (2) members of the Faculty and the Vice Provost for Student Life, or his or her designee ("Hearing Committee"). All Hearing Committee members receive training, at least annually, on the issues relating to Sexual Misconduct, including Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, and Stalking. They will also be trained regarding how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The Title IX Coordinator, or his or her designee, will select the Hearing Committee members who will participate in the hearing. Upon receiving notice from the Title IX Coordinator that a formal investigation has begun, the Title IX Coordinator has five (5) business days to assemble the Hearing Committee.

Notice will be provided to both the Complainant and Respondent indicating the members of the Hearing Committee. A party wishing to challenge the participation of a Hearing Committee member(s) must notify the Title IX Coordinator, in writing, within twenty-four (24) hours of receiving the written notice of the Hearing Committee. The party must state the specific reason(s) for the party's objection. The Title IX Coordinator will then determine whether the party's objection has merit and review the appointment of the Hearing Committee member(s) to reassess whether the member(s) will handle complaints impartially and objectively. If the party's claim has merit or if there is a conflict of interest where the member(s) cannot be impartial, another member or members will be appointed by the Title IX Coordinator, or his or her designee, to preside over the hearing.

### **The Hearing**

After the investigation the College will provide written notice at least five (5) business days before the hearing date to both parties stating the date, time, and place of the hearing. The hearing will commence no later than fifteen (15) business days following the conclusion of the investigation. The hearing is a closed proceeding; no one other than the Hearing Committee members, the Respondent and the Complainant, and their respective advisors, witnesses (when called), and necessary College personnel may be present in the hearing room or rooms during the proceeding.

### **Pre-Hearing Submissions**

In addition to the written statements submitted by the parties, the parties will provide the Title IX Coordinator with a list of witnesses they wish the Hearing Committee to call, copies of documents, and a description of any other information they propose to present at the hearing at least three (3) business days prior to the hearing. The Title IX Coordinator will determine whether such witnesses and documents are deemed relevant to the Hearing. The Title IX Coordinator will provide each party with a copy of the list of witnesses and copies of documents or other information submitted by each party. A party wishing to

challenge the admittance of evidence and/or witnesses must notify the Title IX Coordinator, in writing, at least two (2) days before the hearing date. The party must state the specific reason(s) for the party's objection. The Title IX Coordinator will determine whether the challenge has merit, the relevance of any proffered evidence, and whether to include or exclude certain types of evidence.

In the absence of good cause, as determined by the Hearing Committee, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided by this deadline

### **Conduct of the Hearing**

The hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the College will provide both parties with written notice explaining the reason for such change. The College will arrange for the hearing to be recorded, and may arrange for the preparation of any transcript of the recording that the College deems appropriate. Both the Complainant and the Respondent have the right to be present at the hearing. Additionally, either party may request alternative methods of participating in the hearing, including through electronic means, if the party does not wish to be in physical proximity of the other party.

As a non-adversarial process, the hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The Hearing Committee will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. The College will ask for all necessary witnesses to be present, or to have provided written statements in lieu of attending the hearing. This may be done as necessary to accommodate a witness who cannot be present, or whom the Hearing Committee determines may remain anonymous. The Hearing Committee will review in advance of the hearing all the written materials provided.

Only the Hearing Committee may question the individual parties and any witnesses unless permission is granted to modify the questioning process. The Complainant and Respondent will have the opportunity to suggest questions of the other party and/or of witness. The Complainant and Respondent must submit suggested questions to the Hearing Committee in writing. The Hearing Committee reserves the right to decline to ask questions submitted by a party where it determines that the information sought is not relevant to the Resolution process.

In general, any information or questioning about the prior sexual history of the Complainant or Respondent with individuals other than the other party is precluded and will not be admitted as evidence at the hearing. Additionally, any information or questioning about either party's mental health history diagnosis, and/or treatment is precluded and will not be admitted into evidence at the hearing. Past findings of Domestic Violence, Dating Violence, Stalking, or Sexual Assault may be admissible in the disciplinary stage that determines sanctions. After all witnesses have been questioned, each party may make a closing statement.

In order to comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, the College will not disclose documents prepared in anticipation of the hearing or documents, testimony, or other information introduced at the hearing, and any transcript of the hearing itself may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law and/or College Policy.

If either party fails to appear at the scheduled hearing, the Hearing Committee may postpone the proceedings if there is a legitimate documented reason for the absence, or proceed and determine the complaint on the basis of the evidence available, provided the absent party was duly notified of the scheduled hearing date.

If the Hearing Committee determines that unresolved issues exist that would be clarified by the presentation of additional information, the Hearing Committee may suspend the hearing and reconvene it in a timely manner to receive such information. A delay may not be based on the failure of witnesses to appear without

good cause or on the proposed introduction of documents, which were readily available at the time of the hearing.

### **Determination**

In all investigations into alleged Sexual Misconduct, the College will evaluate evidence under a “preponderance of the evidence” standard. A preponderance of the evidence means that the Hearing Committee, after careful consideration of the evidence has determined that it is “more likely than not” that the Respondent violated this Policy. The Hearing Committee must decide if the Respondent is responsible or not responsible. The Hearing Committee will provide a written statement of such determination the Title IX Coordinator. The Hearing Committee’s written report will also be sent to the Title IX Coordinator.

### **Complainant and Respondent Impact Statements**

Within three business (3) days of the conclusion of the hearing, both the Complainant and Respondent will be given access to the record of the hearing and offered an opportunity to provide an impact statement to the Hearing Committee while it is deliberating on the appropriate sanctions. The record of the hearing may not be copied.

The impact statement may be no longer than five (5) singled-spaced typed pages, using size 12 Times New Roman font and 1-inch margins. The impact statement is the student’s opportunity to discuss his or her experience and the incident in question, as well as respond to how the investigation and hearing was conducted and any areas of agreement or/disagreement with the investigation or hearing or determination of the Hearing Committee. The impact statement may not seek to introduce new evidence.

This impact statement must be provided to the Title IX Coordinator who will provide it to the opposing party as well and all members of the Hearing Committee.

### **ii. Sanctions**

The Hearing Committee may impose, including but not limited to, one or more of the following sanctions that are determined to be fair and proportionate to the violation:

- Reprimand or warning
- Changing the Respondent’s academic schedule
- Disciplinary probation
- Postponement of degree conferral
- Revocation of honors or awards
- Restricting the Respondent’s access to College facilities or activities
- Community service
- Issuing a No Contact Order to the Respondent or requiring that such an order remain in place
- Dismissal from or restricting or reassignment of College employment
- Suspension (limited time or indefinite)
- Expulsion

In determining appropriate sanctions, the Hearing Committee will consider any record of past violations of College policies, as well as the nature and severity of such past violation(s). The Hearing Committee will consider as part of the deliberations whether the Respondent poses a continuing risk to the Complainant and/or the College community. Any sanction imposed will be explained and supported in the written decision of the Hearing Committee. The imposition of sanctions is meant to eliminate Sexual Misconduct, prevent its recurrence, and remedy its effects, while ensuring a safe and non-discriminatory environment for the entire College community.

Within seven (7) business days from the determination of the Hearing Committee, the Hearing Committee will issue a determination letter to the Respondent and the Complainant. Both parties, concurrently, will receive a copy of this determination letter. The determination letter will contain only the following information: (i) the name of the Respondent; (ii) whether the Respondent has been found responsible or not responsible for specific violation(s) of this Policy; (iii) a list of the possible sanctions imposed, if any; (iv) the sanctions actually imposed; (v) the rationale for the sanctions imposed; (vi) the College's appeal process; (vii) any change to the results that occur prior to the time that the results become final; and (viii) when the results become final.

The College does not publically release underlying information regarding investigations unless required by law. However, after students are provided with an outcome, a student can choose whether to disclose or discuss the outcome of the conduct process.

### **iii. Appeal**

Either party may appeal the Hearing Committee's determination and/or the disciplinary decision. A party has three (3) grounds under which to appeal the College's determination: (i) the Hearing Committee committed procedural errors that had a significant impact on the outcome of the case, (ii) there is new evidence that was not reasonably available at the time of the hearing before the Hearing Committee, or (iii) the sanctions are not consistent with past practices or the severity of the alleged Sexual Misconduct.

Final sanctions are in effect until any timely appeal of the decision is resolved. The Hearing Committee may suspend the determination pending exhaustion of appeal, allow the student to attend classes or other activity on a supervised or monitored basis, or make such other modifications to the determination as may be advisable. Interim measures will remain in effect until the appeal is resolved.

The procedure to file an appeal is as follows:

1. A party wishing to appeal the findings of the Hearing Committee and/or sanctions imposed by the Hearing Committee must file a notice of intent to appeal within ten (10) business days of the date the party is notified of the Hearing Committee's finding and the Hearing Committee's sanctions. The notice of intent to appeal must be submitted in writing (either email or hard-copy) to the Title IX Coordinator. The notice of intent to appeal must contain the party's grounds for the appeal. If either the Complainant or the Respondent submits an appeal, the Title IX Coordinator will notify the other party within two (2) days after receipt of the notice of intent to appeal.
2. Within two weeks of filing a notice of intent to appeal, the party's formal appeal must be filed. The party should submit copies of any and all material the party wishes to provide as evidence for his/her appeal. Additionally, the party can submit a written statement that is no longer than five (5) single-spaced typed pages, using size 12 Times New Roman font and 1-inch margins.
3. In the event a formal appeal is filed, the non-appealing party is given an opportunity to review the appealing party's submissions and material and submit a written response. The response can be no longer than five (5) single-spaced typed pages, using size 12 Times New Roman font and 1-inch margins. The written response must be submitted within five (5) day after the appealing party submits a formal appeal.
4. A committee made up of three full-time faculty members or administrators ("Appeals Committee"), which shall not include members of the Hearing Committee, will be assembled by the Title IX Coordinator. Except for appeals brought under (ii) above, the Appeal Committee's entire review process will be based on the party's appeal, the non-appealing party's response to the appeal, if any, and the Hearing Committee's record of the case. Otherwise, no additional evidence is allowed and no witnesses may be heard.
5. The Appeals Committee will make a final determination on the appeal and will report such determination in writing. The Appeals Committee shall render its decision regarding the appeal within 20 calendar days of receipt of the appeal, the non-appealing party's response to the appeal, if any, the record of the case, and, if applicable, any new evidence pursuant to (ii) above.

6. Within three (3) business days of receipt of the Appeals Committee's report, the Appeals Committee will concurrently issue a final determination letter to the Respondent and the Complainant.

#### **D. RECORDS OF INVESTIGATIONS AND OUTCOMES**

In all student cases, all information and other appropriate records will be maintained for a minimum of five (5) years from the outcome of an investigation.

**Transcript Policy:** In accordance with Article 129-B of the New York State Education Law, if a student is found responsible through the College's conduct process for crime(s) of violence, including, but not limited to Sexual Violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. § 1092(f)(1)(F)(i)(I)-(VIII), the College will make one of the following notations on the transcript of such student. That they were:

- "suspended after a finding of responsibility for a code of conduct violation."; or
- "expelled after a finding of responsibility for a code of conduct violation."

If a student withdraws from the College while such conduct charge(s) is pending and declines to complete the disciplinary process, the College will note on the student's transcript that he or she "withdrew with conduct charges pending."

*Please see the College Policy on Transcript Notations and Appeals for further information.*