

# SEXUAL MISCONDUCT POLICY

## **SECTION A: INTRODUCTION AND NOTICE OF NON-DISCRIMINATION**

Champlain College (“Champlain” or the “College”) seeks to maintain a safe learning, living, and working environment for students, faculty, administrators, staff, and visitors that is free of all forms of unlawful discrimination and harassment, including sexual misconduct. The College has enacted this Sexual Misconduct Policy (the “Policy”) to reflect and maintain its institutional values and community expectations, to provide for fair and equitable procedures for determining when this Policy has been violated, and to provide recourse for individuals and the community in response to violations of this Policy.

This Policy prohibits sexual or gender-based discrimination, gender-based harassment, sexual harassment, sexual assault, non-consensual sexual contact, stalking, dating and domestic violence and misconduct, and sexual exploitation, as defined below. The Policy also prohibits retaliation against a person because they have reported, filed a complaint, or participated in good faith in an investigation of conduct covered by this Policy. All of the foregoing conduct shall be referred to collectively as “Prohibited Conduct.”

Champlain does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Sexual harassment is also prohibited under Title IX, Title VII of the Civil Rights Act of 1964, and other applicable statutes. This Policy prohibits sexual harassment against Champlain community members of any sex, sexual orientation, or gender identity in the context of education or employment.

The College strongly encourages all members of our community to take action to maintain and facilitate a safe, welcoming, and respectful environment on campus. In particular, the College expects that all Champlain community members will take reasonable and prudent actions to prevent or stop Prohibited Conduct. The College strongly supports bystander intervention and supports individuals who choose to take such action and will protect such individuals from retaliation.

Upon receipt of a report, the College will take equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. In addition, the College will fulfill its obligations under the Violence Against Women Reauthorization Act of 2019 (“VAWA”) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) in response to reported Prohibited Conduct. The College’s process for investigating and responding to reported Prohibited Conduct is outlined below. Students or employees who are found to have violated this Policy may face disciplinary action up to and including dismissal (students) or termination of employment (faculty or staff).

Champlain also prohibits other forms of discrimination and harassment, including discrimination and harassment on the basis of race, color, national origin, ancestry, age, religious belief, marital status, physical or mental disability, medical condition, veteran status, or any other characteristic protected by federal, state, or local law. Such prohibited conduct is addressed in other College policies prohibiting discrimination, harassment and retaliation based on protected status (other than sex, gender, or sexual orientation).

## **SECTION B: SCOPE OF POLICY**

Except as more specifically defined below in the context of who can file a formal complaint of Title IX Sexual Harassment, when used in this Policy, “complainant” refers to a current Champlain College student or employee who is reported to have experienced Prohibited Conduct. “Respondent” refers to an individual alleged to have engaged in Prohibited Conduct. A “Third Party” refers to any other participant in the process, including a witness or an individual who makes a report on behalf of a complainant.

### **1. Effective Date and Coverage**

This Policy will be used by the College to address incidents alleged to have taken place on or after August 14, 2020. Any incidents alleged to have taken place prior to August 14, 2020 will be addressed through the policies and procedures outlined in the [Sexual Misconduct Policy published in the 2019-2020 Undergraduate College Catalog](#), and not through the policies and procedures outlined in this Policy. This delineation of applicable policies and procedures will apply regardless of when the alleged incident is reported.

### **2. Persons Covered**

This Policy prohibits Prohibited Conduct by all Champlain community members, including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, conducting business,

studying, living, visiting, or having any official capacity with the College or on its property. Champlain College students and employees may be respondents who are entitled to the policies and procedures outlined in this Policy. Any other individuals who are reported to have engaged in Prohibited Conduct will be provided with any policies and procedures outlined in other College policies and/or agreements as applicable, and/or the College's handling of such reports as to such individuals will be determined at the College's discretion.

Students will be held accountable for Prohibited Conduct that takes place between the time an offer of admission is extended and their graduation, completion of their program, or Champlain's confirmation of their resignation or dismissal. Students who have taken a leave of absence or have withdrawn may be held accountable for allegations of Prohibited Conduct that occurred prior to or during their absence or withdrawal; the student's conduct file will reflect that the charge(s) is/are pending and the student's ability to re-enroll may be impacted. Students who graduate may also be held accountable for allegations of Prohibited Conduct prior to commencement, and a hold may be placed on their ability to receive their diploma and official transcripts, pending a hearing and/or completion of sanctions. In the event of serious Prohibited Conduct committed while still enrolled but reported after the accused student has graduated, Champlain College may pursue action under this Policy, and should the accused student be found responsible, may revoke the student's degree.

The College strongly encourages reports of Prohibited Conduct regardless of who engaged in the alleged conduct. Even if the College does not have jurisdiction over the respondent, the College will take action, to the extent that it is reasonably able to do so, to provide for the safety and well-being of the complainant and the broader campus community.

### **3. Locations Covered**

This Policy applies to all domestic and international on-campus conduct, conduct that occurs in the context of a College program, and some off-campus conduct, as described below. The College strongly encourages reports of Prohibited Conduct regardless of location. Even if the Policy does not apply to the conduct because of its location, the College will take action, to the extent that it is reasonably able to do so, to provide for the safety and well-being of the complainant and the broader campus community. Students participating in third party study abroad experiences will be subject to the guidelines established by the host institution and may, if deemed appropriate by Champlain College, also be subject to investigation, resolution and sanction processes under this Policy and/or other Champlain College policies as well.

**a. Domestic On-Campus Conduct.** This Policy applies to conduct that occurs on-campus (in-person or virtual) within the United States, including conduct which occurs on property or in virtual spaces owned, rented, or managed by the College, including, but not limited to, Burlington’s Main and Lakeside Campuses, Champlain College Online, temporary residential housing locations, and Champlain College’s virtual learning spaces.

**b. International On-Campus Conduct.** This Policy applies to conduct that occurs on Champlain College’s international campuses in Montreal, Canada and Dublin, Ireland, on property that is owned, rented, or managed by the College.

**c. College Programs.** This Policy applies to conduct that occurs in the context of College employment or College managed educational programs or activities, including, but not limited to, Champlain study abroad, virtual gap year, or internship programs.

**d. Off-Campus Conduct.** This Policy also applies to conduct that occurs off campus and has continuing adverse effects on, or creates a hostile environment for, any member of the Champlain community on-campus or in any College employment or education program or activity.

### **3. Scope of Jurisdiction**

The Policy encompasses Prohibited Conduct and locations that go beyond the scope of Title IX regulations issued by the U.S. Department of Education in May 2020 (“2020 Title IX regulations”). If the alleged Prohibited Conduct falls within the scope of the 2020 Title IX regulations and the College proceeds with a formal investigation, the investigation and resolution process will be overseen by the Title IX Coordinator or designee and conclude with a final investigation report and live hearing, based on which a decision will be rendered. If the alleged Prohibited Conduct falls outside of the scope of the 2020 Title IX guidance and the College proceeds with a formal investigation, the investigation and resolution process will be overseen by the Office of Community Standards, the People Center, or both, depending on whether the parties involved are students, employees, or both. Prohibited Conduct by each standards is as follows:

**a. Title IX Scope.** Title IX encompasses the following Prohibited Conduct when the incident occurs in the United States *and* on-campus and/or as part of a College Program as defined above:

- Sexual Harassment that is so severe, pervasive, and objectively offensive that it has certain effects on the complainant, as detailed below.
- Sexual Assault
- Dating Violence and Domestic Violence

- Sex-based Stalking

**b. Standards of Conduct Scope.** The College prohibits the following sexual misconduct involving one or more parties affiliated with Champlain College:

- Sexual Harassment that does not fall within the scope of Title IX Sexual Harassment
- Sexual Assault that does not fall within the scope of Title IX Sexual Harassment
- Domestic Violence and Dating Violence that does not fall within the scope of Title IX Sexual Harassment
- Stalking that does not fall within the scope of Title IX Sexual Harassment
- Non-Consensual Sexual Contact that does not fall within the scope of Title IX Sexual Harassment
- Gender-Based Harassment that does not fall within the scope of Title IX Sexual Harassment
- Domestic and Dating Misconduct
- Sex- or Gender-Based Discrimination
- Sexual Exploitation
- Retaliation as defined below

Note: Alleged sexual misconduct that occurs off-campus (e.g., at off-campus apartments and unsponsored spring break trips) or outside the United States (e.g., on Champlain's campuses in Montreal or Dublin, or in study abroad experiences whether organized by the College or not) will not fall within the scope of Title IX, but is prohibited by College policy.

## **SECTION C: PROHIBITED CONDUCT AND DEFINITIONS**

The definitions of sexual assault, domestic violence, dating violence and stalking used in this policy are consistent with the Clery Act, as amended effective 2014. Champlain College prohibits the crimes of sexual assault, dating violence, domestic violence, and stalking as defined by the Clery Act and this policy. In addition, for the purposes of this policy, the definitions of domestic violence and dating violence expand upon the definitions required under the Clery Act, as amended effective 2014, and include other prohibited behaviors. This policy further expands the list of prohibited behaviors beyond Clery requirements to include the categories of Sexual Exploitation, and Domestic and Dating Misconduct.

**1. Title IX Sexual Harassment:** Title IX Sexual Harassment (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual

Assault, and Domestic Violence, Dating Violence and sex-based Stalking within the scope of Title IX) is defined below for purposes of this Policy.

Title IX Sexual Harassment is a subset of Prohibited Conduct. Under Department of Education regulations (see 34 C.F.R., Part 106) issued in May 2020 (“May 2020 Title IX regulations”) to implement Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., the College is required to prohibit certain forms of sexual harassment as defined in those regulations. Title IX Sexual Harassment is Prohibited Conduct of the following types committed by or against students and/or employees in an education program or activity of the College, in the United States. Further, in order for the College to consider a Formal Complaint of such misconduct as falling within its Title IX Sexual Harassment policy and procedures, the complainant must be participating in or attempting to participate in a College program or activity at the time the complaint is filed.

Conduct takes place within the College’s “programs and activities” when that conduct occurs: (1) in a location, at an event, or in a circumstance where the College exercises substantial control over both the respondent and the context in which the conduct occurs; or (2) in any building owned or controlled by a student organization recognized by the College. Conduct that occurs off campus in locations or at events with no connection to the College is unlikely to have occurred in a program or activity of the College.

Conduct that does not meet this strict definition for Title IX Sexual Harassment is still prohibited by this Policy if it otherwise constitutes Prohibited Conduct within the definition of Non-Title IX Misconduct as defined below.

The following Prohibited Conduct definitions apply for purposes of the definition of Title IX Sexual Harassment:

**a. Title IX Quid Pro Quo Sexual Harassment**

Quid pro quo sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States by which an employee of the College conditions the provision of an aid, benefit, or service of the College on a student’s or employee’s participation in unwelcome sexual conduct.

**b. Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment**

Severe, pervasive and objectively offensive sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States that constitutes

unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student or employee equal access to a the College education program or activity.

### **c. Title IX Sexual Assault**

**Sexual assault** is defined as participating in a sexual act with another person:

- By compelling the other person to participate in the sexual act without consent; or
- By threatening or coercing the other person; or
- By placing the other person in fear that any person will suffer imminent bodily injury; or
- By impairing substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge of or against the will of the other person; or
- When the respondent knows, or reasonably should know based on an objective standard, that the other person's ability to give or withhold consent is impaired:
  - by the consumption of drugs, alcohol or other intoxicants; or
  - because the other person is subject to a physical or mental incapacity such as sleep or unconsciousness.
- When the other person is physically incapable of resisting or of communicating an unwillingness to participate; or
- When the other participant is under the age of 16 or the acts in question constitute incest.

Sexual assault may be either rape, incest, statutory rape, or fondling as defined in the Clery Act and below.

**Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in the applicable jurisdiction.

**Statutory rape** is sexual intercourse with a person who is under the statutory age of consent in the applicable jurisdiction.

**Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition,

“private body parts” includes breasts, buttocks, or genitals, whether clothed or unclothed).

Sexual assault can be committed by any person against any other person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

#### **d. Title IX Dating Violence**

Title IX Dating Violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States that constitutes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting party’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.

For the purposes of this definition— (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence.

#### **e. Title IX Domestic Violence**

Title IX Domestic Violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States that constitutes a felony or misdemeanor crime 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 cohabiting with, or has cohabited 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 jurisdiction in which the crime of violence occurred; 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 jurisdiction in which the crime of violence occurred.

#### **f. Title IX Stalking**

Title IX Stalking for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the

United States that constitutes engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

For purposes of this definition:

*Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

*Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

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

Examples of stalking behaviors or activities include, but are not limited to the following, if they occur in the context of stalking as defined above (i.e., the behaviors or activities would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress):

- non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or any other communications that are unwelcome;
- use of online, electronic or digital technologies, such as posting pictures or text in chat rooms or on websites, sending unwanted or unsolicited e-mail or talk requests, posting private or public messages on Internet sites, social networks, and/or school bulletin boards, installing spyware on a person's computer, or using Global Positioning Systems (GPS) or similar technology to monitor a person;
- pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person;
- surveillance or other types of observation, including staring and voyeurism;
- trespassing;
- vandalism;
- non-consensual touching;
- direct verbal or physical threats against a person or a person's family member, pet or personal property;
- gathering information about a person from friends, family, or co-workers;

- accessing private information through unauthorized means;
- threats to harm self or others;
- defamation and/or lying to others about the person; and
- using a third party or parties to accomplish any of the above.

**2. Domestic or Dating Misconduct:** Domestic or dating misconduct is defined as threatening or coercive behavior that does not involve violence, but that occurs in the context of a domestic or dating relationship, that does not fall within the definition of Title IX Sexual Harassment. The criteria for determining the existence of a domestic or dating relationship are provided in the definitions of Domestic Violence and Dating Violence. Examples of Domestic or Dating Misconduct include but are not limited to the following, when occurring in the context of a domestic or dating relationship:

- conduct that may reasonably be expected to exploit or coerce;
- kidnapping and/or restraint;
- prevention of another’s ability to communicate or move freely;
- violation of another’s privacy;
- unauthorized entry and/or uninvited or unwanted presence in another’s room or office.

**3. Gender-Based Harassment** is harassment based on sex, sexual orientation, or gender identity, which may include acts of aggression, intimidation, or hostility, whether verbal, physical, graphic, or otherwise, that does not fall within the definition of Title IX Sexual Harassment. To qualify as Gender-Based Harassment, the conduct need not involve conduct of a sexual nature.

**4. Non-consensual sexual contact:** Non-consensual contact includes: (1) acts that would constitute “fondling” as defined in the Clery Act (that is, the touching of the private body parts of another person for the purpose of sexual gratification, without the consent (as defined below) of the other person, including instances where the victim is incapable of giving consent because of his/her temporary or permanent mental incapacity), that does not fall within the definition of Title IX Sexual Harassment; (2) causing an individual to touch their own private body parts, touching another individual’s body with a private body part, touching another individual’s private body part with any object, or disrobing or exposure of another without permission, that does not fall within the definition of Title IX Sexual Harassment.

**5. Non-Title IX Sexual Harassment** is any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, physical, graphic, or otherwise, that does not fall within the definition of Title IX Sexual Harassment.

Generally speaking, harassment can be divided into two types of conduct:

- a. **Quid Pro Quo Harassment.** Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in any aspect of a College program or activity or is used as the basis for the College's decisions affecting the individual, which does not fit within the definition of Title IX Sexual Harassment.
  
- b. **Hostile Environment.** A hostile environment that falls below the threshold for Title IX Sexual Harassment exists when the conduct is sufficiently severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the College's education or employment programs and/or activities. Whether conduct is sufficiently severe, pervasive, or persistent that it creates a hostile environment is determined both from a subjective and objective perspective.

Harassing conduct can take many forms. The determination of whether an environment is hostile is based on the totality of the circumstances, including but not limited to: (1) the frequency of the conduct; (2) the nature and severity of the conduct; (3) whether the conduct was physically threatening; (4) the effect of the conduct on the complainant's mental or emotional state, with consideration of whether the conduct unreasonably interfered with the complainant's educational or work experience and/or College programs or activities; (5) whether the conduct was directed at more than one person; and (6) whether the conduct arose in the context of other discriminatory conduct.

A single isolated incident may create a hostile environment if the incident is sufficiently severe, particularly if the conduct is physical. In contrast, the perceived offensiveness of a single verbal or written expression is typically not sufficient to constitute a hostile environment.

Examples of conduct that may constitute Sexual Harassment for purposes of this specific definition may include a severe, persistent, or pervasive pattern unwelcome conduct of a sexual nature that includes but is not limited to one or more of the following:

- **Physical conduct**, including unwelcome touching, physical assault, impeding, restraining, or blocking movements, or unwanted sexual advances;
- **Verbal conduct**, including making or using derogatory comments, epithets, slurs or humor; verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual,

suggestive or obscene letters, notes, or invitations; or objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;

- **Visual conduct**, including leering, making sexual gestures, displaying suggestive objects or pictures, cartoons, or posters in a public space or forum; or severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate;
- **Written conduct**, including letters, notes or electronic communications containing comments, words, or images described above;
- **Quid pro quo conduct that does not fall within the definition of Title IX Sexual Harassment**, including direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists; offering educational or employment benefits in exchange for sexual favors; making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or making or threatening reprisals after a negative response to sexual advances.

**6. Non-Title IX Sexual Assault:** Sexual assault as defined above that does not fall within the definition of Title IX Sexual Harassment (e.g., because it did not occur in a program or activity of the College in the United States).

**7. Non-Title IX Domestic Violence:** Domestic violence as defined above that does not fall within the definition of Title IX Sexual Harassment (e.g., because it did not occur in a program or activity of the College in the United States).

**8. Non-Title IX Dating Violence:** Dating violence as defined above that does not fall within the definition of Title IX Sexual Harassment (e.g., because it did not occur in a program or activity of the College in the United States).

**9. Non-Title IX Stalking:** Stalking as defined above that does not fall within the definition of Title IX Sexual Harassment (e.g., because it did not occur in a program or activity of the College in the United States).

**10. Sex or Gender-Based Discrimination:** Sex or gender-based discrimination refers to the disparate treatment of a person or group because of that person's or group's sex, sexual orientation, or gender identity, that does not fall within the definition of Title IX Sexual Harassment.

**11. Sexual Exploitation:** Sexual Exploitation that falls outside the definition of Title IX Sexual Harassment occurs when a person takes sexual advantage of another person for the benefit of anyone other than that other person without that other person's consent. Examples of behavior that could constitute sexual exploitation include but are not limited to the following:

- intentional non-consensual contact with the private body parts of a person that does not meet the definition of behaviors prohibited under the definitions of "sexual assault" or "Non-Title IX Non-Consensual Sexual Contact" found above;
- prostituting another person;
- recording or capturing through any means images (e.g., video and photographs) or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent;
- distributing images (e.g., video or photographs) or audio of another person's sexual activity, intimate body parts or nudity if the individual distributing the images or audio knows or should have known that the person(s) depicted in the images or audio did not consent to such disclosure or object(s) or would object to such disclosure; and,
- viewing another person's sexual activity, intimate body parts or nudity in a place where that person had a reasonable expectation of privacy, without that person's consent, if the individual viewing the other person(s) sexual activity, intimate body parts, or nudity in such a place knows or should have known that the person(s) being viewed would object to that.

\*Exception: Champlain College's prohibition of sexual exploitation is not intended to prohibit the use of sexually explicit materials that are reasonably related to Champlain College's academic mission. Specifically this section is not intended to proscribe or inhibit the use of sexually explicit materials in or out of the classroom, when in the judgment of a "reasonable person" they arise appropriately to promote genuine discourse, free inquiry and learning

## **SECTION D: KEY TERMS**

**1. Advisor:** An individual selected by either party to provide support and advice throughout the reporting, investigation, and any resulting disciplinary process under this Policy. For processes that include a Live Hearing, advisors are also permitted to pose cross-examination questions to the other party and any witnesses on behalf of their advisee. An advisor may not otherwise speak on behalf of or otherwise represent their

advisee, with the exception of asking questions on behalf of their advisee, as noted above.

**2. Coercion:** Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

When someone indicates, verbally or physically, that they do not want to engage in a particular sexual activity, that they want to stop a particular activity, or that they do not want to go past a certain point of sexual interaction, continued activity or pressure to continue beyond that point can be coercive. Examples of coercion include threatening to "out" someone based on sexual orientation or gender identity, and threatening to harm oneself, if the other party does not engage in the sexual activity.

Consent obtained through coercion is not valid. The College will evaluate the following in determining whether coercion was used: (a) the frequency of the application of pressure, (b) the intensity of the pressure, (c) the degree of isolation of the person being pressured, and (d) the duration of the pressure. All four do not need to be present to determine if coercion was used.

**3. Complainant:** Except as more specifically defined below in the context of who can file a formal complaint of Title IX Sexual Harassment, when used in this Policy, "complainant" refers to a current Champlain College student or employee who is reported to have experienced Prohibited Conduct, irrespective of whether that individual initiated any formal College process, or has otherwise chosen to participate in such a process.

**4. Consent:** Consent is a voluntary agreement to engage in sexual activity, demonstrated by words or actions freely and actively given by each party, which a reasonable person would interpret as a willingness to participate in agreed upon sexual conduct.

Someone who is incapacitated cannot effectively consent (such as when a person is incapacitated by the use of drugs or alcohol, when a person is asleep or unconscious, or when a person has an intellectual or other disability that prevents the person from having capacity to give consent).

- Past consent does not imply future consent.
- Being in an intimate relationship does not, in and of itself, imply consent.

- Silence or an absence of resistance does not imply consent.
- Consent to engage in one activity with one person does not imply consent to engage in sexual activity with another person.
- Consent to engage in one sexual activity with one person does not imply consent to engage in a different type of sexual activity.
- Consent can be withdrawn at any time.
- Consent obtained through coercion, force or threat of either, or intimidation, is not valid.

Consent is not present where the respondent acts:

- By compelling the other person to participate in the sexual activity; or
- By threatening or coercing the other person; or
- By placing the other person in fear that any person will suffer imminent bodily injury; or
- By impairing substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge of or against the will of the other person; or
- When the respondent knows, or reasonably should know based on an objective standard, that the other person's ability to give or withhold consent is impaired:
  - by the consumption of drugs, alcohol or other intoxicants; or
  - because the other person is subject to a physical or mental incapacity such as sleep or unconsciousness.
- When the other person is physically incapable of resisting or of communicating an unwillingness to participate; or
- When the other participant is under the age of 16 or the acts in question constitute incest.

It is the responsibility of those who initiate and/or engage in sexual activity to be clear that informed, voluntary consent is given before proceeding with further sexual activity. It should be noted that ignorance of the policy noted above, or the intoxication of the respondent, will not (particularly given the College's objective standard) be considered an excuse for violating this policy.

**5. Days:** Unless otherwise expressly stated, all references in this procedure to "days" are to business days, excluding holidays when the College is closed. Any deadline that falls on a weekend or other day when the College is closed, shall be extended to the next business day.

**6. Force:** Force is the use or threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or provide consent.

Consent obtained by force is not valid. For the use of force to be demonstrated, there is no requirement that a complainant resist the sexual advance or request. However, evidence of resistance by the complainant will be viewed as a clear demonstration of a lack of consent.

**7. Incapacitation:** Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) and/or is physically unable to do so.

For example, an individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition.

Incapacitation may result from the use of alcohol, drugs, or other medication.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's: (1) decision-making ability; (2) awareness of consequences; (3) ability to make informed judgments; or (4) capacity to recognize/assess the nature and the scope of the act.

It shall not be a valid excuse that the respondent believed that the complainant consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances: (a) the complainant was asleep or unconscious; (b) the complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity; (c) the complainant was unable to communicate due to a mental or physical condition.

Whether the respondent reasonably should have known that the complainant was incapacitated will be evaluated using an objective reasonable person standard. The fact that the respondent was actually unaware of the complainant's incapacity is irrelevant to this analysis, particularly where the respondent's failure to appreciate the complainant's incapacitation resulted from the respondent's failure to take reasonable steps to

determine the complainant's incapacitation or where the respondent's own intoxication or incapacitation (from alcohol or drugs) caused the respondent to misjudge the complainant's incapacity.

It is the responsibility of each party to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.

Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one's responsibility to obtain consent.

**8. Intimidation:** Intimidation is the use of implied threats to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or provide consent. Consent obtained by intimidation is not valid.

**9. Preponderance of the Evidence:** The evidentiary standard used in investigation and/or disciplinary processes to determine whether or not a Respondent is responsible for a violation of this Policy. A preponderance of the evidence is found when the evidence considered demonstrates that the alleged actions are more likely to have occurred than not.

**10. Private body parts:** Private body parts for purposes of this policy include breasts, genitals, buttocks, or groin.

**11. Respondent:** An individual who is reported to have engaged in Prohibited Conduct.

## **SECTION E: RETALIATION**

Retaliation is Prohibited Conduct under this Policy, and will be investigated and addressed through the procedures for Non-Title IX Misconduct referenced below. Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX Misconduct). Retaliation is strictly prohibited. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or

complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, constitute retaliation, as do any adverse action taken against a person because they have made a good faith report of Prohibited Conduct or participated in any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this Policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement in bad faith.

The College will not engage in and will take immediate and responsive action to address any report of covered retaliation and will pursue disciplinary action as appropriate. An individual whose good faith activities as described above result in their being protected from retaliation under this policy is entitled to such protection even if the reported conduct is ultimately not found to be a violation of this Policy.

## **SECTION F: CONFIDENTIALITY & PRIVACY**

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports under this Policy. The College is also committed to assisting students, employees, and third parties in making informed choices. With respect to any report under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

### **1. Privacy and confidentiality have distinct meanings under this Policy.**

**Privacy:** Privacy generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who “need to know” in order to provide supportive measures or assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

**Confidentiality:** Confidentiality generally means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual.

The confidentiality of information shared by an individual with designated campus or community professionals generally is governed by Vermont law, including Vermont evidence rules and restrictions on the disclosure of privileged information by mental health providers, health care providers ordained clergy, rape crisis counselors, and attorneys, all of whom have legally protected confidentiality. These individuals are generally prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.

An individual who seeks confidential assistance may do so by speaking with professionals who have legally protected confidentiality. The confidential resources available to individuals on campus are listed in Section L: Care and Support. Note, however, that these confidential resources may be required by state law to notify appropriate Vermont State authorities of any report which involves suspected abuse of a minor under the age of 18.

May 2020 Title IX regulations contemplate that certain information will generally be treated confidentially, except as qualified by statements in those regulations. For example, the regulations provide that colleges must maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The regulations also provide that colleges must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under those regulations.

## **2. Complainants may request confidentiality under this policy.**

A complainant may desire to report Prohibited Conduct to the College but to maintain confidentiality; if so, the Title IX Coordinator will evaluate such requests. Where a complainant requests that the complainant’s name or other identifiable information not be shared with the respondent or that no formal action be taken, the Title IX Coordinator, in conjunction with members of the Title IX Case Management Team if deemed appropriate, will balance the complainant’s request with its obligation to provide a safe and non-discriminatory environment for all College community members. In making this determination, the College may consider, among other things, the seriousness of the conduct, the respective ages and roles of the complainant and

respondent, whether there have been other complaints or reports of harassment or misconduct against the respondent, and the rights of the respondent to receive notice and relevant information before disciplinary action is sought.

The College will take all reasonable steps to address the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the complainant. Where the College is unable to take action consistent with the request of the complainant, the Title IX Coordinator or a member of the Title IX team will inform the complainant about the chosen course of action, which may include the College seeking disciplinary action against a respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant. These issues are discussed further below.

### **3. The College is required to disclose certain information, per the Clery Act.**

#### **a. Timely Warnings**

A “Timely Warning” is a campus-wide notification of a serious or continuing threat to the Champlain community. A Timely Warning does not include identifying information about a complainant. If a report of misconduct discloses a serious or continuing threat to the Champlain community, the College may issue a campus wide timely warning (which can take the form of an email to campus) to protect the health or safety of the community.

#### **b. Annual Reporting Responsibilities**

All higher education institutions that receive federal funding, including the College, are obligated to issue publicly an Annual Security Report (“ASR”) which identifies the number of particular reported crimes on campus or campus property, or adjacent to campus. The ASR does not include identifying information about the complainant or respondent.

#### **c. Crime Log**

All higher education institutions that have campus police forces or security departments must maintain a daily crime log that includes entries for all crimes that occur within both the Clery geography and the campus public safety staff’s regular patrol route. The crime log does not include identifying information about the complainant or respondent.

## **SECTION G: RESPONSIBLE EMPLOYEES**

A “Responsible Employee” includes any employee who: (1) has the authority to take action to redress the harassment; or (2) has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees.

All College employees who do not have legally protected confidentiality are considered Responsible Employees. This includes all employees with supervisory or leadership responsibilities on campus, including, but not limited to, faculty, administrators, staff members and Resident Assistants.

The College requires that all Responsible Employees report disclosures of Prohibited Conduct to the Title IX Coordinator or a Deputy Title IX Coordinator. The purpose of this requirement is to permit the College to take immediate and corrective action to respond to allegations of Prohibited Conduct.

## **SECTION H: CHAMPLAIN’S TITLE IX COORDINATOR AND DEPUTY COORDINATORS**

### **Notice of Designated Title IX Coordinator and Deputy Coordinators**

The College has designated and authorized Danelle Berube, Vice President of Student Affairs, to serve as the College’s Title IX Coordinator, and to coordinate the College’s efforts to comply with Title IX. For general Title IX questions email [titleix@champlain.edu](mailto:titleix@champlain.edu). The Title IX Coordinator may delegate their duties as appropriate, so references to the Title IX Coordinator throughout this policy should be read as also including a reference to a “designee” of the Title IX Coordinator.

The Title IX Coordinator and Deputy Coordinators can be contacted by email, phone, or in person during regular office hours. Materials can also be mailed to the Title IX Coordinator or any Deputy Coordinator at 375 Maple Street, Burlington, VT 05401.

Danelle Berube  
Vice President of Student Affairs  
Title IX Coordinator  
IDX Student Life Center, 315  
[dberube@champlain.edu](mailto:dberube@champlain.edu)  
802-865-5460

Bruce Bovat  
Director, Campus Public Safety  
Deputy Title IX Coordinator  
[bbovat@champlain.edu](mailto:bbovat@champlain.edu)  
802-860-2755

*Updated January 2021*

Jerome Holland  
Director of Housing and Residential Life  
Deputy Title IX Coordinator  
[jholland@champlain.edu](mailto:jholland@champlain.edu)  
802-860-2749

Gail MacDonald  
Manager, Application Transfer Credit Review, Champlain College Online  
Deputy Title IX Coordinator  
[gmacdonald@champlain.edu](mailto:gmacdonald@champlain.edu)  
802-522-3891

Kaelyn Murray  
Academic Advisor, Champlain College Online  
Deputy Title IX Coordinator  
[kmurray@champlain.edu](mailto:kmurray@champlain.edu)  
802-865-5735

Sara Quintana  
Associate Director of Talent and Engagement, People Center  
Deputy Title IX Coordinator  
[squintana@champlain.edu](mailto:squintana@champlain.edu)  
802-865-5417

Donna Swartwout  
Interim Community Standards Director  
Deputy Title IX Coordinator  
[dswartwout@champlain.edu](mailto:dswartwout@champlain.edu)  
802-865-6428

*Updated January 2021*

Reports may be made 24 hours per day, 7 days per week, as described below.

### **Role of the Title IX Coordinator and Deputy Coordinators**

The Title IX Coordinator monitors the College's overall compliance with Title IX, ensures appropriate training and education, and oversees the College's investigation, response, and resolution of reports made under this Policy. Upon receiving reports of Prohibited Conduct, the Title IX Coordinator ensures that appropriate action is taken to eliminate that conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is available to advise all individuals - including individuals who have experienced misconduct, individuals who are alleged to be responsible for misconduct, and third parties - on this Policy and the related Investigation Processes.

The Title IX Coordinator is supported and assisted by the Deputy Coordinators. In addition, based on the relationship of the complainant and/or the respondent to the College, the Title IX Coordinator may also be supported by the Vice President for Academic Affairs and/or the Vice President of Human Capital. Collectively, the Title IX Coordinator and the individuals supporting the Title IX Coordinator are the "Title IX Case Management Team." The Title IX Case Management Team is made up of Deputy Coordinators who have a "need to know" of any alleged Prohibited Conduct to effectuate this Policy. The foregoing individuals receive ongoing appropriate training to discharge their responsibilities.

## **SECTION I: REPORTING**

The College strongly encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual or other violence. This is the best option to ensure preservation of evidence and to begin a timely investigative and helpful response.

The College also strongly encourages all individuals to make a report to the College and to local law enforcement, although neither is required. These reporting options are not mutually exclusive. Both internal and criminal reports may be made simultaneously.

### **1. Emergency and External Reporting Options**

Complainants have the right to notify or decline to notify law enforcement. The College strongly encourages all individuals to seek assistance from law enforcement

*Updated January 2021*

immediately after an incident of Sexual Harassment, Sexual Assault, Dating or Domestic Violence, or any other Prohibited Conduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and helpful response. Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking emergency protective orders.

The College will help any Champlain community member to get to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about on- and off-campus resources and options for resolution.

Available external resources that you may contact independently or with the College's assistance include:

Burlington Police Department  
1 North Avenue, Burlington  
802-658-2704

Chittenden Unit for Special Investigations (CUSI)  
50 Cherry Street, Burlington  
802-652-6800

UVM Medical Center  
111 Colchester Avenue  
Burlington, VT  
802-847-0000

HOPE Works  
(Ending Sexual Violence)  
Burlington, VT  
24 HOUR HOTLINE 802-863-1236 or 1-800-489-7273

Champlain students enrolled in Montreal or Dublin programs or who participate in Champlain College Online or other virtual programs should consult Program Directors or advisors regarding external reporting and support options in their respective communities.

## **2. Champlain College Reporting Options**

**Campus Public Safety (802-865-6465)** is available 24/7 as a first option to report any incident of crime or violence, as well as any incidents involving Prohibited Conduct.

Campus Public Safety has the ability to provide a courtesy escort service on campus to any student and can reach the counselor on call at any time.

**The College has a strong interest in investigating and responding as appropriate to sexual harassment, sexual assault, stalking, intimate partner violence and other Prohibited Conduct, and strongly encourages all individuals or third party witnesses to report any incident to the College.**

### **3. Making a Report**

Making a report means telling Public Safety (initially, outside regular business hours), the Title IX Coordinator or a Deputy Title IX Coordinator what happened. A report can be made in-person or by video meeting, by telephone, in writing, by email, or by submitting an electronic [Title IX and Sexual Misconduct Report Form](#). Contact information for the Title IX Coordinator and Deputy Coordinators can be found in Section H: Champlain's Title IX Coordinator and Deputy Coordinators.

The Title IX Case Management Team handles complaints of Prohibited Conduct against any individual, and works with other offices on campus to provide reasonable Supportive Measure such as No Contact Orders, changes in work schedule, or academic accommodations. See Section K: Supportive Measures for more information.

At the time a report is made, a complainant does not have to request any particular course of action, nor does a complainant need to know how to label what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The College provides Supportive Measures that can assist each individual in making these important decisions, and will respect an individual's autonomy in deciding how to proceed to the extent legally possible. In this process, the College will balance the individual's interest with its obligation to provide a safe and non-discriminatory environment for all members of the College community.

In response to all reports of Prohibited Conduct, the College will make an immediate assessment of any risk of harm to the complainant, respondent, or to the broader campus community and will take steps necessary to address those risks. These steps may include emergency removal, administrative leave and interim measures, depending on the circumstances, to provide for the safety of the individual and the campus community.

### **4. Reporting To External Agencies**

In addition to reporting to law enforcement or the College, students, faculty, and staff should be aware of the following external governmental agencies that investigate and prosecute complaints of prohibited discrimination and harassment:

**Employees may contact:**

Vermont Attorney General's Office, Civil Rights Unit,  
109 State Street, Montpelier, VT 05609-1001  
(802-828-3171/VOICE/TDD)

Equal Employment Opportunity Commission  
John F. Kennedy Federal Office Building  
475 Government Center,  
Boston, MA 02203  
(1-800-669-4000/VOICE or 1-800-669-6820/TDD)  
[www.eeoc.gov](http://www.eeoc.gov)

**Students may contact:**

United States Department of Education, Office for Civil Rights  
J.W. McCormack, Post Office Court House Building, Room 701  
Boston, MA 02109-4557  
617-289-0111  
[OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

Vermont Human Rights Commission  
135 State Street, 2nd Floor, Drawer 33  
Montpelier, VT 05633-6301  
(802-828-2480/VOICE/TDD or 800-416-2010/VOICE)

## **5. Other Reporting Considerations**

### **a. Timeliness and Location of Incident**

Complainants and third-party witnesses are encouraged to report Prohibited Conduct as soon as possible in order to maximize the College's ability to respond promptly and effectively. The College does not, however, limit the time frame for reporting. If the respondent is not a member of the Champlain community, the College will still seek to meet its Title IX responsibilities by taking steps to end the harassment, prevent its recurrence, and address its effects, but its ability to take disciplinary action against the respondent will, of course, be limited.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct that is likely to have a substantial effect on the complainant's on-campus life and activities or poses a threat or danger to members of the Champlain community may also be addressed under this Policy.

### **b. Amnesty for Alcohol or Other Drug Use or Other Conduct Violations**

The College strongly encourages the reporting of Prohibited Conduct under this Policy. It is in the best interest of this community that as many individuals as possible choose to report to college officials and that participants in the Investigation process are forthright in sharing information. To guard against discouraging reporting or participation, a student who reports Prohibited Conduct or participates in the Investigation process, either as a complainant, respondent, or a third-party witness, will not be subject to disciplinary action by the College for personal consumption of alcohol or drugs or other violations of the conduct policy (not including this Policy) at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk and do not involve plagiarism, cheating, or academic dishonesty. The College may, however, initiate an educational discussion or pursue other educational remedies with the student regarding alcohol or other drugs. Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one's responsibility to obtain consent.

### **c. Coordination with Law Enforcement**

The College strongly encourages complainants to pursue criminal action for incidents of Prohibited Conduct that may also be crimes under Vermont law. The College will assist a complainant in making a criminal report and cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law.

The College's Policy, definitions, and burden of proof differ from Vermont criminal law. A complainant may seek recourse under this Policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

The College will not delay conducting its own investigation unless that is specifically requested by law enforcement (e.g., Burlington Police Department, Chittenden Unit for Special Investigations). In the event of such a request, the College will defer its investigation only during the time that the law enforcement agency is gathering evidence. The College will nevertheless communicate with the complainant and respondent (if appropriate) regarding their rights, procedural options, and the

implementation of Supportive Measures to provide safety and well-being, under this Policy. The College will promptly initiate or resume its investigation as soon as it is informed that law enforcement has completed its initial investigation.

#### **d. False Reports**

The College takes the accuracy of information very seriously, as a report of Prohibited Conduct may have severe consequences. **A good faith complaint that results in a finding of not responsible is not considered a false or fabricated report of Prohibited Conduct.** However, when a complainant or third party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the complainant or individual may be subject to disciplinary action. It is a violation of the Standard of Conduct to make an intentionally false report of any Policy violation, and it may also violate state criminal statutes and civil defamation laws.

#### **e. Take Back the Night and Other Public Awareness Events**

Consistent with guidance from the Office for Civil Rights of the Department of Education, public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, or other forums in which community members disclose incidents of Prohibited Conduct do not initiate the College’s Title IX obligations, including its obligation to investigate reports of sexual harassment or sexual assault. Such events may, however, inform the need for campus-wide educational and prevention efforts, and the College may implement broad community initiatives in response to such events where appropriate.

#### **f. Reports Involving Minors or Suspected Child Abuse**

Under Vermont law, certain covered individuals must make a mandatory report of suspected child abuse and neglect, including sexual assault, when such individuals, in their professional capacity or within the scope of their employment, have knowledge of, or observe a minor under the age of 18 whom the individuals know or reasonably suspect has been subject to child abuse or neglect.

All College employees are required to immediately report any suspected child abuse and neglect to the Title IX Coordinator and/or the Director of Campus Public Safety. The source of abuse does not need to be known in order to file a report.

The College will report suspected child abuse and neglect as required by Vermont law. The College must act quickly regarding all reasonable suspicions of sexual or physical abuse. It is not the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of appropriate authorities.

In addition to notifying the Title IX Coordinator and Director of Campus Public Safety, any individual may make a direct report as follows:

- If a child is in immediate danger, call 911.
- If there is no immediate danger, contact the Child Protection Hotline 24 hours a day, 7 days a week, at (800) 540-4000.

The College will initiate an investigation into every report of alleged misconduct by faculty, staff, or volunteers affiliated with the institution where the complainant is a minor, even if the complainant is under the age of 18 and declines to file a formal complaint.

## **SECTION J: EMERGENCY REMOVAL, ADMINISTRATIVE LEAVE, AND INTERIM SUSPENSION**

### **1. Emergency Removal of Students or Employees in Title IX Sexual Harassment Cases**

When the College determines that there is an immediate threat to the physical health or safety of any student or other individual arising from reported conduct that falls within the definition of Title IX Sexual Harassment in this policy, the College can remove a respondent from its education program or activity (which may include removing an employee respondent from their employment at College ) and issue any necessary related no-trespass and no-contact orders. The College will make the decision to remove a respondent from its education program or activity based on an individualized assessment and risk analysis.

If the College makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. Specifically, the respondent shall have forty-eight hours in which to submit a letter to or appear personally or virtually before the Director of Campus Public Safety or designee to contest the emergency removal (though a meeting could be scheduled sooner if requested by the respondent, if practicable).

### **2. Administrative Leave in Title IX Sexual Harassment Cases**

The College always maintains the discretion to place non-student employee respondents on paid administrative leave during the pendency of an investigation and resolution process as outlined below. The College may also place a non-student

employee respondent on unpaid administrative leave during the pendency of an investigation and resolution process.

The College may place student-employee respondents on administrative leave from their employment during the pendency of an investigation and resolution process where deemed appropriate as a supportive measure, under circumstances where it can do so without unreasonably burdening the student-employee respondent.

### **3. Emergency or Interim Suspension, Administrative Leaves and Other Actions in Non-Title IX Sexual Misconduct Cases**

In cases that involve allegations of Non-Title IX Sexual Misconduct (that is, Prohibited Conduct as defined by this Policy that does not fall within the definition of Title IX Sexual Harassment), the College may at its discretion initiate emergency and/or interim suspensions of students and suspension or dismissal of employees in accordance with the College's other policies, procedures and practices, which include but are not limited to the College's employment at will policy.

## **SECTION K: SUPPORTIVE MEASURES**

The College will provide reasonable and appropriate Supportive Measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to College's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter Prohibited Conduct. Supportive Measures may be implemented regardless of whether a crime is reported to Campus Public Safety or local law enforcement.

A complainant or respondent may request a No Contact Order or other Supportive Measure, or the College may choose to implement Supportive Measures at its discretion to ensure the safety of all Parties, the broader College community, and/or the integrity of the process.

The College will maintain the privacy of any Supportive Measures provided under this Policy to the extent practicable and will promptly address any violation of those measures.

### **Range of Measures**

Supportive Measures will be implemented at the discretion of the College, when requested and reasonably available. Supportive Measures may include:

- Access to counseling services and assistance in setting up an initial appointment, both on and off campus;
- Implementation of mutual campus “No Contact Orders” administered to meet the individual needs of parties involved;
- Academic accommodations including but not limited to rescheduling of exams and assignments (in conjunction with appropriate faculty and deans as necessary);
- Providing alternative course completion options (with the agreement of the appropriate faculty);
- Changes in class schedule, including the ability to take an “incomplete,” drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);
- Change in work schedule or job assignment;
- Change in on-campus housing;
- Arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies;
- Assistance from College support staff in completing housing relocation;
- Limiting an individual or organization’s access to certain College facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Any other remedy that can be tailored to the involved individuals to reasonably achieve the goals of this Policy.

## **SECTION L: CARE AND SUPPORT RESOURCES**

The College is committed to treating all members of the community with dignity, care, and respect. Any student who experiences or is affected by conduct prohibited under this Policy, whether as a complainant, a respondent, or a third party, will have equal access to support and counseling services through the College.

The College strongly encourages individuals to report Prohibited Conduct. The College recognizes, however, that the decision to report Prohibited Conduct (to the College and/or law enforcement) can be difficult. The College strongly encourages individuals who are considering whether to report Prohibited Conduct to seek the support of

confidential campus and community resources, listed below. These trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this Policy is pursued. These resources are available regardless of when or where the incident occurred.

There are many resources available on campus and in the surrounding community. As detailed below, there are Confidential Resources which by law cannot share information without the consent of the individual seeking assistance (in most circumstances). There are also a variety of College resources that will be discreet and private but are not considered confidential. These resources will maintain the privacy of an individual's information within the limited circle of those involved in the resolution of a complaint under this Policy.

## **1. Confidential Resources**

The College strongly encourages all community members to make a report of any incident of Prohibited Conduct to the College and local law enforcement. For individuals who are not prepared to make a report, or who may be unsure how to proceed, but are still seeking information and support, there are several legally-protected confidential resources available as designated below. These confidential resources will not share information with the College or anyone else without the individual's permission.

### **a. On-Campus Confidential Resources:**

All Counseling Center counselors and Health Services staff members at Champlain College are confidential resources.

Counseling Center  
Skip Harris, Director  
[sharris@champlain.edu](mailto:sharris@champlain.edu)

Student Health Center  
Annika Hawkins-Hilke, Medical Director  
[ahawkinshilke@champlain.edu](mailto:ahawkinshilke@champlain.edu)

### **b. Confidential Medical Resources**

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses and pregnancy) and second, to properly collect and preserve evidence. There is a limited window of time following an incident of sexual assault to preserve physical and other forms of

evidence, although it may be possible to obtain evidence from towels, sheets, clothes, and other items for longer periods of time. It is best to gather evidence prior to washing a person's body or changing clothing. If clothes have been changed, the clothes worn at the time of the incident should be brought to the examination in a clean, sanitary container such as a paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe and may render evidence useless). A change of clothing should also be brought to the hospital, as the clothes worn at the time of the incident will likely be kept as evidence. The Sexual Assault Nurse Examiner (SANE) is available at the hospital's Emergency Room. If you are seeking follow up medical services, you may request a SANE nurse.

Taking the steps to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this Policy or through the pursuit of criminal prosecution, and may be helpful in obtaining protective orders.

On campus, **Health Services** can provide medical care; however, the Student Health Center is not equipped for forensic examinations.

Taxi vouchers are available at Campus Public Safety, the Student Health Center, and Counseling Services to provide free transportation to local medical centers, or if preferred, College personnel can provide transportation.

### **c. Confidential Off-Campus Resources**

UVM Medical Center  
111 Colchester Avenue  
Burlington, VT  
802-847-0000

Pride Center  
255 S Champlain St Suite 12,  
Burlington, VT  
802-860-7812

Steps To End Domestic Violence  
294 N Winooski Ave  
Burlington, VT  
802-658-1996 - HOTLINE

Howard Center  
208 Flynn Ave  
Burlington, VT  
802-488-7777

HOPE Works (Ending Sexual Violence)  
Burlington, VT  
24 HOUR HOTLINE  
802-863-1236 or 1-800-489-7273

Pearl Street Youth Health Center  
179 Pearl Street  
Burlington, VT  
802-652-1080

Vermont Legal Aid  
264 N Winooski Ave

Woven Collective  
Burlington, VT

Burlington, VT 05401  
1-800-889-2047

<https://www.wovenvt.org/>

National Domestic Violence Hotline  
1-800-787-3224  
1-800-799-7233  
[www.thehotline.org](http://www.thehotline.org)

Rape, Abuse and Incest National Network (RAINN)  
1-800-656-HOPE (4673)  
[www.rainn.org](http://www.rainn.org)

## 2. Non-Confidential Off-Campus Resources

Burlington Police  
1 North Avenue,  
Burlington, VT  
802-658-2704, Ext 8

Chittenden District Courthouse  
32 Cherry Street  
Burlington, VT  
802-651-1950

## 3. Additional Resources

In addition to the resources listed above, Champlain community members have access to a variety of resources provided by the College. All of the on-campus reporting options listed above have staff members trained to support individuals affected by Prohibited Conduct and to coordinate with the Title IX Coordinator consistent with the College's commitment to a safe and healthy educational environment. While not bound by confidentiality, those resources will maintain the privacy of an individual's information within the limited circle of those involved in the Title IX process.

Students, faculty and staff may also access resources located in the local community in addition to those resources above. These organizations can provide crisis intervention services, counseling, medical attention and assistance in dealing with the criminal justice system. It may be helpful for survivors to have someone who can help them explore their off-campus options and guide them through legal processes; an advocate can provide assistance in this area. A local resource, HOPE Works, offers advocacy support. **Faculty and staff can also access support through the Employee Assistance Program (EAP) 800-828-6025 (24 hours).**

## SECTION M: PREVENTION AND AWARENESS PROGRAMS

The College is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming as part of their orientation, and returning students and current employees receive ongoing training and related education. For a description of the College's prevention and awareness programs,

*Updated January 2021*

including programs on minimizing the risk of incidents of Prohibited Conduct and bystander intervention, see the Student Affairs, Diversity and Inclusion “Safety and Respect” website.

## **SECTION N: TRAINING**

The College provides training to students and employees to ensure they understand this Policy and the topics and issues related to maintaining an educational and employment environment free from all forms of Prohibited Conduct.

## **SECTION O: INVESTIGATION PROCESS**

Unless specified otherwise, this section outlines the procedures the College follows in investigating allegations that a person has experienced Prohibited Conduct (“complainant”) due to the actions of a student, employee, or other College community member who allegedly engaged in Prohibited Conduct (“respondent”) in violation of the College’s Sexual Misconduct Policy. Complainant and respondent will be referred to collectively as the “parties.”

### **1. Initial Report**

An individual who wishes to report an act of Prohibited Conduct (including, but not limited to discrimination, harassment, or retaliation) is encouraged to report directly to the Title IX Coordinator or a Deputy Title IX Coordinator. A report can be made in-person or by video meeting, by telephone, in writing, by email, or by submitting an electronic [Title IX and Sexual Misconduct Report Form](#). Contact information for the Title IX Coordinator and Deputy Coordinators can be found in Section H: Champlain’s Title IX Coordinator and Deputy Coordinators.

The Title IX Case Management Team will coordinate the investigation of all reports of Prohibited Conduct defined in the Sexual Misconduct Policy. The Title IX Coordinator, or a Deputy Title IX Coordinator (or designee) will conduct an initial intake assessment in all instances where the complainant reports Prohibited Conduct, as described below.

In cases where the named respondent is not a Champlain student, but is a faculty member, or employee or an affiliate of the College, the Title IX Case Management Team will consult with the appropriate departments.

### **2. Initial Assessment & Intake Meeting**

Upon receipt of a report, the Title IX Coordinator, a Deputy Title IX Coordinator or a designee will promptly conduct an Intake Meeting or communication with a complainant. At that meeting, the following topics will be discussed, as appropriate:

- The availability of Supportive Measures as defined above;
- The complainant's wishes with respect to supportive measures;
- The availability of supportive measures with or without the filing of a formal complaint;
- The process for filing a formal complaint.
- Further details regarding these issues are provided below.
- Immediate physical safety and emotional well-being needs;
- Notifying the complainant of the right to contact law enforcement and seek medical treatment (and the right to decline to do so), and the importance of preservation of evidence;
- Notifying the complainant of the right to be assisted by individuals at the College in contacting law enforcement;
- Notifying the complainant of confidential and non-confidential reporting options on and off campus;
- Providing the complainant with information about on and off campus resources that may be available to the extent applicable, including counseling, health, mental health, victim advocacy, legal assistance (including visa and immigration assistance), student financial aid, and other available services;
- Explaining the right to object to the assignment of a designated Deputy Title IX Coordinator or investigator(s) based on actual bias or conflict of interest to proceed through the Investigation Process;
- Explaining that the complainant has a right to an advisor of their choice during the process and the role of the advisor;
- Assessing for pattern evidence or other similar conduct if possible;
- Explaining the Good Samaritan Statement;
- Explaining the College's policy prohibiting retaliation;
- Explaining that if the complaint involves a Clery crime, the Deputy Title IX Coordinator will notify Campus Public Safety of the report to assess the need to (1) enter the report into the College's daily crime log; and (2) issue a timely warning as defined by the Clery Act, and assure the complainant that any such reports will not include the complainant's personally identifying information.
- Explaining that the complainant may request accommodations related to the Investigation Process through the Office of Accessibility.

Following or at the meeting, the Title IX Coordinator, Deputy Title IX Coordinator or designee will provide the complainant with a summary of the above-listed information in writing.

As described in the Sexual Misconduct Policy, the complainant has the right to request that the Title IX Coordinator, Title IX Coordinator, Deputy Title IX Coordinator or designee or designee not share the complainant's name (or other identifiable information) with the respondent, or that the Title IX Coordinator take no formal action in response to the report. If the complainant makes such a request, the Title IX Coordinator, in consultation with the Title IX Case Management Team, will balance the request with its obligation to provide a safe and nondiscriminatory environment for all College community members.

The Title IX Coordinator, in consultation with the Title IX Case Management Team, will consider factors that may include but are not limited to whether there are circumstances suggesting there is a risk of the alleged respondent committing additional acts of Prohibited Conduct involving the complainant or others in the campus community, whether the College has received similar complaints regarding the alleged respondent, whether the alleged respondent has a history of arrests or records from a prior school indicating a history of violence, whether the alleged respondent threatened or appears to pose a risk of further Prohibited Conduct against the complainant or others, whether Prohibited Conduct was allegedly committed by multiple respondents, whether a pattern of perpetration (e.g. more than one report involving a particular location or group) appears to be present, whether violence was perpetrated with or without a weapon, and whether the College possesses other means to obtain relevant evidence.

Absent a request for confidentiality as described above, the Title IX Coordinator, Deputy Title IX Coordinator or designee will ask the complainant general questions to get a basic understanding of the reported Prohibited Conduct. The interview will include questions to understand the key facts upon which the complainant bases the report to appropriately assess how to proceed.

### **3. Filing a Formal Complaint**

A complainant who would like the College to pursue the formal investigation and resolution process must submit a formal complaint, signed physically or electronically by the complainant, to the Title IX Coordinator or a Title IX Deputy Coordinator. The formal complaint must state the allegations and request that the College initiate an investigation. A formal complaint may be submitted prior to or at any point after the intake meeting.

#### **4. Determinations of Applicable Procedures, Dismissals, Transfers and Appeals of Such Determinations**

When a complainant requests an investigation, the Title IX Coordinator or designee will promptly upon receipt of a formal complaint:

- 1) Determine whether the conduct alleged would, if proved, constitute Title IX Sexual Harassment (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, or Domestic Violence, Dating Violence or sex-based Stalking) as defined in the Title IX Sexual Harassment definition stated above;
- 2) Determine whether the conduct allegedly occurred in the College's education program or activity;
- 3) Determine whether the conduct allegedly occurred in the United States; and
- 4) Determine whether at the time the formal complaint was made, the complainant was participating or attempting to participate in a College program or activity.

If a formal complaint of conduct that would, if proved, satisfy all four of these elements and constitute Title IX Sexual Harassment as defined in this policy is filed by a complainant or signed by the Title IX Coordinator, it will be investigated and resolved through the procedures applicable to Title IX Sexual Harassment matters as outlined below.

The College will, as noted above, investigate alleged Title IX Sexual Harassment when a complainant submits a formal complaint to the Title IX Coordinator and requests an investigation. The Title IX Coordinator may also choose at their discretion to sign a formal complaint and initiate an investigation, even if the complainant chooses not to do so. Again, in cases where the complainant does not wish to submit a formal complaint but the Title IX Coordinator decides in their discretion to sign a complaint and initiate an investigation and resolution process, the Title IX Coordinator will not be a complainant or otherwise a party to the matter.

If some but not all of the allegations in the complaint satisfy all four of these elements and a formal complaint is received from a complainant or signed by the Title IX Coordinator, the College will address the entire matter through the procedures applicable to Title IX Sexual Harassment matters as outlined below, including a live hearing (that is, the College will as required by the May 2020 Title IX regulations follow Title IX Sexual Harassment procedures to address the alleged Title IX Sexual Harassment, and it will, to promote efficiency, choose to follow Title IX Sexual Harassment procedures to address Non-Title IX Prohibited Conduct and other non-Title

IX alleged misconduct in such mixed cases, so that all related misconduct may be addressed through one investigation and resolution process).

If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all four of these elements, the College will, as required by the May 2020 Title IX regulations, dismiss the matter for purposes of the Title IX Sexual Harassment process, but will transfer it for investigation under the procedures outlined in this section, and for resolution under the Standard of Conduct or People Center resolution processes, as referenced below, as deemed appropriate by the College. Investigation and resolution of a matter that does not fall within the definition of Title IX Sexual Harassment may be pursued, dismissed altogether, or transferred to another College process, as deemed appropriate in the College's discretion and/or as appropriate under applicable law.

Even if the initial allegations of a matter fall within the definition of Title IX Sexual Harassment, the College may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled at or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a formal complaint is dismissed by the College under the circumstances described above, the College will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the Title IX Sexual Harassment appeal procedures outlined below.

If the respondent is a student and an employee, the Title IX Coordinator will determine which procedures will apply based upon the facts and circumstances, such as whether the respondent's status as a student or an employee predominates in the context of the Prohibited Conduct. If a student-employee is found to have engaged in alleged Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment, and in connection with their student status, as appropriate.

## **5. Notice**

If the College initiates an investigation of Prohibited Conduct it will provide to the parties a written notice (by electronic or other means) that includes:

- Information about the College's formal and informal resolution processes;
- A statement of the allegations of behavior potentially constituting Prohibited Conduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial post-intake interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Information regarding the College's presumption of good faith reporting and a summary of the College's false information policy;
- Notification that parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
- Notification of existing counseling, health and mental health services available on campus and/or in the community;
- Notification that taking any retaliatory action (directly or through others) against any person because they are involved in the investigation is prohibited and will be considered a separate violation of College policy;
- Notification that the parties may inspect and review evidence during the investigation and resolution process, as provided below;
- The name of the investigator(s), as well as the right to file a written objection within two business day to the investigator(s) based on the grounds of actual bias for or against complainants or respondents generally, actual bias for or against a particular complainant or respondent, or conflict of interest;
- The right to file a written objection within two business days to the Title IX Coordinator, Deputy Coordinator, or designee based on the grounds of actual bias for or against complainants or respondents generally or for or against a particular complainant or respondent, or conflict of interest;
- The right to suggest witnesses and provide evidence to the investigator(s); and
- The right to request accommodations related to the Investigation Process through the Office of Accessibility.

If in the course of an investigation the College decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

## **6. Consolidation of Formal Complaints**

The College may consolidate formal complaints as to allegations of Prohibited Conduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of such Prohibited Conduct arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

## **7. Initial Meeting with Respondent**

The respondent will also receive an invitation to meet with the Title IX Coordinator or designee to review the process, resources and the role of the advisor. If the respondent does not respond to the meeting request or is unable to meet within three (3) days, the Deputy Title IX Coordinator or designee will provide the following information in writing:

- On and off campus resources that may be available to the extent applicable, including counseling, health, mental health, victim advocacy, legal assistance (including visa and immigration assistance), student financial aid, and other available services;
- The range of Supportive Measures that may be available to the extent applicable, including changes to academic, living, transportation, and/or working situations, and other Supportive Measures described above;
- An overview of the procedural options and processes; and
- The College’s policy prohibiting retaliation.
- The right to request accommodations related to the Investigation Process through the Office of Accessibility.

## **8. Investigation**

The Title IX Coordinator or designee will select an investigator or investigators (referred to here as “investigator” for ease of reference), who will conduct the investigation. The parties will be given notice of the identity of the investigator and an opportunity to object to their appointment, as noted above.

The investigator will conduct an appropriate investigation which may include interviews with the complainant, the respondent, and other persons with information. These interviews may be recorded. As required by the Clery Act, individuals conducting investigations and determination proceedings will receive training annually on the issues related to sexual assault, harassment, sexual misconduct, domestic violence, dating

violence, and stalking, and how to conduct an investigation and/or determination process that protects the safety of complainants and promotes accountability.

The complainant and respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses and submit evidence. However, investigation logistics, including but not limited to the sequence of interviews, the decision to interview particular witnesses, and the decision to allow or consider evidence offered by the parties, are within the discretion of the investigator.

The complainant and respondent will be asked to identify, preserve and submit all evidence pertaining to the matter under investigation, and to identify witnesses they believe may have relevant information to share. The investigator is not required to consider the evidence submitted or interview any particular witness, even if identified by one of the parties. However, in determining whether to interview witnesses or review evidence, the investigator should consider such factors as equity, fairness, thoroughness, and impartial treatment of both parties.

Complainants and respondents are entitled to the same opportunities to have an advisor of their choice present at any interviews, meetings, or proceedings that they are attending related to the investigation process under this policy. The advisor may advise the complainant or respondent privately, but cannot act as a speaking advocate at a meeting. An investigator or other College representative may terminate meetings, and/or proceed with the investigation based on otherwise-available information, if an advisor is disruptive or otherwise refuses to comply with the requirements of this policy.

While each party may have an advisor of choice, they may not compel any specific person to serve as their advisor. The College's faculty and/or staff may be available to serve as advisors, but none are required to do so.

The parties' equal opportunity to present witnesses may include evidence from fact and expert witnesses. Parties are not restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence. Parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

## **9. Preliminary Investigative Report**

Once the investigator has gathered all of the information that they determine should be gathered as an initial matter, they will prepare a preliminary investigative report. The preliminary investigative report will summarize relevant evidence but will not contain any

recommendations regarding whether the respondent violated this policy or any other College policy at issue.

The College will provide each party with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which College does not intend to rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Such evidence will not include un-redacted privileged records or information that may have been gathered or received during the investigation, absent written consent from the party holding the privilege.

Given the sensitive nature of the information provided, the Title IX Coordinator or designee will provide the information for review in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). Neither the Parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate, share, or remove the information provided, and they will be required to execute an agreement confirming that they will not do so. This agreement will cover the final investigative report and final compilation of evidence described below, which will be covered by the same restrictions. An advisor who fails to abide by this policy may be subject to discipline to the extent applicable and/or may be excluded from further participation in the process.

#### **10. Review and Response to Preliminary Investigative Report**

The parties may respond to the Preliminary Report; the Parties must submit any response within ten (10) business days of being notified of their opportunity to review the report. The parties may respond in one or both of the following ways:

- The parties may provide a written response to the Preliminary Investigative Report, or any portion of it. The investigator will consider any written response provided by the parties in preparing the Final Investigative Report.
- The parties may submit a written request for additional investigation. Such requests may include, but are not limited to, the following: (1) request(s) for follow-up interview(s) with existing witnesses or the other party to clarify or provide additional information, including suggesting questions to the investigator(s) to pose to witnesses or the other party; (2) request(s) for interviews with new witnesses; or (3) request(s) to consider new evidence. Any request for additional investigation shall explain the reason for the request.

If neither of the parties requests additional investigation, the investigator will prepare the Final Investigative Report. If either (or both) parties request additional investigation, the investigator will review the request(s) in consultation with the Title IX Coordinator or designee. The investigator will conduct the requested additional investigation if the investigator, in consultation with the Title IX Coordinator or designee, determines that the request(s) will assist the investigator in completing the investigation. The investigator and Title IX Coordinator or designee will assess whether investigation of the additional information requires a substantial deviation from the recommended timeframe for completion of the investigation; if so, the Title IX Coordinator or designee will notify the parties in writing with an anticipated revised time frame.

If the investigator conducts additional investigation, the investigator will prepare an Addendum to the Preliminary Report (“Addendum”). The Addendum will include: (1) a summary of the additional investigation; (2) a statement as to whether the additional investigation changed any finding in the Preliminary Report (and, if it did, the investigator will identify which finding(s) changed); and (3) additional exhibits, to the extent the additional investigation resulted in additional documentary evidence. The investigator will submit the Addendum to the Title IX Coordinator or designee. The Title IX Coordinator or designee may require the investigator to conduct additional investigation before the Addendum is deemed complete.

Once the Title IX Coordinator or designee has agreed that the Addendum is complete, the Title IX Coordinator or designee will provide the Preliminary Investigative Report, any Addendum, and any exhibits to the parties and advisors for review, through a secure information-sharing process, and subject to the same restrictions on duplication, re-distribution, etc., as are outlined above. The investigator will then work to prepare the Final Investigative Report, as described below.

## **11. Final Investigative Report**

After considering and addressing as deemed appropriate any written response submitted by either party and/or any additional information addressed in an Addendum, if applicable, or after the 10 business day comment period has lapsed without receiving a written response or responses to the Preliminary Investigative Report, the investigator will prepare a Final Investigative Report. The Final Investigative Report will include the investigator’s non-binding recommendation as to whether the respondent should be found responsible for violating the policy provisions at issue. The investigator’s recommendation will be reached by applying the preponderance of evidence standard, i.e., whether it is more likely than not that the policy was violated. The Final Investigative Report will be reviewed by the Title IX Coordinator before it is issued.

The Final Investigative Report will be provided simultaneously to the parties and their advisors, if any. The Final Investigative Report will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the investigator. At least 10 business days prior to any hearing that will be held in the case, if applicable, the College will send to each party and the party's advisor, if any, the Final Investigative Report and exhibits in an electronic format or a hard copy, for their review and written response. Any written response a party wishes to provide must be submitted to the Title IX Coordinator or designee within 10 business days of receiving the Final Investigative Report and exhibits. The Final Investigative Report and the parties' written responses, if any, will be provided to the hearing officer in advance of any hearing, in cases where a hearing will be held.

## **SECTION P: FORMAL POST-INVESTIGATION PROCESS ALTERNATIVES**

Once the investigation has been completed, the matter will move to resolution through one of three formal alternative resolution processes, as follows:

- 1) If any allegations of Prohibited Conduct raised in the matter fall within the definition of Title IX Sexual Harassment, the resolution process will be overseen by the Title IX Coordinator or designee and will proceed to a live hearing and, if applicable, sanctioning and appeal process as described immediately below.
  - a) As noted above, if some but not all of the allegations in a complaint satisfy all four of the elements of a Title IX Sexual Harassment matter and a formal complaint is received from a complainant or signed by the Title IX Coordinator, the College will address the entire matter through the procedures applicable to Title IX Sexual Harassment matters as outlined immediately below, including a live hearing (that is, the College will as required by the May 2020 Title IX regulations follow Title IX Sexual Harassment procedures to address the alleged Title IX Sexual Harassment, and it will, to promote efficiency, choose to follow Title IX Sexual Harassment procedures to address non-Title IX Prohibited Conduct and other non-Title IX alleged misconduct in such mixed cases, so that all related misconduct may be addressed through one investigation and resolution process).
- 2) If all of the allegations of Prohibited Conduct fall outside of the definition of Title IX Sexual Harassment and the respondent is a student, the post-investigation resolution process will be overseen by the Office of Community Standards. The

Associate Director of Community Standards or their designee will review the Final Investigative Report and all related evidence and issue a written determination. If appropriate, the Dean of Students or designee will issue written sanctions. In such cases, these post-investigation procedures will apply exclusively, and the Title IX Sexual Harassment post-investigation hearing, sanction and appeal process described immediately below will not apply.

- 3) If all of the allegations of Prohibited Conduct fall outside of the definition of Title IX Sexual Harassment and the respondent is an employee, the post-investigation resolution process will be overseen by the People Center. The Vice President of Human Resources, the Vice President of Academic Affairs, or their designee, will review the Final Investigative Report and all related evidence, and issue a written determination. If appropriate, the Vice President of Human Resources, the Vice President of Academic Affairs, or their designee will issue written sanctions. In such cases, these post-investigation procedures will apply exclusively, and the Title IX Sexual Harassment post-investigation hearing, sanction, and appeal process described immediately below will not apply.
  - a) As noted above, if the respondent is a student and an employee, the Title IX Coordinator will determine whether Student Conduct or People Center procedures will apply based upon the facts and circumstances, such as whether the respondent's status as a student or an employee predominates in the context of the alleged Prohibited Conduct. If a student-employee is found to have engaged in Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment, and in connection with their student status, as appropriate.

## **SECTION Q: HEARING PROCESS IN CASES INVOLVING TITLE IX SEXUAL HARASSMENT ALLEGATIONS**

### **1. Hearing Officers**

Hearings will be presided over by a hearing officer, who will make the decision as to whether or not the respondent violated the Policy provisions at issue. This decision will be made using the preponderance of the evidence standard, which means that a Policy violation will only be found if the evidence establishes that it is more likely than not that the violation occurred. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and

evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted.

Hearing officers will be appointed by the Title IX Coordinator. In selecting a hearing officer for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or actual bias against complainants or respondents generally or an individual complainant or respondent. The College will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within 3 business days of such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

## **2. Advisors**

Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors may be, but are not required to be, attorneys. If a party does not have an advisor of their choice present at a hearing, the College will without fee or charge to the party provide an advisor of the College's choice, again for the limited purpose of conducting cross-examination on behalf of that party. No later than 10 business days before the hearing, parties should inform the Title IX Coordinator of the identity of any advisor of choice who will accompany them to the hearing, so that the College will know whether or not it needs to arrange for the presence of a College-provided advisor.

At a time and manner deemed appropriate by the hearing officer, the advisor for each party will be permitted to ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. Except for that limited role, advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. The College reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate College-provided advisor.

### **3. Requests for Appearance of Witnesses**

If a party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator or designee at least ten (10) business days before the date of the hearing. The Title IX Coordinator or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator or designee will inform the witness that their presence at the hearing is requested. Witnesses are not required to attend the hearing.

### **4. Conduct of Hearings and Relevance**

At or before the hearing, the hearing officer will receive a copy of the Final Investigative Report, any attachments thereto, and copies of the parties' written responses to the Final Investigative Report, if any, which will be part of the information of record to be considered by the hearing officer. The recommendation regarding responsibility made by the investigator in the Final Investigative Report is only advisory and is not binding on the hearing officer; the hearing officer will make an independent determination regarding responsibility based upon the investigative report, evidence admitted at the hearing, and the testimony and cross-examination of parties and witnesses at the hearing, as applicable.

New evidence may not be introduced during the hearing. If there is a request to introduce new evidence, the hearing officer will determine in their discretion (considering factors such as, but not limited to, whether the evidence was reasonably available to the party during the investigation, the apparent materiality and relevance of the evidence, and prejudice to the other party and delay that could follow from introduction of the new evidence), and will determine whether to allow the evidence to be introduced, to exclude the new evidence, or to suspend the hearing and require further investigation regarding the new evidence.

Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer, followed by opening statements from any party who wishes to provide one, followed by the hearing officer's asking relevant initial questions of the parties as deemed appropriate by the hearing officer. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner

with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party's advisor to ask the other party all relevant questions and follow-up questions, including those challenging credibility.

Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties' advisors will be permitted to ask relevant questions of witnesses.

In accordance with May 2020 Title IX regulations, such cross-examination by advisors will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Advisors are not permitted to object to hearing officer decisions regarding relevance during a hearing.

Regarding the evidence subject to inspection and review that was provided to the parties and their advisors under the investigation procedures outlined above, a copy of such evidence will be made available at the hearing, and each party and/or their advisor (as applicable) will have an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment

capacity, or privileged communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege.

At the request of either party, the College will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

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

## **5. Record of Hearings**

The College will create an audio or audiovisual recording and/or transcript, of any live hearing, and will make it available to the parties for inspection and review.

## **6. Determinations Regarding Responsibility**

Within ten (10) business days after the hearing, the hearing officer (and if necessary the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include:

- Identification of the section(s) of the College's Title IX Sexual Harassment policy alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;

- Conclusions regarding the application of definitions of sexual harassment in the College's Title IX Sexual Harassment Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor; and
- Identification of the College's procedures and permissible bases for the complainant and respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

The determination will also notify the parties whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant, but will not provide details about any such remedies.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination regarding responsibility and, if necessary, any sanctions as determined through the procedures outlined below.

## **SECTION R: SANCTIONS IN CASES INVOLVING TITLE IX SEXUAL HARASSMENT ALLEGATIONS**

If the respondent is found responsible for one or more violations of this Policy (and/or other College policies, in mixed Title IX Sexual Harassment/other policy violation cases), the College will issue sanctions commensurate with the violation(s).

In cases where the respondent is a student, the Dean of Students or designee will issue final sanctions. In cases where the respondent is a faculty member, the Vice President of Academic Affairs, Vice President of Human Resources, or designee will issue final sanctions. In cases where the respondent is an employee, the Vice President of Human Resources or designee will issue final sanctions.

Remedies or sanctions for violations of the College's Sexual Misconduct Policy may include but are not limited to:

- verbal or written warning;

- training;
- counseling;
- probation;
- no contact order;
- no trespass order;
- suspension of a student's enrollment (with or without case-specific conditions on re-enrollment), or suspension of an employee without pay;
- dismissal from employment;
- dismissal from the College;
- temporary or permanent transfer to a different position;
- class or academic re-assignment;
- reassignment of work or academic work;
- referral to another College process as necessary to determine employment status-related issues; or
- alteration of living or work environment.

The responsible office may consider the cumulative disciplinary history of the respondent, if any, when making sanctioning decisions.

As noted above, the College's decision on any sanctions and an explanation of the rationale therefore will be documented in the written determination. Thus, in cases where the hearing officer determines that the respondent is responsible for a policy violation, the hearing officer and the sanctioning officer will work together to prepare a single written determination document that will contain all of the information listed above, as applicable. Such written determination will be provided simultaneously to both parties.

### **Supportive Measures**

Non-disciplinary supportive measures such as no-contact orders may be enacted or continued even in cases in which the respondent is not found responsible for a policy violation.

## **SECTION S: APPEALS IN CASES INVOLVING ALLEGATIONS OF SEXUAL MISCONDUCT**

Both parties have the right to appeal decisions made through the process outlined above. All appeals must be made in writing and sent to the Title IX Coordinator. An

appeal of any decision must be received within ten (10) business days after the parties have been informed of the decision. Appeals are heard by an appeal officer.

Parties may appeal either:

1. The Title IX Coordinator's dismissal of a formal complaint for Title IX purposes, or
2. A determination regarding responsibility and/or sanctions, if applicable, on the grounds that:
  - a. there was a procedural error that unfairly affected the outcome;
  - b. there is new information that was not reasonably available during the investigation and resolution process that would have affected the outcome;
  - c. The Title IX Coordinator, investigator, or decision-maker(s) had a conflict of interest or actual bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
  - d. the sanctions imposed are disproportionate to the nature and severity of the offense.

The role of the appeal officer is limited. Appeals are not intended to be a full rehearing of the reported conduct. Appeals are confined to a review of the record on the grounds stated above. The individual appealing carries the burden to demonstrate that either the alleged procedural error, the proposed new evidence, or the alleged bias/conflict of interest affected the outcome of the proceeding, or that the sanctions imposed are disproportionate to the nature and severity of the offense.

The party who submits the written appeal will be the "appellant," and the other party will be the "appellee." The appellee will have five (5) business days to submit a response to the written appeal. At the conclusion of these time periods, the Title IX Coordinator will refer the written appeal, the Final Investigative Report, any exhibits admitted at the hearing, a recording of the live hearing, and the written determination (the "Appeal Record"), to an appeal officer.

The Title IX Coordinator or designee will appoint the appeal officer and will notify both parties of that appointment. Both parties will have two (2) business days to object to the appeal officer's selection on the basis of actual bias for or against complainants or respondents generally or a particular complainant or respondent, or conflict of interest. If the Title IX Coordinator determines that an appeal officer may have actual bias or conflict of interest, the Title IX Coordinator will remove the appeal officer and designate a new appeal officer. This process can be repeated as necessary.

The appeal officer will determine whether any grounds for the appeal are substantiated. If the appeal officer determines that none of the grounds are substantiated, the appeal officer will share that determination with the Title IX Coordinator. The Title IX Coordinator or designee will notify both parties of that outcome. If the appeal officer determines that one or more grounds for the appeal is/are substantiated, the appeal officer will take appropriate action as indicated below.

***Procedural Error:*** If it is determined that a procedural error affected the outcome, the appeal officer may return the matter to the investigator or the hearing officer with instructions to correct the error, and to reconsider the findings as appropriate, or to take other action as deemed appropriate.

***New Information:*** If the appeal officer determines that new information should be considered, the matter will be returned to the investigator if additional investigation is needed. The investigator(s) will prepare an Addendum to the Final Investigative Report, and provide the parties with an opportunity to respond to the Addendum consistent with the opportunity to do so in accordance with the procedures outlined above. An additional hearing will be conducted as deemed necessary, focused on the new information only.

***Bias or Conflict of Interest:*** If the appeal officer determines that there was actual bias or conflict of interest on the part of the investigator that affected the outcome, the appeal officer may order a new investigation with a new investigator, and a new resolution process or live hearing as appropriate. If the Appeal Officer determines that there was actual bias or conflict of interest on the part of the hearing officer that affected the outcome, the appeal officer may order a new resolution process or live hearing as appropriate.

***Sanctions:*** If the appeal officer determines the sanctions imposed are disproportionate to the nature and severity of the offense, the appeal officer in conjunction with the appropriate Vice President may modify the sanctions.

### **Notification of Appeal Outcome**

The appellant and the appellee will be notified simultaneously in writing of the outcome of the appeal. The appeal officer's decisions are final and are not subject to appeal.

# **SECTION T: ADDITIONAL PROVISIONS REGARDING FORMAL RESOLUTION OF ALLEGATIONS OF PROHIBITED CONDUCT**

## **1. Additional Charges**

The College reserves the right to charge parties with additional violations of the Sexual Misconduct Policy as appropriate based on new information that is provided during the course of the investigation.

## **2. Training**

The College provides training to all individuals within the community who are involved in responding to, investigating, or resolving reports of Prohibited Conduct. Applicable training materials will be posted on the College's web site as required by May 2020 Title IX regulations. If the College retains an individual outside the community to respond to, investigate, or resolve reports of Prohibited Conduct, the College requires that the retained individual has received adequate training consistent with the College's standards.

## **3. Notifications**

The Title IX Coordinator or designee will make reasonable efforts to ensure that the complainant and the respondent are notified simultaneously of the status of the investigation and resolution process, consistent with the processes described herein. Both parties may, at any time, request a status update from the Title IX Coordinator or designee.

## **4. Modification of Investigation and Resolution Process**

The College will follow the investigation and resolution process described herein barring exceptional circumstances. In rare instances, however, the College may be required to adapt or modify the investigation and resolution process (including timelines), in accordance with applicable law, to ensure an equitable resolution of a report of Prohibited Conduct. The College reserves this right. In such instances, the College will notify both Parties of the modification of the process and, if appropriate, the exceptional circumstances requiring the College to adapt or modify the process.

## **6. Alcohol and Substance Use**

The purpose of this investigation and resolution process is to resolve reports of Prohibited Conduct. It is not the purpose of this investigation and resolution process to subject individuals to disciplinary action for their own personal consumption of alcohol or

drugs. Consistent with the purpose of this process, the College will not subject individuals, including witnesses, who participate in the process to disciplinary action for information revealed in the course of the process, provided that the individual's behavior did not, and does not, place the health and safety of others at risk. The College may pursue educational initiatives or remedies related to an individual's consumption of alcohol or drugs. The use of alcohol or other drugs will never function as a defense for engaging in Prohibited Conduct.

### **7. Failure of Advisor to Comply with Investigation and Disciplinary Process**

If an advisor fails to comply with the procedures set forth here, including through a material breach of confidentiality about the investigation and resolution process, the College reserves the right to exclude the advisor from further participation in the process and replace them with another advisor.

### **8. Nature of Proceedings**

Proceedings conducted under these procedures are entirely administrative in nature and are not considered legal proceedings, but rather are procedures designed to address College policy violations. Neither party may audio nor video record the proceedings.

### **9. Withdrawal from the Institution with Charge Pending**

If a student makes the decision to withdraw from Champlain College after a notice of investigation is communicated to the student but before any determination regarding responsibility is made, the College will suspend the disciplinary process at the time of withdrawal. The College will however gather information as it deems appropriate in order to facilitate the College's consideration of the matter if the student seeks readmission at a later time. The student's conduct file will reflect that the charge(s) is pending and was suspended because of the withdrawal. The investigation and resolution process will resume if and when the student seeks readmission or re-enrollment.

### **10. Records**

The Title IX Coordinator and the Office of Community Standards will retain records of all reports, regardless of whether the matter is resolved by means of the formal investigation and resolution process. Complaints that are not resolved by means of an informal or formal resolution are not part of a student's conduct file or academic record.

Findings of responsibility in matters resolved through the investigation and formal resolution process are part of a student's and employee's conduct record. Such records

shall be used in reviewing any further conduct, or developing sanctions. The conduct files of students who have been suspended or dismissed from the College are maintained in the Office of Community Standards indefinitely. Conduct files of students who have not been suspended or dismissed are maintained in the Office of Community Standards for no fewer than seven years from the date of the incident. Records pertaining to cases involving faculty respondents will be maintained by the Office of the Provost & Academic Affairs, the People Center and/or the Division of Student Affairs, and records pertaining to cases involving non-faculty employees will be maintained by the People Center and/or the Division of Student Affairs.

The College will maintain records as required by the May 2020 Title IX regulations.

### **11. Accommodations**

Parties in need of reasonable accommodations throughout the investigation and resolution processes may notify the Office of Accessibility. The Title IX Coordinator or designee will work with the Office of Accessibility to provide appropriate accommodations.

## **SECTION U: INFORMAL RESOLUTION PROCEDURES**

### **1. Informal Resolution of Matters That Involve Allegations of Title IX Sexual Harassment**

Informal resolution is a voluntary resolution option that does not involve formal hearing-based resolution procedures. Informal resolution may be used in Title IX Sexual Harassment matters in which a formal complaint has been filed by a complainant or signed by the Title IX Coordinator.

At any time prior to reaching a determination regarding responsibility, the College may facilitate an informal resolution process (e.g., mediation or restorative justice) where requested by a party and agreed to by both parties. If a party requests the initiation of an informal resolution process and the Title IX Coordinator agrees that the matter is appropriate for informal resolution, the College will provide to each party a written notice that discloses:

- 1) The allegations;
- 2) The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;

- a) As noted below, the College generally permits parties to withdraw from the informal resolution process and initiate or re-initiate a formal investigation and hearing process at any time before the informal resolution process is completed and any informal resolution is agreed to in writing by the parties; and
- 3) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

All parties and the Title IX Coordinator must agree to informal resolution for this option to be used. The Title IX Coordinator will assess the request for informal resolution in light of factors such as, but not limited to, the severity of the alleged violation and the potential risks to campus community members posed by the reported misconduct. The College will only proceed with an informal resolution process if both parties provide their voluntary, written consent to having the matter resolved through the informal resolution process.

The matter will be deemed resolved if and when the parties expressly agree in writing to an outcome that is acceptable to them and which is approved by the Title IX Coordinator (in consultation with other College administrators as deemed necessary). A party may withdraw from the informal resolution process at any time prior to their execution of a written informal resolution agreement. After an informal resolution is agreed to in writing between the parties, neither party may initiate a formal resolution process regarding the same factual allegations.

At any time before a matter is resolved through informal resolution, the Title IX Coordinator may terminate an informal resolution process and initiate or re-initiate a formal investigation and resolution process, as they deem appropriate in their discretion.

## **2. Informal Resolution of Non-Title IX Prohibited Conduct and Other Cases**

Informal resolution may also be used in non-Title IX Prohibited Conduct cases that do not involve allegations of Title IX Sexual Harassment and/or other alleged policy violations, whether or not a formal complaint has been filed by a complainant or signed by the Title IX Coordinator, as deemed appropriate by the Title IX Coordinator, the Office of Community Standards, and/or the People Center, as appropriate. The procedures for such informal resolutions will be determined at the discretion of the Title IX Coordinator, the Office of Community Standards, and/or the People Center, with agreement of the parties, as appropriate.

The College will not offer to facilitate, and will not utilize, an informal resolution process in any case involving allegations that a College employee sexually harassed a student.