



PROCEDURES IMPLEMENTING THE COLLEGE'S PROHIBITION OF SEXUAL DISCRIMINATION, HARASSMENT AND MISCONDUCT

I. Purpose

The College is committed to maintaining a safe and healthy educational and employment environment that is free from discrimination, harassment and misconduct on the basis of sex, which includes sexual orientation or gender-related identity. The purpose of this procedure is to implement the College's Sexual Discrimination, Harassment and Misconduct Policies (Board Policy 6.2.2 and Board Policy 6.2.3), ensure a safe and healthy educational and employment environment, and meet legal requirements in accordance with: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the College's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; relevant sections of the Illinois Human Rights Act, which prohibits discrimination on the basis of sex or sexual orientation, including gender-related identity; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which requires timely warning to the community of certain immediate threats; and the Illinois Preventing Sexual Violence in Higher Education Act.

The College has an affirmative duty to take immediate and appropriate action once it knows of any act of sexual discrimination, harassment and/or misconduct in any of its educational or employment programs or activities. The College will promptly and thoroughly investigate any complaints of sexual discrimination, harassment and/or misconduct in accordance with the procedures set forth below.

II. Jurisdiction

The College's Sexual Discrimination, Harassment and Misconduct Procedures apply to students, faculty, staff, appointees, or third parties, regardless of sexual orientation or gender-identity, whenever the misconduct occurs:

- A. On College property; or
- B. Off College property if:
 1. The conduct was in connection with a College or College-recognized program or activity; or
 2. The conduct may have the effect of creating a hostile environment for a member of the College community.

III. Scope

A. **Students**

Sections I-II, III (A), and IV-XIV of this Procedure governs sexual discrimination, harassment and/or misconduct involving students, such as:

1. A student victim and/or complainant and a student respondent;
2. A student victim and/or complainant and an employee or third-party respondent;
3. An employee victim and/or complainant and a student respondent; and
4. A third-party victim and/or complainant and a student respondent.

B. Non-Students

The following Sections of this Procedure govern sexual discrimination, harassment and/or misconduct which solely involve employees and/or third parties:

- Section I, Purpose
- Section II, Jurisdiction
- Section III(B), Scope
- Section IV, Definitions
- Section V(B), Administration
- Section VI, Options for Assistance Following an Incident of Sexual Discrimination, Harassment and/or Misconduct
- Section IX, Interim Measures
- Section X, Miscellaneous
- Section XIV, Training
- Section XV, Procedures Governing Complaints Solely Involving Employees and/or Third Parties

IV. Definitions

- A. Awareness Programming:** institutional action designed to communicate the prevalence of sexual violence, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.
- B. Bystander Intervention:** the act of challenging the social norms that support, condone, or permit sexual discrimination, harassment and/or misconduct. A bystander is anyone who observes an emergency or a situation that looks like someone could use some help. They must then decide if they are comfortable stepping in and offering assistance.
- C. Confidential Advisor:** a person who is employed or contracted by the College to provide emergency and ongoing support to student survivors of sexual violence. Confidential advisors receive 40 hours of training on sexual violence before being designated as confidential advisors, and thereafter receive a minimum of six hours of annual training on issues related to sexual violence. Confidential advisors also receive period training on the College administrative process, interim protective measures and accommodations, and complaint resolution procedures. Confidential advisors may include persons employed by a community-based sexual assault crisis center with whom the College partners. Individuals designated as “Responsible Employees” in Section VII (B), below, are not confidential advisors.

- D. Consent:** Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person's manner of dress does not constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: 1) the person is incapacitated due to the use or influence of alcohol or drugs; 2) the person is asleep or unconscious; 3) the person is under age; or 4) the person is incapacitated due to a mental disability. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force, or the threat of either invalidates consent.
- E. Dating Violence:** The term dating violence means violence committed by a person: 1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and 2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- F. Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Illinois, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Illinois.
- G. Hate Crime:** an act or an attempted act that violates a criminal statute by any person that in any way constitutes an expression of hostility toward the victim because of his or her sex, race, ethnicity, religion, age, disability, national origin, sexual orientation, or gender-related identity, color, marital status, military status or unfavorable military discharge.
- H. Hostile Environment Caused by Sexual Harassment:** a sexually harassing hostile environment is created when conduct by an individual is so severe, pervasive or persistent that it denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the College's educational programs or activities or the individual's employment access, benefits or opportunities. In determining whether a hostile environment has been created, the conduct in question will be considered from both a subjective and an objective perspective of a reasonable person in the alleged victim's position, considering all the circumstances.
- I. Incapacitation:** When a person is incapable of giving consent due to the person's age, use of drugs or alcohol, or because an intellectual or other disability which prevents the person from having the capacity to give consent.

- J. Intimidation:** To make timid or fearful, to compel or deter by or as if by threats. Intimidation is a form of retaliation prohibited by the College’s Sexual Discrimination, Harassment and Misconduct Policy and Procedures.
- K. Preponderance of the Evidence:** when considering all the evidence in the case, the decision maker is persuaded that the allegations are more probably true than not true.
- L. Primary Prevention Programming:** institutional action and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.
- M. Retaliation:** Any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging sexual discrimination, harassment or misconduct or any person involved in the process of responding to, investigating or addressing such allegations (including, but not limited to: the Title IX Coordinator, Deputy Title IX Coordinators, investigators, and any individual who testifies, assists or participates in any manner in an investigation) is strictly prohibited. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by the College’s Sexual Discrimination, Harassment and Misconduct Policy and Procedures. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the allegations of sexual discrimination, harassment or misconduct. Anyone who is aware of possible retaliation should notify the Title IX Coordinator or a Deputy Title IX Coordinator.
- N. Sexual Assault:** Any type of sexual contact or behavior that occurs by force or coercion or without consent of the recipient of the unwanted sexual activity. It includes sexual acts against a person who is unable to consent either due to age or lack of capacity or impairment. Examples include forced sexual intercourse, sodomy, child molestation, incest, fondling, attempted rape, statutory rape and rape. Sexual assault can occur between members of the same or opposite sex. Sexual assault includes any forced act against one’s will where sex is the weapon.
- “Non-consensual sexual contact” is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without consent and/or by force. Sexual Contact is Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.
 - “Non-consensual sexual intercourse” is any sexual intercourse, however slight, with any object, by a man or woman upon a man or a woman that is without consent and/or by force. Intercourse includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

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

Examples of conduct of a sexual nature include:

- Verbal: Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats.
 - Non-Verbal: Sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures.
 - Physical: Touching, pinching, brushing the body, or any unwelcome or coerced sexual activity, including sexual assault.
- R. Sexual Misconduct:** Includes sexual assault, sexual exploitation, dating violence, domestic violence, sexual violence and stalking.
- S. Sexual Violence:** Physical sexual acts attempted or perpetuated against a person's will or where a person is incapable of giving consent (e.g. due to the person's age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give

consent). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

- T. Survivor:** an individual who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled, employed, or attending an event at a higher education institution.
- U. Survivor-Centered:** a systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that: 1) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner; 2) ensures an understanding of how trauma affects survivor behavior; 3) maintains survivor safety, privacy, and, if possible, confidentiality; and 4) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.
- V. Stalking:** 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.
- W. Threat:** Any oral or written expression or gesture that could be interpreted by a reasonable person as conveying an intent to cause harm to persons or property.
- X. Trauma-Informed Response:** a response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

V. Administration

Title IX Coordinator

The College has designated the Assistant Vice President of Human Resources as the Title IX Coordinator.

Assistant Vice President of Human Resources
McHenry County College
8900 US Highway 14, Room A218
Crystal Lake, IL 60012
(815) 455-8738
acastillo@mchenry.edu

Responsibilities of the Title IX Coordinator include:

- Overseeing the College's response to all Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.

- A Title IX complaint includes complaints alleging sexual discrimination, sexual harassment and/or sexual misconduct (as those terms are defined herein) which involve a College student as the victim and/or complainant or as the respondent.
- Being informed of all reports and complaints raising Title IX issues, including those initially filed with another individual or office or if the investigation will be conducted by another individual or office.
- Ensuring that adequate training is provided to students, faculty and staff on Title IX issues.
- Conducting Title IX investigations, including investigating facts relative to a complaint and recommending appropriate sanctions against the perpetrator and remedies for the complaint.
 - With respect to Title IX complaints that relate to a College employee as the victim and/or complainant or as the respondent, the Title IX Coordinator will partner with the Department of Human Resources which will manage the investigation into the allegations and which will recommend appropriate sanctions against the employee.
- Determining appropriate interim measures for a victim and/or complainant upon learning of a report or complaint of sexual violence.
- Ensuring that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local victim advocacy organizations and services providers, including rape crisis centers.
- Promoting an educational and employment environment which is free of sexual discrimination and gender bias.

Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to the United States Department of Education’s Office for Civil Rights:

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

VI. Options for Assistance Following an Incident of Sexual Discrimination, Harassment or Misconduct

A. Immediate Assistance

- On- and Off-Campus Advocates. The following on- and off-campus counselors and advocates can provide an immediate confidential response in a crisis situation:

***Dean of Students, A257, (815) 455-8765**

McHenry County Crisis Line, (800) 892-8900

*Indicates Confidential Advisors as defined in Section IV(C), above.

- Emergency Response. Anyone who experiences or observes an emergency situation should immediately call 911 and/or one of the phone numbers listed below:

Campus Police, B176, (815) 455-8733

- On- and Off-Campus Health Care Options. Victims may seek treatment for injuries, preventative treatment for sexually transmitted disease, and other health services by contacting the following for health care options:
 - **MCC Health and Wellness Office, B172, (815) 455-8581**
 - **McHenry County Health Department (815) 334-4510**
 - **Family Health Partnerships Clinic (779) 220-9304**
 - **McHenry Community Health Center (815) 363-9900**
 - ***Care Center of Northwest Center Against Sexual Assault, (815) 671-4004**

*Indicates health care options which provide medical forensic services (rape kits) and/or Sexual Assault Nurse Examiners at no cost pursuant to the Illinois Sexual Assault Survivors Emergency Treatment Act (410 ILCS 70).

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

B. Ongoing Assistance for Students

- On- and Off-Campus Counseling, Advocacy and Support.
 - **Dean of Students, A257, (815) 455-8765**
 - **MCC Health and Wellness Office, B172, (815) 455-8581**
 - **MCC Student Conduct Office, A252, (815) 455-8696**
 - **MCC Campus Police, B176, (815) 455-8733**
 - ***Turning Point Counseling and Support Services, (815) 338-8081**
 - **McHenry County Crisis Line, (800) 892-8900**

*Indicates Confidential Advisors as defined in Section IV(C), above.

- Academic Accommodations and Interim Measures.

See Section X(C), below.

C. Ongoing Assistance for Employees:

- **Director of Health and Wellness**
McHenry County College
Health and Wellness Office, B172
lkalemba@mchenry.edu
(815) 455-8581
- **Employee Assistance Program**
1138 N. Main St.
Algonquin, IL 60102
Website: MyMCC > Resources > Benefits
(847)658-4224 (4ABH)
(855)350-4224 (4ABH) toll free

VII. Student Reporting and Confidentially Disclosing Sexual Discrimination, Harassment and/or Misconduct

The College encourages student victims of sexual discrimination, harassment and/or misconduct, including sexual violence, to talk to somebody about what happened so that victims can get the support they need and so that the College can respond appropriately. Different employees on campus have different abilities to maintain a student victim's confidentiality:

- Some employees are required to maintain near complete confidentiality.
- Some employees may talk to a student victim in confidence and generally only report to the College that an incident occurred without revealing any personally identifying information.
- Some employees are required to report all the details of an incident (including identities of the student victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees, called "Responsible Employees", constitutes a report to the College and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

The various reporting and confidential disclosure options available are set forth in further detail below. Regardless of to whom a report is made, the College is obligated to provide the student victim with concise information, written in plain language, concerning the student victim's rights and options pursuant to this procedure.

Immunity for Good Faith Reporting: students who in good faith report an alleged violation of the College's prohibition of sexual discrimination, harassment and misconduct will be granted immunity and will not receive a disciplinary sanction for a student conduct violation (for example, underage drinking) revealed in the course of reporting. Immunity will not be provided for student conduct violations which the College determines are egregious, including without limitation misconduct which places the health or safety of another person at risk.

A. Student Privileged and Confidential Communications

Non-Mental-Health Counselors and Advocates. Individuals who work or volunteer in the on-campus Student Affairs offices, including front desk staff and students, can generally talk to a student victim without revealing any personally identifying information about an incident to the College. A student victim can seek assistance and support from these individuals without triggering a College investigation that could reveal the student victim's identity or that the student victim has disclosed the incident.

While maintaining a student victim's confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the student victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual discrimination, harassment and misconduct on and off campus so the Title IX Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

Contact information for such non-mental-health counselors and advocates is as follows:

Dean of Students, A257, (815) 455-8765

Mental-health counselors and non-mental-health counselors and advocates are Confidential Advisors as defined in Section IV(C), above. A student victim who speaks to a mental-health or non-mental-health counselor or advocate must understand that, if the student victim wants to maintain confidentiality, the College's ability to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator(s) may be diminished.

Even so, these advocates will still assist the student victim in receiving other necessary protection and support, such as student victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A student victim who at first requests confidentiality may later decide to file a complaint with the College or report the incident to law enforcement, and thus will have the incident fully investigated. These advocates will provide the student victim with assistance if the student victim wishes to do so.

Note: While these advocates may maintain a student victim's confidentiality vis-à-vis the College, they may have reporting or other obligations under state law. Any College employee who suspects or receives knowledge that a minor student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, is required to: 1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline; and 2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.

Also Note: If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the College community, College Police may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

B. Student Reporting to “Responsible Employees”

A College employee who has the authority to redress sexual discrimination, harassment or misconduct, who has the duty to report incidents of such or other student misconduct, or who a student could reasonably believe has this authority or duty is a Responsible Employee. When a student victim tells a Responsible Employee about an incident of sexual discrimination, harassment or misconduct, the student victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the student victim and that the College will need to determine what happened – including the names of the student victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the College’s response to the report.

The following categories of employees are the College’s Responsible Employees:

- **College Administrators**
- **Title IX Coordinator**
- **Supervisors and Managerial Staff**
- **Faculty**
- **Campus Police**
- **Coaches**
- **Advisors of the following student clubs/organizations:**
 - Art Club
 - Asian American Club
 - Black Student Union
 - Business Club
 - Clay Club
 - College Conservatives
 - College Democrats
 - Criminal Justice Club
 - Down to Earth
 - Drama Club
 - Forensics Team
 - Game Club
 - Generation End It
 - Health Professions Club
 - Latinos Unidos
 - McHenry Student Radio
 - Meditation Club
 - Multicultural Club
 - Music

- Oasis
- Phi Theta Kappa Honor Society
- Photography Club
- Pride Club
- Psi Beta/Psych Club
- Social Sciences
- Spanish Club
- Student Nursing Organization (SNO)
- Student Peace Action Network (SPAN)
- Student Veterans of America
- Student Government
- Student Nursing Organization (SNO)
- Student Occupational Therapy Assistants (SOTA)
- Student Peace Action Network (SPAN)
- Student Trustee
- Student Veterans of America
- The Tartan
- Writers Block - Creative Writing

Before a student victim reveals any information to a Responsible Employee, the employee should ensure that the student victim understands the employee's reporting obligations – and, if the student victim wants to maintain confidentiality, direct the student victim to the confidential resources listed above.

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

C. Student Requesting Confidentiality From the College: How the College Will Weigh the Request and Respond

If a student victim discloses an incident to a Responsible Employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students and employees, including the student victim.

If the College honors the request for confidentiality, a student victim must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be diminished.

Although rare, there are times when the College may not be able to honor a student victim's request in order to provide a safe, non-discriminatory environment for all students and employees.

The College has designated the following individual(s) to evaluate requests for confidentiality:

- **Title IX Coordinator**
- **Assistant Vice-President, Human Resources**
- **Chief of Campus Police**

When weighing a student victim's request for confidentiality or that no investigation or discipline be pursued, a range of factors will be considered, including the following:

- The increased risk that the alleged perpetrator(s) will commit additional acts of sexual discrimination, harassment or misconduct, such as:
 - Whether there have been other sexual discrimination complaints about the same alleged perpetrator;
 - Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of misconduct or violence;
 - Whether the alleged perpetrator threatened further sexual discrimination or violence against the student victim or others;
 - Whether the sexual discrimination was committed by multiple perpetrators;
- Whether the sexual discrimination, harassment or misconduct was perpetrated with a weapon;
- Whether the student victim is a minor;
- Whether the College possesses other means to obtain relevant evidence of the sexual discrimination, harassment or misconduct (e.g., security cameras or physical evidence); and
- Whether the student victim'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.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the student victim's request for confidentiality.

If the College determines that it cannot maintain a student victim's confidentiality, the College will inform the student victim at the earliest point possible and will, to the extent possible, only share information with people responsible for handling the College's response.

If the College determines that it can respect a student victim's request for confidentiality, the College will also take immediate action as necessary to protect and assist the student victim.

If a victim's request for confidentiality limits the College's ability to formally investigate a particular allegation, the College may take steps to limit the effects of the alleged sexual discrimination, harassment and/or misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Such action may include, but is not limited to:

- Providing increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred;
- Providing training and education materials for students and employees;
- Revising and publicizing the College’s policies regarding sexual discrimination, harassment and misconduct; and
- Conducting climate surveys regarding sexual misconduct.

VIII. Employee Reporting and Disclosing Sexual Discrimination, Harassment and/or Misconduct of a Student

In addition to the reporting requirements for Responsible Employees (see Section VII(B), above), all College employees who have information regarding sexual discrimination, harassment and/or misconduct of a student are encouraged to report it to the Title IX Coordinator or any Responsible Employee.

IX. Interim Measures

The College will remain ever mindful of the victim’s well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated. The College will also:

- Assist the victim in accessing other available victim advocacy, academic support, counseling disability, health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which could include the College obtaining a no-contact order, helping to change working arrangements or course schedules (including for the alleged perpetrator(s) pending the outcome of an investigation) or adjustments for assignments or tests; and
- Inform the victim of the right to report a crime to campus or law enforcement – and provide the victim with assistance if the victim wishes to do so.

The College may not require a victim to participate in any Title IX investigation or in a disciplinary proceeding against a student.

Because the College is under a continuing obligation to address the issue of sexual discrimination, harassment and misconduct campus-wide, reports of such incidents (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision, or security at locations where the reported incident occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

X. Miscellaneous

- A. Take Back the Night and Other Public Awareness Events.** Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents are not considered notice to the College of sexual discrimination, harassment or misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students’ Title IX rights at these events.
- B. Electronic and/or Anonymous Reporting.** Although the College encourages victims to talk to someone, the College provides for an online system for electronic reporting. The reporter may choose to provide his/her identity or may choose to report anonymously. The system will notify the user (before s/he enters information) that entering personally identifying information may serve as notice to the College for the purpose of triggering an investigation.

Anonymous reports can be filed at:

- **TipNow:** The TipNow system sends an anonymous message to police investigators any time day or night. Where a reporter chooses to provide his/her identity and contact information, the College will respond to the reporter within 12 hours.
 - **Download the TipNow app from your app store - available for iPhone and Droid O/S**
 - **Text to (815) 496-6262**
 - **Call (815) 496-6262**
 - **Email mchenry@tipnow.com**

C. Off-Campus Counselors and Advocates. Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the victim requests the disclosure and signs a consent or waiver form.

Contact information for such off-campus resources is as follows:

- ***Turning Point Counseling and Support Services, (815) 338-8081**
- ***Care Center of Northwest Center Against Sexual Assault, (815) 671-4004**
- **McHenry County Crisis Line, (800) 892-8900**

*Indicates Confidential Advisors as defined in Section IV(C), above.

Note: While these off-campus counselors and advocates may maintain a victim’s confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

- D. Clery Act Reporting Obligations.** Pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act,” 20 U.S.C. 1092(f)), the College maintains a public crime log and publishes an Annual Security Report (“ASR”) available to all current students and employees. The ASR documents three calendar years of select campus crime statistics (including statistics regarding incidents of dating violence, domestic violence, and stalking),

security policies and procedures, and information on the basic rights guaranteed to victims of sexual assault. The Clery Act also requires the College to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees.

XI. Title IX Complaint Investigation Procedures

A. Investigation Procedures

1. Initiation of Investigation by Title IX Coordinator: Upon receipt of a Title IX complaint of sexual discrimination, harassment and/or misconduct, including sexual violence, the Title IX Coordinator will initiate a prompt, fair and thorough investigation. The investigation will be conducted by the Title IX Coordinator or his/her designee, and the College will conclude the investigation within 60 calendar days or less. Where the allegations are complex or other factors delay the investigative process, an extension may be granted.

With respect to Title IX complaints that relate to a College employee as the victim and/or complainant or as the respondent, the Title IX Coordinator will partner with the Department of Human Resources in investigating the complaint. In cases involving a College employee Respondent, the Department of Human Resources will recommend appropriate sanctions against the College employee respondent.

2. Interim Measures Provided: During the investigation, the Title IX Coordinator will ensure the victim and/or complainant receive written notice of and the opportunity to obtain Interim Measures as set forth in Section IX, above, and will advise the victim and/or complainant of the right to file a complaint with Campus Police or law enforcement agencies.
3. Notice to Respondent:
 - a. Within 10 business days of receipt of a complaint, the respondent will be given written notice of the charges against him/her.
 - b. The respondent will be advised of the nature of the evidence against him/her (unless release of the evidence would endanger the health or safety of victim(s) or witness(es)).
4. Due Process Rights of Victim and/or Complainant and Respondent
 - a. The victim and/or complainant and student respondent will each be notified of the individual(s) with authority to make a finding or impose a sanction in their proceeding before the individual(s) initiate contact with either party. Both parties will have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest.
 - b. The victim and/or complainant and student respondent will each be afforded the right to present information and witnesses relevant to his or her case.
 - c. When the victim and/or complainant or student respondent is requested to appear at an investigatory meeting or proceeding related to a complaint, he or she may be

accompanied by an advisor. An advisor is defined as a family member, peer, staff/faculty member of the College, or a union representative; it does not include legal counsel or an attorney at law.

- d. If the respondent is a College employee, then any employee misconduct investigation procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.
5. Evidence Considered: Investigators will interview and receive evidence from the victim, complainant, respondent and any witnesses identified during the course of the investigation. The victim's prior sexual history with anyone other than the respondent will not be considered during the investigation or any proceeding related to a complaint. The mere fact of a current or previous consensual dating or sexual relationship between the victim and respondent does not itself imply consent or preclude a finding of sexual violence.
6. Preservation of Evidence: The Title IX Coordinator will provide the victim and/or complainant with information regarding the importance of preserving physical evidence of sexual violence and the availability of medical forensic services on at no charge pursuant to the Illinois Sexual Assault Survivors Emergency Treatment Act (410 ILCS 70). Any physical evidence gathered by the investigator will be preserved by Campus Police.
7. Concurrent Criminal Investigation: The existence of a concurrent criminal investigation by law enforcement agencies will not necessarily delay or interrupt the investigation procedures outlined herein. However, the law enforcement agency may request that the College investigation be temporarily suspended. In such cases, the College will evaluate the law enforcement agency's request to determine whether and for how long to suspend its investigation. It is understood that during an ongoing criminal investigation, information relevant to the pending case or prosecution may not be permitted to be shared with the College until the criminal investigation is closed.
8. Report of Investigation: At the conclusion of the investigation, the investigator will prepare a thorough report outlining the: complaint, investigation conducted and all relevant evidence obtained; investigator's conclusions with an explanation of reasoning and/or support for such conclusions; and recommendations for sanctions or other remedial action as appropriate. The investigator will submit his/her report to the Title IX Coordinator, Department of Human Resources and/or both, as appropriate.

B. Determination

1. Determination Based Upon Preponderance of the Evidence: The Title IX Coordinator shall review the investigator's report and all evidence gathered to determine whether the respondent engaged in sexual discrimination, harassment and/or misconduct in violation of College policy. The determination of violations shall be made based on the preponderance of evidence, meaning whether it is more likely than not that this policy was violated.
2. Notice to Respondent: For student respondents, within seven (7) days after receipt of the investigator's report, the Title IX Coordinator will notify the student respondent via certified mail, return receipt requested, of his/her determination. If the Title IX Coordinator

determines that the student respondent has violated the College's prohibition of sexual discrimination, harassment and/or misconduct, this notification will also advise the student respondent of:

- a. Disciplinary sanctions; and
- b. The right to appeal the determination and sanctions in accordance with the Appeal Procedures set forth in Section VIII, below.

For employee respondents, the Department of Human Resources will follow its obligation under any applicable College Policies and collective bargaining agreements in providing notice.

3. Notice to Victim and/or Complainant: Concurrently with the notice provided to respondent, the Title IX Coordinator will notify the victim and/or complainant via certified mail, return receipt requested, of his/her determination. If the Title IX Coordinator determines that the respondent has violated the College's prohibition of sexual discrimination, harassment and/or misconduct, this notification will also advise the victim and/or complainant of:
 - a. Any individual remedies offered or provided to the victim and/or complainant;
 - b. Disciplinary sanctions imposed on the respondent that directly relate to the victim and/or complainant;
 - c. In sexual violence cases only, any disciplinary sanctions imposed on the respondent;
 - d. The right to appeal the determination and sanctions in accordance with the Appeal Procedures set forth in Section XII, below; and
 - e. If the College determines that a hostile environment exists, it will inform the victim and/or complainant of steps it has taken to eliminate the hostile environment and to prevent recurrence.

C. Sanctions, Protective Actions, and Remedies

1. Sanctions. Student respondents who have violated the College's prohibition of sexual discrimination, harassment and/or misconduct are subject to any sanctions up to and including expulsion set forth in the College's Student Code of Conduct, Article VIII, A-M, and this Procedures document, as described below.

College employee respondents who have violated the College's prohibition of sexual discrimination, harassment and/or misconduct will be subject to disciplinary action up to and including termination, consistent with any applicable employee guidebooks and/or collective bargaining agreement obligations.

2. Protective Actions. The College may take protective measures as appropriate, including no-contact orders, trespass notices, or other protective measures. Campus Police will enforce court ordered no-contact, restraining and/or protective orders to the fullest extent of the law.

3. Remedies. The College will administer remedies for the victim and/or complainant depending upon the specific nature of the complaint. In addition, the College may administer remedies for the College community as a whole.

Remedies for the victim and/or complainant may include, but are not limited to:

- Assisting the victim and/or complainant to change his/her academic and/or work environment if requested and if reasonably available;
- Providing an escort to ensure that the victim and/or complainant can move safely between classes and activities;
- Ensuring that the victim and/or complainant and the respondent do not attend the same classes;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Arranging for the victim and/or complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the victim and/or complainant's academic record; and
- Reviewing disciplinary actions taken against the victim and/or complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the victim and/or complainant being disciplined.

Remedies for the College community as a whole may include, but are not limited to:

- Offering health or other holistic and comprehensive victim services to all students and employees affected by sexual discrimination, harassment, and/or misconduct;
- Designating an individual from the College's Dean of Students to be available to assist victims of sexual discrimination, harassment, and/or misconduct whenever needed;
- Developing materials on sexual discrimination, harassment and misconduct for campus-wide distribution to students, employees, and/or third-parties;
- Creating a committee of students and College officials to identify strategies for preventing and addressing sexual discrimination, harassment and misconduct; and
- Conducting periodic climate surveys to identify how students and employees perceive and experience sexual discrimination, harassment and misconduct at the College.

XII. Title IX Appeal Procedures for Victims and/or Complainants and Student Respondents

A victim and/or complainant or a student respondent who wishes to appeal the decision reached by the Title IX Coordinator at the conclusion of a formal investigation must submit a written request for appeal to the Conduct Review Committee. This request must be submitted to the College's Conduct Officer within 10 business days after receipt of the Title IX Coordinator's letter of determination.

The appeal request must be typewritten and must state the grounds for appeal. Appeals must be made on the basis of one or more of the following grounds:

1. Procedural error was committed.
2. The finding of facts contained in the decision included inaccurate information.

3. Specific evidence considered during the investigation is objectionable.
4. New evidence not offered during the investigation that would substantially change the outcome of the finding is now available. In such cases, the new evidence must be described.
5. The sanction imposed is lenient, excessive or otherwise disproportionate with the violation.

Within 10 business days after receipt of the appeal request, the decision whether to grant the appeal based on if the appeal meets one of the above enumerated grounds will be made. The Conduct Officer shall inform the appellant by certified mail, return receipt request of the decision.

If the appeal is granted, the Conduct Officer will not hold a hearing. Rather, the Conduct Review Committee will review and consider written findings and decision from the Title IX Coordinator and investigators, any written documentation submitted by either party to the Title IX Coordinator, all evidence considered by the Title IX Coordinator, the written appeal and, if applicable, new evidence offered for consideration. The Title IX Coordinator or his/her designee will provide all relevant documentation to the Conduct Review Committee. The Conduct Review Committee shall render a decision within seven (7) days after receipt of the appeal and shall inform both the victim and/or complainant and the student respondent, concurrently, by certified mail. The decision of the Conduct Review Committee shall be final.

In the event a victim and/or complainant or a student respondent does not appeal within the required 10 business day period, the decision of the Title IX Coordinator will be final.

If the respondent is a College employee, then any employee misconduct appeal procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.

XIII. Prevention and Education for Students

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

The College, in conjunction with its Human Resources Department, Health and Wellness Office, Student Conduct Office, Behavioral Intervention Team, Title IX Coordinators, and Campus Police Department, pursuant to the Campus Security Enhancement Act of 2008 (110 ILCS 12/10), will annually review its prevention and education offerings to identify ways in which to enhance its effectiveness.

XIV. Training

The Title IX Coordinator, Campus law enforcement, campus security, and anyone else involved in the receipt of reports of, responding to, investigating or adjudicating alleged incidents of sexual discrimination, harassment and misconduct, or involved in the referral or provision of services to survivors receive annual education and training on primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures, confidentiality requirements, relevant College

policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

In addition to the above training, individuals who resolve complaints receive at least 8-10 hours of annual training on issues related to sexual violence, domestic violence, dating violence, and stalking and how to conduct the College's complaint investigation and appeal procedures pursuant to Articles XI and XII, above.

All confidential advisors receive 40 hours of training on sexual violence before being designated a confidential advisor. Annually thereafter, confidential advisors attend a minimum of six (6) hours of ongoing educational training on issues related to sexual violence. Confidential advisors also receive periodic training on the College administrative process, interim protective measures and accommodations, and the College's complaint investigation and appeal procedures pursuant to Articles XI and XII, above.

The College, in conjunction with its Human Resources Department, Health and Wellness Office, Student Conduct Office, Behavioral Intervention Team, Title IX Coordinators, and Campus Police Department, pursuant to the Campus Security Enhancement Act of 2008 (110 ILCS 12/10), will annually review its training offerings to identify ways in which to enhance its effectiveness.

XV. Procedures Governing Complaints Solely Involving Employees and/or Third Parties

An employee or third party should notify the Assistant Vice President (AVP) of Human Resources if he or she believes that the College, its employees or agents have engaged in sexual discrimination, harassment or misconduct of an employee or third party in violation of Board Policy 6.2.2.

The AVP of Human Resources may attempt to resolve complaints informally. However, if a formal complaint is filed, the AVP of Human Resources will address the complaint promptly and equitably as follows.

A. Filing a Complaint

An employee or third party (hereinafter "Complainant") who wishes to avail him or herself of this procedure may do so by filing a complaint with the AVP of Human Resources. The AVP of Human Resources will request the Complainant to provide a written statement regarding the nature of the complaint and will require a meeting with the Complainant. The AVP of Human Resources shall assist the Complainant as needed.

B. Investigation

Each complaint shall be investigated promptly, thoroughly, impartially, and as confidentially as possible. The AVP of Human Resources will investigate the complaint or appoint a qualified person to undertake the investigation on his/her behalf. The complaint and identity of the Complainant will not be disclosed except as required by law, as necessary to fully investigate the complaint, or as authorized by the Complainant. **As a general rule, all complaints will be investigated, even when the Complainant requests that nothing be done.**

1. The AVP of Human Resources or his/her designated investigator (hereinafter “investigator”) will investigate all complaints or allegations of sexual discrimination, harassment, or misconduct, except that, depending on the circumstances, the supervisor of the AVP of Human Resources may appoint a special investigator. The appointment of a special investigator does not preclude the involvement or assistance of the AVP of Human Resources in the investigation. Whenever the supervisor of the AVP of Human Resources deems necessary, a third party (e.g., an attorney) may serve as a special investigator. The investigator should not have any involvement with the complainant or the alleged wrongdoer outside of the investigation. The supervisor of the AVP of Human Resources will ensure that investigators have sufficient authority and resources.
2. The investigator will inform potential complainants, complainants, and witnesses that the College prohibits any form of retaliation against anyone who, in good faith, brings a complaint, provides information to the individual investigating a complaint, or otherwise participates in the complaint resolution process.
3. The investigator will provide a fair opportunity for both sides to be heard.
4. During the investigation, the investigation file will be kept separate from personnel record files.
5. The investigator will prepare a comprehensive written report of his/her findings and will provide the report to the AVP and Supervisor of the AVP of Human Resources. If a complaint of sexual discrimination, harassment or misconduct contains allegations involving the supervisor of the AVP of Human Resources, the written report shall be provided directly to the College President or his/her supervisor in situations where the President is the supervisor of the AVP of Human Resources , who will make a decision in accordance with Section D, below.
6. Employee misconduct investigation procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.

C. Decision

Within 15 business days after receiving the investigator’s report, a written decision to the Complainant by U.S. mail, first class, will be mailed. A copy will be placed in the investigation file.

D. Appeal

Employee misconduct appeal procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.