

LAFAYETTE COLLEGE POLICY ON SEXUAL AND GENDER-BASED HARASSMENT AND OTHER PROHIBITED CONDUCT

I. STATEMENT OF PURPOSE

Lafayette College is committed to providing a learning and working environment that emphasizes the dignity and worth of every member of its community. In order to create and maintain such an environment, the College recognizes that all members of the College community are responsible for ensuring that Lafayette College is free from harassment based on sex or gender. Sexual and gender-based harassment in any form or context subverts the mission and the work of the College and can threaten the career, educational experience, and well-being of students, faculty, and staff.

Lafayette College is, further, committed to freedom of thought, discourse, and speech and the attainment of the highest quality of academic and educational pursuits. Consistent with the College's policy on academic freedom (Faculty Handbook, Appendix A), Lafayette's harassment policy is not meant to prohibit or inhibit educational content or discussions that include controversial or sensitive subject matters. In articulating this policy, the College affirms its adherence to the principle of academic freedom as well as its commitment to providing a learning and working environment free of sexual and gender-based harassment.

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex or gender in the College's programs and activities. The College will provide a prompt and equitable response to complaints or notice it receives about prohibited conduct with measures designed to stop the behavior, prevent its recurrence, and address any adverse effects of such conduct in College-related programs or activities.

II. POLICY ON SEXUAL AND GENDER-BASED HARASSMENT AND OTHER PROHIBITED CONDUCT

A. General Rule Prohibiting Sexual and Gender-Based Harassment

Sexual and gender-based harassment are forms of discrimination which violate the standards of conduct expected of every member of the College community and are strictly prohibited. This policy prohibiting sexual and gender-based harassment applies to the conduct of all community members including students, employees, volunteers, and other third-parties. Sexual and/or gender-based harassment will not be tolerated in any context or position whether it be between faculty and students, faculty and other faculty, coaches and athletes, supervisors and employees, staff and students, students and other students, workers and coworkers, or others. This general rule prohibiting sexual and gender-based harassment applies equally regardless of the relative status or position of the individuals involved.

All community members have a responsibility to adhere to College policies, as well as local, state, and federal laws. This policy applies to conduct occurring on Lafayette College property as well as at College-sanctioned events that take place off campus. This policy also applies to off-campus conduct.

The prohibited conduct defined in this policy can be committed by individuals of any gender and can occur between individuals of the same gender or different genders.

B. Forms of Sexual and Gender-Based Harassment

1. Sexual Harassment:

There are two types of sexual harassment: quid pro quo and hostile environment.

a. Quid Pro Quo:

Quid pro quo sexual harassment includes unwelcome conduct of a sexual nature such as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome expressive, visual, or physical conduct of a sexual nature when:

- i. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, academic standing, or status in a course, program, or activity; or
- ii. submission to or rejection of such conduct is used as a basis for an employment-related, educational, or other decision(s) affecting evaluation, grades, or advancement.

b. Hostile Environment:

A "hostile environment" exists when unwelcome conduct of a sexual nature (such as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome expressive, visual, or physical conduct of a sexual nature) has the purpose or effect of unreasonably interfering with an individual's work, educational participation or performance, or status, i.e., it is sufficiently severe, persistent, or pervasive as to create an intimidating, offensive, demeaning, or humiliating educational, residential, or working environment. Sexual conduct is unwelcome if it is not solicited or invited and the recipient considers it undesirable or offensive.

In order to constitute a violation, the hostile environment must be subjectively perceived by the complainant, and that perception must be reasonable for a person in the complainant's position. Whether the conduct creates a hostile environment depends on a variety of factors, including but not limited to: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred. Sexual and gender-based harassment may be at issue even in relationships that begin as welcome.

Examples of behavior that might be considered conduct of a sexual nature include, but are not limited to:

- unwelcome sexual attention, propositions, touching, or other verbal or physical conduct of a sexual nature;
- unwelcome sexual or gender-specific innuendo or jokes; humor about sex-specific or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality or gender;
- unwelcome oral, written, or electronic communications of a sexual nature;

- written graffiti or the display or distribution of sexually explicit drawings, pictures, or written materials; sexual rumors or ratings of sexual activity or performance; and
- implied or overt threats of punitive action, as a result of rejection of sexual advance.

As described in the Statement of Purpose (section I), the normal activities of teaching, learning, or producing or consuming artistic or scholarly work will not be construed as “conduct of a sexual nature” merely by virtue of the representation or consideration of sexual matters in the course of these activities.

Other forms of sexual harassment, such as sexual assault, are addressed in the College’s Sexual Assault, Sexual Exploitation, Domestic Violence, Dating Violence, and Stalking Policy ([link](#)).

2. Gender-Based Harassment:

A gender-based hostile environment exists when verbal, nonverbal, graphic, visual, or physical conduct based on sex, sex stereotyping, or gender identity, but not involving conduct of a sexual nature, is sufficiently severe, persistent, or pervasive as to create intimidating, offensive, demeaning, or humiliating educational, residential, or working environment.

In assessing all related circumstances to determine whether a hostile environment exists, incidents of gender-based harassment combined with incidents of sexual harassment could create a hostile environment, even if neither the gender-based harassment alone nor the sexual harassment alone would be sufficient to do so.

If any gender-based or unwelcome sexual conduct occurs, even if that conduct does not rise to the level of constituting a hostile environment, it is unacceptable and should be reported so that the College can take prompt measures to address the concern before it rises to the level of creating a hostile environment.

3. Retaliation:

Retaliation or retaliatory harassment is intentional action taken by an individual or allied third party that harms an individual as reprisal for reporting in good faith a potential policy violation or for participating in the College’s investigation or disciplinary process.

Retaliation against anyone involved in filing a complaint under this policy, filing an external complaint, or participating in the College’s investigation or disciplinary process is prohibited.

C. Other Prohibited Conduct

There are risks inherent in any romantic or sexual relationship between individuals in unequal positions. Although such relationships may not constitute harassment, they may compromise the integrity of the educational or employment process. The special relationship between students and teachers, coaches, advisors, or other staff members who counsel them, and employees and their supervisors, requires that special additional rules apply as addressed below.

1. Prohibited Relationships between Instructor/Staff Member and Student

a. While a student is a student of a particular instructor/staff member, the instructor/staff member shall not ask the student for a sexual favor or in other ways make a sexual advance to the student. While a student is a student of a particular instructor/staff member, any romantic advance or sexual relationship between the student and the particular instructor/staff member is prohibited. This rule applies even if the romantic advance or sexual relationship is welcome.

A student is a “student of a particular instructor/staff member”:

(i) when a student is in a course taught by the instructor and/or has not yet received a final grade; or

(ii) when a student is assigned to be advised by a particular instructor/staff member;

(iii) when a student is an athlete coached by a particular intercollegiate athletic coach or trainer;

(iv) when a student is advised by a professional advisory committee member, honors committee member, or member of a comparable committee;

(v) at other times when an instructor/staff member has a relationship with a student such that a student’s activities at the College are being supervised or evaluated by the instructor/staff member.

b. Unless prohibited by section II.C.1.a. above, if a welcome sexual and/or romantic relationship develops between a student and an instructor/staff member, the instructor/staff member must not thereafter take part in any activity that involves evaluation of the student’s work or performance. If a student later becomes a “student of a particular instructor/staff member,” the instructor/staff member shall disclose the existence of such relationship to the Provost or Vice President of Human Resources, as appropriate, who shall make alternative arrangements for the evaluative process.

2. Prohibited Relationships Between Supervisors and Subordinates

Any person (a) who has power, either individually or collectively with others, to dispense or influence rewards or punishments regarding another person, (b) who evaluates the work performance of another person, or (c) to whom another person reports regarding work assignments may not subject such other person to any unwelcome sexual conduct such as an unwelcome sexual advance or request for sexual favors, regardless of whether submission to such conduct is explicitly or implicitly made a basis for a decision affecting such person or whether such conduct creates a hostile environment.

If a welcome sexual and/or romantic relationship develops between a supervisor and a subordinate, or between faculty in the same department or program, the more senior employee must not thereafter take part in any activity that involves evaluation of the other’s work. Under such circumstances, the more senior employee shall disclose the existence of

such a relationship to the Provost or the Vice President of Human Resources as appropriate, who shall make alternative arrangements for the evaluative process.

III. TITLE IX COORDINATORS

The Title IX and Equity Coordinator coordinates the College's compliance with Title IX. This includes coordinating campus-wide education programming; reviewing policies, procedures, and protocols related to Title IX; and monitoring investigations. The Title IX and Equity Coordinator can be contacted by telephone, by email, or in person during regular office hours. Appointments are encouraged.

Amy O'Neill
Title IX and Equity Coordinator
101 Hogg Hall
610-330-5082
oneilla@lafayette.edu

The College has also appointed Deputy Coordinators to assist with coordinating compliance under Title IX. The Deputy Coordinators can be contacted by telephone, by email, or in person during regular business hours. Appointments are encouraged.

John McKnight
Dean of Intercultural Development
Farinon 107
610-330-5320
mcknighj@lafayette.edu

Lisa Rex
Director of Human Resources—Employment
12 Markle Hall
610-330-5060
rexl@lafayette.edu

The President has the authority to designate more Deputy Coordinators as needed. For a complete list of Coordinators, visit sash.lafayette.edu.

IV. REPORTING, RESOURCES, AND CONFIDENTIALITY

A. General Information Regarding Confidentiality:

An individual who has experienced sexual or gender-based harassment has a variety of available options and resources. Individuals are encouraged to familiarize themselves with their options and responsibilities before disclosing a potential violation of this policy to a College employee. When the College has notice of a potential violation of this policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the allegation(s). If you have any questions or concerns regarding the reporting requirements of

individuals, please do not hesitate to ask them. An inquiry into an individual's reporting obligations will not, by itself, trigger an investigation.

B. Reporting Options:

1. Reporting to Title IX Coordinators:

The Title IX and Equity Coordinator is responsible for overseeing the College's response to reports of sexual and gender-based harassment. Therefore, the College strongly encourages all individuals to report a potential violation of this policy directly to the Title IX and Equity Coordinator or one of the Deputy Title IX Coordinators.

When the Title IX and Equity Coordinator becomes aware of a complaint or allegations of sexual or gender-based harassment, the Title IX and Equity Coordinator, in conjunction with other relevant administrators, will conduct a Title IX assessment to determine appropriate action. The Title IX Coordinator will maintain as confidential the identity of the complainant, to the extent possible. (See section V. A. "Notice Received by the Title IX and Equity Coordinator" below.)

Reports can be made in person during regular business hours. Individuals may also report to the Title IX Coordinators through the reporting tool located at sash.lafayette.edu. The reporting tool is only checked during regular business hours and should not be used in emergencies or situations where an immediate response is required.

2. Confidential Reporting and Resources:

Several campus professionals are designated confidential resources where members of the community can seek counseling and guidance. Professional, licensed mental health professionals and pastoral counselors whose official responsibilities include providing mental-health counseling or pastoral care to members of the College community are not required to report any information about an incident to the Title IX and Equity Coordinator without an individual's permission. In rare circumstances, these individuals may have other reporting obligations under the law (for example, abuse of a minor). The following is the contact information for these individuals:

The Counseling Center
Bailey Health Center, 2nd Floor
610-330-5005
Call for information about walk-in hours and appointments

College Chaplain, Alex Hendrickson
115C Farinon
610-330-5959
Available during regular business hours

3. Private Reporting (Mostly Confidential):

Some College employees, designated under Private Reporting, can talk to a complainant without being required to disclose the name of the complainant or other personally identifiable information to the Title IX and Equity Coordinator. These employees are

only required to share a limited report to inform the Title IX and Equity Coordinator of the date, time, general location, and nature of the sexual or gender-based harassment. This general information is necessary in order for the College to track patterns appropriately, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Individuals can seek assistance and support from the employees listed below without triggering an investigation that would reveal the identity of the complainant. Before sharing the general report with the Title IX and Equity Coordinator, these employees will work with the complainant to ensure that no personally identifiable details about the complainant are shared. The following is contact information for those who serve in this private reporting role:

SASH Advocates
sash.lafayette.edu
SASH Advocate on-call 24/7: 610-330-5964

Bailey Health Center (Medical)
607 High St.
(S.W. Corner of High & McCartney Sts.)
(610) 330-5001

4. Reporting to Responsible Employees:

A Responsible Employee is a College employee who has the authority to redress sexual or gender-based harassment or who has the duty to report sexual or gender-based harassment, or whom a student could reasonably identify as having this authority or duty.

Lafayette College has designated all faculty (including visiting faculty) and all administrators as Responsible Employees. Examples of administrators include: Public Safety Officers or other Campus Security Personnel, Residence Life Staff, and Student Life Staff including Athletic Coaches and Trainers. Resident Assistants are also Responsible Employees. For a complete list of Responsible Employees, visit sash.lafayette.edu.

According to this Policy, whenever a Responsible Employee is told or becomes aware of any information related to alleged sexual or gender-based harassment, the Responsible Employee must share all relevant information about the alleged incident with the Title IX and Equity Coordinator or a Deputy Title IX Coordinator. The Responsible Employee is only responsible for sharing what was disclosed and should not attempt to investigate the allegations. To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the College's response to the report.

Before a complainant reveals any information to the Responsible Employee, the Responsible Employee will do her or his best to ensure that the complainant understands the limitations on confidentiality and the obligation of the Responsible Employee to disclose personally identifiable information to the Title IX and Equity Coordinator. If, as a result, the complainant prefers to consult with a confidential resource (as described in section IV.B.2 above), the Responsible Employee should assist with an appropriate

referral prior to the complainant's disclosure of details pertinent to the sexual or gender-based harassment.

If the complainant decides to report an incident to a Responsible Employee, but requests that the Responsible Employee maintain confidentiality or requests that no investigation into the incident be conducted or disciplinary action be taken, the Responsible Employee should inform the complainant that the Title IX and Equity Coordinator will review the information and consider the request for such confidentiality/non-action, but should explain that confidentiality/non-action cannot be guaranteed.

5. Reporting to Public Safety:

The Office of Public Safety is available 24 hours a day to receive complaints regarding sexual or gender-based harassment and may be reached at (610) 330-4444 (emergency), or (610) 330-5330 (non-emergency). A complainant who wishes to file a criminal complaint regarding sexual misconduct may also contact the Office of Public Safety.

V. INSTITUTIONAL RESPONSE AND AVAILABLE COMPLAINT PROCEDURES

A. Notice Received by the Title IX and Equity Coordinator

When the Title IX and Equity Coordinator receives information about a potential violation of this policy, the Title IX and Equity Coordinator will conduct a Title IX assessment. The first step of this assessment will usually be a meeting with the Title IX and Equity Coordinator and the complainant. The Title IX and Equity Coordinator will invite appropriate administrators to participate throughout the assessment.

As part of the Title IX assessment, the College will assess the nature of the allegation, address immediate needs of the complainant and the campus community, discuss available procedural options and determine the complainant's preference for resolution (whether to pursue an informal resolution, a formal resolution, or not to pursue a resolution of any kind), provide the complainant with information about resources both on and off campus, and assess for pattern evidence or other similar conduct by the respondent. This assessment will continue until the College has sufficient information to determine an appropriate course of action.

If the complainant requests confidentiality, asks that the complaint not be pursued, or does not respond to requests for a meeting, the Title IX and Equity Coordinator will consider this request in the context of the College's responsibility to provide a safe and non-discriminatory environment for all members of the College community. The College, through the Title IX and Equity Coordinator, will take reasonable steps to respond in a manner consistent with the complainant's request; however, the response may be limited. Additionally, there may be situations in which the College must override a request in order to meet its Title IX obligations.

B. Available Complaint Procedures

1. Overview

The following informal and formal procedures are intended to afford a prompt and equitable response to complaints of sexual and gender-based harassment and other conduct prohibited under this policy. They are designed to ensure fairness, maintain privacy, and enable the imposition of appropriate sanctions on members of the College community who violate this policy. Resources are available for both students and employees, whether as complainants or respondents, to provide guidance throughout the investigation and resolution of the complaint.

The informal and formal complaint procedures set forth below are internal administrative procedures of the College. As to those forms of sexual or gender-based harassment that also violate state or federal law, an aggrieved person may also file a complaint simultaneously or thereafter with the appropriate local, state, or federal agency (such as the Office for Civil Rights) or in a court with jurisdiction. (See section VI “External Remedies” below.)

2. Informal Resolution Procedures

In cases involving allegations of sexual and gender-based harassment, the Title IX and Equity Coordinator will determine whether there is an appropriate facilitated informal resolution mechanism that may be considered. This determination will be made when the College has completed a Title IX assessment. (See section V. A. “Notice Received by the Title IX and Equity Coordinator.”) Upon determining that a facilitated informal resolution is appropriate, the Title IX and Equity Coordinator will work with relevant administrators to coordinate an informal resolution. This may include shuttle diplomacy, facilitated conversation, training and education for individuals or groups, and/or any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

If it is determined that a facilitated informal resolution may be appropriate, the Title IX and Equity Coordinator will speak with the complainant about this option. If the complainant agrees, the Title IX and Equity Coordinator (or other administrator in consultation with the Title IX and Equity Coordinator) will speak with the respondent. Informal resolution will be pursued only with the consent of both parties, and a complainant or respondent has the right to end the informal resolution process at any time and begin the formal resolution process. If the facilitated informal process results in a resolution, both parties will receive outcome notification that the process has concluded and the case will be closed.

If the parties are unable to reach a resolution in a timely manner (normally within 45 days), or if either party requests to terminate the informal resolution process, the formal complaint process will proceed.

The use of the informal resolution process is not a prerequisite to initiating formal resolution procedures. The College will never require the complainant to work out the problem directly with the respondent. Informal resolution (such as mediation) is never permitted in cases involving sexual violence.

Informal resolution eliminates a potential hostile environment by identifying and implementing remedies to eliminate the harassment, address its effects, and prevent its recurrence. Because it

does not involve a formal adjudication process, it does not result in disciplinary action against the respondent.

Anyone who has an inquiry or who is requesting an informal resolution may bring a support person to meetings with the Title IX and Equity Coordinator and/or designee as long as that person agrees to be bound by the confidentiality provisions of this policy.

3. Formal Complaint Procedures

In circumstances where the Title IX Coordinator determines that the matter is not appropriate for informal resolution, or where the complainant does not wish to pursue or withdraws from the informal resolution process, or the informal resolution process is unsuccessful, and the Title IX Coordinator, after completing the Title IX assessment (see section V.A. “Notice Received by the Title IX and Equity Coordinator”), concludes that there is sufficient information to warrant an investigation, then the Title IX and Equity Coordinator will refer the case to the responsible officer who shall proceed as provided below. Because the relationship between the College and students, staff, and faculty differs in nature, the procedures that apply when seeking action against such individuals differ as well. However, each of the procedures is guided by the principles of fundamental fairness and respect for all parties and include the following: notice, an equitable opportunity to be heard, and an equitable opportunity to respond.

The responsible officer shall refer the complaint to an internal or external investigator (or, if needed, an investigation team) who shall conduct an investigation to determine whether there is a reasonable basis to believe that the policy has been violated. All investigators must have specific training and/or experience investigating allegations of sexual and gender-based harassment.

The investigator shall inform the responsible officer and the Title IX and Equity Coordinator in writing of the results of their investigation and their conclusion, normally within 10 calendar days. Both parties shall be notified in writing if the Title IX and Equity Coordinator deems it warranted to extend this time period.

If the investigator or investigation team concludes that there is a reasonable basis to believe that the policy has been violated, the responsible officer shall then cause a hearing to occur pursuant to the relevant procedures below:

a. for alleged violations of this policy by students, the dean of students (or designee) will initiate procedures applicable to charges of sexual misconduct that can be found in the student handbook ([link](#));

b. for alleged violations of this policy by staff members not in the bargaining unit, the College officer responsible for the division employing the respondent will initiate procedures that can be found at ([link](#));

c. for alleged violations of this policy by union staff members, the vice president for human resources will initiate procedures in accordance with the collective bargaining agreement ([link](#));

d. for alleged violations of this policy by members of the faculty (including, in any teaching role, administrators with faculty status), the Provost (or designee) will initiate procedures in accordance with the Faculty Handbook (link);

e. for alleged violations of this policy arising out of the teaching role of any other instructor of a course, the Provost (or designee) will initiate disciplinary procedures in accordance with the attached procedure (note: draft will be forthcoming from POCSASH); and

f. for any other alleged violation of this policy, the President (or designee) will initiate appropriate disciplinary procedures.

The individuals identified in a-f above may consult with the Title IX Coordinator as needed.

If the complainant or the respondent feels that a complaint brought under this policy was not promptly resolved with due regard for the rights of the parties involved, s/he should bring these concerns to the Title IX and Equity Coordinator. If the concern involves the Title IX and Equity Coordinator, it should be brought to the President.

Even if the respondent is a third party and not a student or employee, the College will promptly and equitably respond to all reports of sexual and/or gender-based harassment against students or employees in a manner that is reasonable to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

VI. EXTERNAL REMEDIES

Lafayette College expects all members of the College community to uphold the laws of the Commonwealth of Pennsylvania and the United States regarding sexual and/or gender-based harassment. Sexual and gender-based harassment also constitutes sex discrimination which is illegal under Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the laws of the Commonwealth of Pennsylvania. In addition to any sanctions that may be imposed by the College for violations of this policy, a member of the College community who sexually harasses (including gender-based harassment) another member may be held personally liable to the victim and be subject to sanctions independent of those imposed by the College. Nothing in this policy shall prevent the complainant or the respondent from filing a complaint with the appropriate local, state, or federal agency or in a court with jurisdiction. If the complainant or the respondent feels that a sexual harassment complaint was not promptly resolved by the College with due regard for the rights of the parties involved as afforded to them by Title IX of the Education Amendments of 1972, either party may file a formal complaint with the Title IX and Equity Coordinator or the Office for Civil Rights:

Office for Civil Rights, Philadelphia Office
U.S. Department of Education
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
Fax: 215-656-8605

E-mail: OCR.Philadelphia@ed.gov

VII. EDUCATION AND PREVENTION PROGRAMS

The Title IX and Equity Coordinator works with all campus divisions to provide education about sexual and gender-based harassment to meet campus and compliance needs. In an effort to prevent and eliminate sexual misconduct, Lafayette College maintains an informative website about the sexual and gender-based harassment policy, procedures, prevention, and response. Education efforts will be reviewed periodically by the Title IX and Equity Coordinator and the Presidential Oversight Committee on Sexual Assault and Sexual Harassment (POCSASH).

Questions regarding Title IX may be referred to the College's Title IX and Equity Coordinator or the Office for Civil Rights.

VIII. POLICY DISTRIBUTION AND REVIEW

This policy will be widely distributed on campus and available on sash.lafayette.edu and hr.lafayette.edu so that all students, faculty, and staff will be made aware of it upon their arrival and at the beginning of each academic year.

The Title IX and Equity Coordinator and the Presidential Oversight Committee on Sexual Assault and Sexual Harassment will review the Policy on Sexual and Gender-Based Harassment and Other Prohibited Conduct and related procedures on a periodic basis in order to capture evolving legal requirements and improve the delivery of services.

B.3 Formal Complaint Procedure for Alleged Violations of the Sexual and Gender-Based Harassment Policy by Members of the Faculty or by Instructors of a Course

B.3.1 Members of the College community who believe that they have been subjected to sexual or gender-based harassment or other violations of the policy by a member of the faculty or by an instructor of a course should speak with the College's Title IX and Equity Coordinator or a Deputy Coordinator as listed in the College's Sexual and Gender-Based Harassment Policy. Complaints made to Responsible Employees will be forwarded to the Title IX and Equity Coordinator.

B.3.2 If a formal complaint is filed against a faculty member, the Title IX and Equity Coordinator will refer the case to the Provost who will inform the respondent of the filing of the complaint and of the applicable policies and procedures. The Provost shall provide the respondent with a copy of the complaint or summary of the allegations if the complaint was made verbally. The respondent shall have seven days to respond. The Provost will then refer the case to an external investigator to conduct an investigation. In cases where the Provost is the complainant or the respondent, the EEO officer of the College shall act in place of the Provost. The purpose of the investigation is to determine whether there is a reasonable basis for concluding that a violation of the College's sexual and gender-based harassment policy has occurred. The external investigator shall proceed with the investigation, which may entail interviews of the complainant, the respondent, and other persons believed to have pertinent factual knowledge. During the investigation, every reasonable effort shall be made to protect the privacy rights of all parties, but confidentiality cannot be guaranteed.

B.3.3 The College will aim to resolve all cases, not including the appeal period, normally within 60 calendar days after the Provost refers the case to an external investigator. Extensions may be approved by the Provost if circumstances warrant, such as the complexity of the investigation, school breaks, or witness availability. The Title IX and Equity Coordinator or the Provost will update both parties, in writing, when it is determined that the designated time frame cannot be met.

B.3.4 Following the investigation, the external investigator shall determine whether there is a reasonable basis to conclude that a violation of the College's sexual and gender-based harassment policy has occurred. The external investigator shall provide her/his findings and conclusion, in writing, in a report to the Provost normally within 10 calendar days. Based on the investigator's findings and conclusion, the Provost shall attempt to negotiate a resolution of the complaint, agreeable to all parties. If a negotiated resolution cannot be reached, the respondent and complainant will be provided copies of the investigator's report, and the case will proceed as described below.

B.3.5 The Provost shall inform the Chair of the Appeal and Grievance Committee about the general nature of the case in order that a Hearing Committee can be formed. The Hearing Committee shall be comprised of five tenured faculty. The Chair shall appoint any three of the five members of the Appeal and Grievance Committee to serve on the Hearing Committee, and those three members shall then select the other two members of the Hearing Committee from

outside the Appeal and Grievance Committee. Prior to the actual appointment of members of the Hearing Committee at each of the two stages, the Provost shall be consulted to ensure that no proposed member is involved in the particular case or a member of the same academic department as the respondent or the complainant. In forming the Hearing Committee, an effort should be made to achieve diversity with respect to gender and disciplinary perspective. In all cases, members of the Hearing Committee should consider themselves to be disinterested parties. The Hearing Committee thus constituted shall elect a Chair and be assigned a secretary, normally from the President's office, who shall provide the Hearing Committee with all requisite clerical assistance throughout the formal hearing process. In circumstances that warrant the Hearing Committee having access to an independent counsel, the Hearing Committee shall have access to such counsel arranged through the College's Office of General Counsel. This independent counsel shall not be allowed to attend the hearing but is provided to assist the Hearing Committee when such assistance is requested. Additionally, counsel will ensure that the panel is properly trained to conduct investigations and adjudications on sexual and gender-based harassment, and provide additional training as needed. [Rev. 01-8]

B.3.6 Promptly after the Hearing Committee is formed, the Provost shall provide the Hearing Committee, through the Hearing Committee Chair, with a copy of the original complaint or summary of allegations, the responses to the complaint or summary of allegations, and the investigative report. The Hearing Committee shall normally hold a hearing within 10 calendar days of its formation. The Chair of the Hearing Committee shall notify the respondent, the complainant, the Title IX and Equity Coordinator, the Provost, and the President of the time, place, and date so scheduled by certified mail, return receipt requested.

B.3.7 The entire proceedings of the hearing shall be recorded by a professional stenographer, and an accurate transcript shall be promptly produced from that stenographic record and made available to the Hearing Committee. The Chair of the Hearing Committee shall preside over the proceedings and shall act to ensure a fair presentation of all evidence and an equitable treatment of both parties, and to maintain decorum. Both the complainant and the respondent have the right to be present during the proceedings. Each party and the complainant in the case may be accompanied only by counsel chosen by her/him from the Faculty or Administration of the College. Procedures shall not follow formal rules of evidence, but special care shall be taken in evaluating evidence to ensure fairness and relevance.

B.3.8 At the hearing, the Provost or her/his designee presents the case for the College, and the respondent presents her/his case. The respondent shall be presumed not to have violated the College's sexual and gender-based harassment policy. The Hearing Committee shall determine by a preponderance of the evidence whether the policy has been violated. During the hearing, the parties (the Provost or her/his designee and the respondent) shall have the following rights: to present and examine witnesses; to introduce evidence that has been previously made available to the Hearing Committee and, through the Hearing Committee, to the opposite party; to conduct reasonable cross-examination of any witness on any matter relevant to the issue of the hearing (subject to the provisions regarding cross-examination of the complainant as set forth below); and to offer relevant evidence in rebuttal. Each party shall give the Hearing Committee a list of

the names of all witnesses and copies of all documentary and other evidence at least 72 hours before the hearing begins, or, in the event that a party would like to offer rebuttal evidence, at least 24 hours prior to the use of that rebuttal evidence. The Hearing Committee shall provide copies of any such witness lists or evidence to the opposing party as promptly as possible, and a list of all witnesses to be summoned by the Hearing Committee shall be made available to both parties within 48 hours before the hearing begins. Copies of all evidence received or gathered by the Hearing Committee at any stage shall be made available promptly to both parties, and no new witness(es) may be summoned by either party or by the Hearing Committee without the Hearing Committee giving both parties 24-hour notice in advance. At its discretion, the Hearing Committee has the authority to gather such additional evidence as it deems relevant, including calling and questioning the complainant if the Provost or her/his designee has not called the complainant as a witness and the complainant agrees to testify. The Hearing Committee may also call and question the respondent if the respondent agrees to testify. However, if the complainant or respondent testifies, the Hearing Committee may elect to require the parties to submit any questions they would like the Hearing Committee to ask on their behalf, and the Hearing Committee shall ask those questions it deems relevant and appropriate to the case. If the complainant or respondent testifies at the hearing, s/he may be accompanied by a counsel chosen by her/him from the Faculty or Administration of the College.

B.3.9 Following the presentation of all evidence, the hearing shall be closed at the time the Hearing Committee deems appropriate. Thereupon, the Hearing Committee shall deliberate in executive session, at a time convenient to itself. The Hearing Committee shall determine by a majority vote whether the preponderance of evidence indicates that the College's sexual harassment policy has been violated. If the Hearing Committee determines that the policy has been violated, then it shall recommend appropriate sanctions. If the Hearing Committee determines that the policy has not been violated, then it shall recommend that the case be dismissed. The Hearing Committee shall record its findings and its recommendations in a written record normally within 5 calendar days of the close of the hearing.

B.3.10 Promptly upon completion of the report, regardless of the Hearing Committee's findings and recommendations, the Chair of the Hearing Committee shall inform the Chair of the Promotion, Tenure, and Review Committee about the general nature of the case in order that a three member Hearing Review Committee can be formed from the Promotion, Tenure, and Review Committee. The Chair of the Promotion, Tenure, and Review Committee shall promptly appoint any three of the six elected members of that Committee to serve on the Hearing Review Committee. Prior to the actual appointment of members of the Hearing Review Committee, the Chair of the Hearing Committee shall be consulted to ensure that no proposed member is involved in the particular case or a member of the same academic department as the respondent. If the hearing was prompted by the filing of a complaint by a faculty member, then the Chair of the Hearing Committee shall also be consulted to ensure that no proposed member of the Hearing Review Committee is a member of the same academic department as the complainant. In all cases, members of the Hearing Review Committee should consider themselves to be disinterested parties. The Hearing Review Committee thus constituted shall elect a chair. Promptly upon being elected, the Chair of the Hearing Review Committee shall notify the Chair

of the Hearing Committee of the formation of the Hearing Review Committee. In response, the Chair of the Hearing Committee shall give the Chair of the Hearing Review Committee the written report of the findings and recommendations of the Hearing Committee with full explanatory justification and a summary of dissenting opinion, along with the full record of the Hearing, including the transcript, all documentary evidence, and all written communications between the Hearing Committee and the parties. The three members of the Hearing Review Committee are the only persons who shall receive the Hearing Committee's report and the record of the hearing at this time. A copy of the written report of the findings and recommendations of the Hearing Committee with full explanatory justification and a summary of dissenting opinion, along with the full record of the hearing, including the transcript, all documentary evidence, and all written communications between the Hearing Committee and the parties, will be available in the President's suite for the respondent, the complainant, and the Provost, with or without counsel chosen from the College.

In circumstances that warrant the Hearing Review Committee having access to independent counsel, the Hearing Review Committee shall have access to such counsel arranged through the College's Office of General Counsel. This independent counsel shall not attend deliberations of the Hearing Review Committee but is provided to assist the Hearing Review Committee when such assistance is requested. Additionally, counsel will ensure that the Hearing Review Committee is properly trained to review cases of sexual and gender-based harassment and conduct additional training as needed.

B.3.11 The charge of the Hearing Review Committee is to evaluate the integrity of the entire Hearing process and to ensure fairness to all parties. The role of the Hearing Review Committee is not to question or reevaluate the Hearing Committee's factual findings or substitute its judgment for that of the Hearing Committee. In addition, it is not the role of the Hearing Review Committee to question or reevaluate the Hearing Committee's recommendations, except as provided in "e" below. The Hearing Review Committee shall review the report of the Hearing Committee and the full record of the hearing, and any written statement(s) about the hearing based on "a," "b," "c," "d," or "e" below that might be submitted by the respondent, complainant, or the Provost, and shall determine whether the Hearing was properly conducted. The Hearing Review Committee shall determine that the Hearing was not properly conducted if:

- a. the Hearing Committee committed a procedural error that had a material (i.e., so substantial and important as to have been decisive) effect on its findings and recommendations, or did not take into account a procedural error that occurred in an earlier stage of the process and that had a material effect on its findings and recommendations; or
- b. the Hearing Committee violated the professional, academic, or EEO rights of the respondent or of the complainant, or did not take into account an earlier violation of those rights, in such a way as to have a material effect on its findings and recommendations; or
- c. the hearing was conducted in an unfair or inequitable manner, in such a way as to have a material effect on the Hearing Committee's findings and recommendations; or
- d. the Hearing Committee demonstrably considered non-germane evidence as material; or

e. the sanction(s) (if any) recommended by the Hearing Committee was (were) not consistent with its factual findings.

The Hearing Review Committee shall reach its determination within 10 days of its receipt of the Hearing Committee's report and the Hearing record. If the Hearing Review Committee determines by a majority vote that the Hearing was properly conducted, the Hearing Review Committee's determination shall, by the end of that 10 day period, be communicated in a written report to the members of the Hearing Committee and the President, who shall also at this time receive the full record of the Hearing and the Hearing Committee's report. (At this stage, the President is the only additional person who shall receive the full record of the hearing and the Hearing Committee's report.) If the Hearing Review Committee determines by a majority vote that the hearing was not properly conducted, the Hearing Review Committee shall ensure that the flaws are corrected as it deems appropriate. Depending on the nature of the flaws, the Hearing Review Committee may require that the Hearing Committee reopen the hearing to (but not beyond) whatever extent might be necessary to correct the flaws, or, in the case of an irreparable procedural impropriety, the Hearing Review Committee may require that the Chair of the Appeal and Grievance Committee form a new Hearing Committee to initiate a *de novo* Hearing. (If a *de novo* hearing is called for, the Chair of the Hearing Review Committee shall inform the Provost, complainant, the respondent, and the original Hearing Committee. The full record of the *de novo* Hearing, and the report of the *de novo* Hearing Committee, will be subjected to the same scrutiny by the Hearing Review Committee as were the original Hearing Committee's report and hearing record.) When the Hearing Review Committee has determined by a majority vote that all material flaws have been corrected, and that the hearing was properly conducted, and that any potentially material new evidence that might have been brought to the attention of the Hearing Review Committee by either party has been referred to and fairly and adequately responded to by the Hearing Committee, the Hearing Review Committee shall communicate its determination in a written report to the members of the Hearing Committee and the President, who shall also at this time receive the full record of the hearing and the Hearing Committee's report.

B.3.12 The President shall review the report of the Hearing Committee, the full record of the Hearing (including the transcript), and the report of the Hearing Review Committee; may interview witnesses at her/his discretion; and shall make a decision in the case. The President may request that the Hearing Committee reconsider the case on a specific ground or grounds. The President's request for reconsideration must be made within 10 calendar days, and the Hearing Committee has another 10 calendar days in which to make a second report. The President shall make a decision on the complaint within 10 calendar days of the Hearing Committee's initial report or its second report. The President may affirm, reject, or modify the recommendations of the Hearing Committee. The President's final decision, in writing, together with copies of the reports of the Hearing Committee and the Hearing Review Committee, must be sent to the complainant, the respondent, the Hearing Committee, the Hearing Review Committee, the Provost, the Title IX and Equity Coordinator, and the Board of Trustees, through its Secretary. Grounds for rejection or modification of the Hearing Committee's recommendations must be stated in writing. In cases where the President is the complainant or

the respondent as a result of her/his teaching role, disposition of the complaint is the responsibility of a Review Panel, as described in Appendix D of the Faculty Handbook.

B.3.13 Subsequent to the process described above, if either complainant or respondent does not accept the President's decision, s/he may make a written appeal to the Board of Trustees, through its Secretary, not more than 5 calendar days after receiving the President's written decision. An appeal is permissible only on the ground that the procedures of the College were not properly followed. Normally, the Board does not undertake a *de novo* review. The Chair of the Board may appoint a Board Committee to act on its behalf in considering the appeal. The Board may at its discretion interview such persons as it deems appropriate. The Board may either affirm or overturn the President's decision, or, alternatively, it may request that the case be re-evaluated by either the President or the Hearing Committee. The Board shall report its decision to the respondent, the complainant, the President, the Provost, the Title IX and Equity Coordinator, the Hearing Committee, and the Hearing Review Committee as soon as possible.

B.3.14 If the final determination is that the College's sexual and gender-based harassment policy has been violated, the report of the Hearing Committee and the President's decision shall be placed in the respondent's personnel file. Should the President's recommended sanction be dismissal or suspension, such a sanction is effectuated only by a vote of the Board of Trustees. If the Board has decided in favor of dismissal or suspension of the faculty member from the College, the President shall inform the faculty member of her/his dismissal or suspension. If the President has decided in favor of any other sanction against the faculty member, and the Board has not overturned the President's decision on appeal, the President shall direct the Provost to notify the respondent and impose the sanction. The Provost will notify the complainant of any sanction imposed that is directly related to the complainant.