2019-2020
Procedures for Resolution of Complaints Against Students

This policy prohibits sexual misconduct of all forms, including sexual harassment, sexual assault, sexual exploitation, indecent exposure, intimate-partner violence, dating violence and domestic violence, retaliation, stalking, and other misconduct that is sex or gender based, or in the context of an intimate partner relationship including: bullying and intimidation, physical assault, and discrimination.

I. Scope

The Sexual Assault and Harassment Policy applies to all members of the College community, including students, employees, volunteers, independent contractors, visitors, or any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity at the College. The College has jurisdiction over complaints based on Title IX and may take disciplinary action against a respondent who is a current student or employee. The policy’s full scope is described in the Sexual Assault and Harassment Policy (SAHP). For a full description of policy intent, privacy/confidentiality issues, definitions of prohibited conduct and related definitions (i.e., consent), resources, reporting options, the roles of the Title IX coordinator and Title IX deputies, and policy timeframes, please see the full policy.

These specific procedures apply to complaints against students. Procedures for complaints against staff and instructional staff, including faculty, are set forth in the Procedures for Resolution of Complaints Against Staff and Instructional Staff, Including Faculty.

Any reference to a College administrator throughout these procedures refers to the named College administrator or their designee.

II. Overview of Title IX Procedures

Once a report is received, the College’s response is informed by the reporting party’s wishes and the safety of the campus community. Below is a simplified overview of the steps that are taken by the College when a report is received. A more detailed account of these procedures can be found in Section III.
III. Detailed Description of the Title IX Procedures

A. Report Received by Title IX Office. Reports are received by the Title IX Office through a variety of sources. Typical sources of reports include faculty and staff members designated as “responsible employees” (see Section IX.B in SAHP for more information on responsible employees), residential peer leaders, friends of the reporting party, or the reporting party directly. Individuals who wish to make a report of sexual misconduct are encouraged to make a report directly to the Title IX coordinator. Although a report may come in through many sources, the College is committed to ensuring that all reports of sexual misconduct are referred to the Title IX coordinator, which ensures consistent application of the SAHP to all individuals and allows the College to respond promptly and equitably to eliminate harassment, prevent its recurrence, and reduce its effects.

B. Title IX Outreach. Upon receipt of a report, the Title IX coordinator or designee will provide resources and support information by contacting the potential complainant (hereafter referred to as the “reporting party”) and offering an initial meeting between the reporting party and the Title IX coordinator or designee (often a deputy Title IX coordinator). The initial meeting is optional and the reporting party may decline. The purpose of the initial meeting is for the Title IX coordinator to gain a basic understanding of the nature and circumstances of the report and
assess the need for any interim measures; it is not a full investigative interview. At this meeting, the reporting party will be provided with information about resources, interim measures, and resolution options.

C. Initial Meeting with Title IX Coordinator. During the initial meeting, the reporting party is able to bring a support person and is free to share as much or as little information about the underlying incident as they would prefer. The Title IX coordinator or designee(s) will discuss and provide the reporting party with a written explanation of their rights and options, whether the incident occurred on or off campus, including (as applicable):

- the right to report or decline to report the incident to law enforcement if the conduct is potentially criminal in nature. The College is available to assist in this process;
- the right to obtain a Protection from Abuse (PFA) Order from local authorities or request Contact Restrictions from the College;
- the right and importance of seeking medical treatment to address physical health and to preserve evidence;
- the right to file a complaint through the applicable College complaint resolution process;
- the right to request interim measures, including options for changes in living, academic, transportation, working situations;
- provide the reporting party with information about on- and off-campus resources, including support options and counseling;
- explain the College’s policies for confidentiality and prohibiting retaliation, as described in the SAHP;
- explain the difference between confidential and non-confidential resources;
- obtain the reporting party’s expressed preference for the manner of resolution and assess any barriers to proceeding;
- provide the reporting party with an explanation of the limitations on the College’s response should the reporting party choose to remain anonymous;
- provide information about a case manager and information about an advisor of their choice;
- the right to receive an explanation of the formal complaint resolution process and the preponderance of the evidence standard of proof used to resolve the complaint (“more likely than not”);
- the right to be provided a prompt, fair, and impartial investigation and resolution; and
- the right to receive an explanation of remedies-based resolutions.

D. Title IX Assessment. Using the information provided in the initial report and the information gathered during the preliminary meeting with the reporting party, the Title IX coordinator will assess what interim measures and resolution options are available to the reporting party. The Title IX coordinator may enlist the Title IX Team and others to assist in this assessment. Members of this interdepartmental team may include the Title IX coordinator, deputy Title IX
coordinators, members of the Dean’s division, or public safety. Depending on the relationship of the reporting party and the respondent (hereafter referred to as the “responding party”) to the College (student, staff, faculty, or other) and the nature of the report, additional team members may include human resources, the Provost’s office, or alumni relations.

During this assessment, the Title IX coordinator and assessment team members will make a reasonable assessment of the safety of the individual and of the campus community and will determine whether the College has sufficient information to determine an appropriate course of action. The Title IX assessment team will also consider the interests of the reporting party and the reporting party’s expressed preference for the manner of resolution in light of all available information. During the Title IX assessment, the Title IX coordinator or designee(s) will:

- assess the nature and circumstances of the allegation;
- address immediate physical safety and emotional well-being of the reporting party;
- assess safety concerns for the broader College community;
- determine if concerns exist for discrimination or harassment based on other protected classes;
- assess the reported conduct for the need for a timely warning notice under federal law;
- determine if past reports of similar conduct by responding party exist;
- determine if any issues of academic freedom exist which may be reviewed by the Provost or designee;
- If applicable, enter non-identifying information about the report into the College’s daily crime log, pursuant to federal law.

1. Assessing requests by reporting party to remain unidentified. In the event that a reporting party does not wish to participate, does not want the process to proceed and/or requests that identifiable information not be shared with the responding party, the Title IX coordinator, in consultation with the Title IX assessment team, as applicable, will decide, based on the available information, whether they can honor the request and whether additional steps are required. In making this decision, the Title IX assessment team will assess but is not limited to the following factors:
   - the severity and impact of the sexual misconduct;
   - the respective ages of the parties, including whether the complainant is a minor under the age of 18;
   - whether the College can undertake any action without the participation of the reporting party;
   - whether the responding party has been the subject of a previous report or complaint;
   - the existence of independent evidence;
   - the extent of prior remedial methods taken with the responding party; and
The College’s ability to respond may be limited by a request to remain unidentified. The Title IX assessment team will take all reasonable steps to respond to a report consistent with a reporting party’s request but must balance that request with its responsibility to provide a safe and non-discriminatory environment for all College community members and afford a responding party with fundamental fairness.

IV. Post-Assessment Options

A. Interim Measures

1. Overview. Upon receipt of a report of sexual misconduct, the College may offer and/or impose actions, referred to as interim measures, to immediately address the reported behavior. The College will maintain consistent contact with the parties to ensure that all safety, emotional, and physical well-being concerns are being addressed. The Title IX coordinator or a member of the Title IX assessment team will discuss the determination of interim measures with the reporting party and provide information to assist in understanding available resources and procedural options, which will be communicated to the reporting party in writing. Interim measures may be imposed regardless of whether a criminal or College formal complaint has been filed or at any time during the Title IX process.

2. Options for interim measures. The College, at its discretion, will implement interim measures that may be applied to the parties, as appropriate and reasonable within a small campus community. Interim measures may include, but are not limited to:
   - contact restrictions;
   - counseling services;
   - public safety escort to ensure safe movement on campus;
   - referral to medical or EMS services;
   - assistance with identifying off-campus resources;
   - assistance with transportation, parking, and/or travel needs;
   - assistance in obtaining a Protection from Abuse (PFA) Order;
   - academic assistance, including academic support services, tutoring, alternative course completion options, rescheduling of exams and assignments, changing class schedules, transferring course sections or withdrawing from a course without penalty;
   - change of work schedules, job assignments, and worksite location;
   - change of student’s College-owned housing; and assistance from College support resource staff in completing housing relocation;
- the option to restrict an individual’s or organization’s access to certain College facilities or activities pending resolution of the matter;
- voluntary leave of absence;
- College-imposed leave; and/or
- any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

These actions by the College are implemented through the Title IX coordinator or designee. The Violence Prevention Educator/Advocate can also assist with referrals to medical assistance, counseling, campus resources, and provide detailed information about the interim measures available.

3. College-imposed interim suspension or leave. If either the president or the dean of students decides at any point that the safety of a student or of any member of the College community is at stake, an interim suspension may be imposed on a student who is suspected of violating the Student Code of Conduct, including the SAHP, (as outlined in the Student Handbook), any rules, regulations, or procedures of the College, or otherwise poses a risk of safety to the campus, until the time a student conduct resolution, disciplinary action, or an adjudication can be completed. This action assumes no determination of responsibility, and the student conduct process will occur expeditiously.

4. Implementing interim measures. The responding party will be notified in writing when the College implements interim measures that would impact a respondent, such as protective measures that restrict the responding party’s movement on campus. The College will inform the parties that retaliation is prohibited by law under the Violence Against Women Act (VAWA) and College policy and that the College will take strong responsive action to protect the safety of any individual. If the College has determined that retaliation has occurred, it will not be tolerated and will result in disciplinary action.

The College has the discretion to modify any existing interim measures, with appropriate notice provided to all parties.

5. Failure to comply with interim measures. The College expects students to comply with directives related to interim measures under this policy. Allegations of failure to comply with interim measures may result in an adjudication within the College’s Student Code of Conduct.

B. Remedies-based resolutions. Remedies-based resolutions are non-adjudication approaches designed to address the behavior of concern without taking disciplinary action against a responding party. Where the Title IX assessment concludes that remedies-based resolution may
be appropriate, the College will take immediate and corrective action through the imposition of individual and community remedies.

Remedies-based resolutions are case-specific and are tailored to address the harms described by the reporting party and the impact on the community. Examples of potential remedies include some of the interim measures referenced above in Section IV.A. Other potential remedies include targeted or broad-based educational programming or training, communication with the responding party by the Title IX coordinator or other College administrator, or appropriate forms of restorative justice designed to help the reporting party identify their needs and the responding party repair harm and rebuild trust. Depending on the form of remedies-based resolution used, it may be possible for a reporting party to remain unidentified.

Remedies-based resolutions are typically sought prior to or in lieu of initiating the formal complaint process; however, remedies-based resolutions can be requested and considered at any time during the Title IX process.

A reporting party and responding party’s participation in remedies-based resolution is voluntary and each party can end their own participation at any time. The decision to pursue remedies-based resolution, which may occur at any time, will be made when the College has sufficient information about the nature and scope of the underlying conduct. The Title IX coordinator may determine that additional remedies-based steps are appropriate.

V. Formal Complaint Process - Investigation

A. Overview. After a Title IX assessment, the formal complaint process can be initiated by the College. Please note that once a formal complaint process is initiated the terms “complainant” and “respondent” are used to refer to the “reporting party” and “responding party,” respectively.

B. Notice of Investigation. The student conduct administrator (or designee) will send a Notice of Investigation to both the complainant and the respondent, providing the parties with written notification of the initiation of a formal investigation. The initiation of an investigation does not necessarily mean that a student conduct adjudication is inevitable or that a complainant must pursue the student conduct process. The Notice of Investigation will identify the case managers that have been assigned to each party and the name of the investigator. The College will designate a trained investigator(s) to investigate these reports. All investigators will receive annual training with an emphasis on investigating these complex and sensitive cases. The Notice of Investigation will also include a summary of the allegations against the respondent and the prohibition on retaliation.
C. Case Managers and Witness Coordinator. The complainant and respondent will each be assigned a separate College-appointed, trained case manager who can help a complainant/respondent navigate through the SAHP and related procedures. Each party’s respective case manager will be identified in the Notice of Investigation. The complainant/respondent case manager will receive access to case materials and may accompany the student to any meeting related to these procedures, including interviews with the investigator.

Witnesses will be assigned a witness coordinator who will offer them assistance in understanding their role as a witness within the SAHP. At the discretion of the witness, the witness coordinator may accompany the student to any meeting related to these procedures, including interviews with the investigator.

The case manager/witness coordinator may communicate with the complainant/respondent/witness during proceedings in a non-disruptive manner and may ask for short breaks if the complainant/respondent/witness requires some time for composure or to collect thoughts. The case manager/witness coordinator may not delay, disrupt, or otherwise take action to interfere with the integrity of the meeting except as permitted within these procedures. The case manager/witness coordinator may be required to leave the meeting, if disruptive. If the complainant/respondent/witness has any questions or concerns about the assignment of their case manager/witness coordinator, they may contact the Title IX coordinator for assistance.

D. Advisor of Choice. The complainant and respondent have the option to be assisted by an advisor of their choice. The advisor may be any person: friend, mental health professional, certified victim’s advocate, attorney, an individual at the College, etc. The advisor cannot be an identified witness or have any conflicting role in the formal complaint process or with a party in the proceedings. The College’s duty is to the complainant/respondent, not the advisor. All communication is made directly with the complainant/respondent, who can share information with their advisor, at their discretion. At the discretion of the complainant or respondent, the advisor may accompany the complainant or respondent to any meeting related to these procedures, including interviews with the investigator. The advisor is expected to be a silent and non-participating observer, except to ask for a short break if the complainant/respondent requires some time for composure or to collect thoughts. The advisor may communicate with the complainant/respondent during proceedings in a non-disruptive manner. The advisor may be required to leave the meeting, if disruptive. The advisor may not delay, disrupt, or otherwise take action to interfere with the integrity of the process.

To serve as an advisor, the individual may be required to meet with the Title IX coordinator, student conduct administrator, the College’s legal counsel, or designee in advance of any participation in the formal complaint process.
If the advisor is an attorney or other retained person, the advisor must be retained at the initiative and expense of the complainant/respondent. If the advisor is an attorney, the College’s legal counsel may also attend any meeting. An attorney’s participation in any meeting will be governed by these restrictions and parameters.

E. Investigation. The investigator will conduct a thorough, impartial, and unbiased investigation. All individuals will be treated with compassion and respect and in a manner considerate of individual privacy concerns. An investigation may include multiple meetings with the investigator. An investigation will typically include interviews of the complainant, respondent, witnesses provided by either party with relevant information about the reported incident or discovered during the investigation, and any other individuals who may have relevant information about the reported incident and/or the parties involved. Interviews will typically take no longer than two hours on one day. Should additional time be needed, the investigator and affected party will mutually agree on either rescheduling for another day or extending the length of the interview past two hours. During the investigation process, all those interviewed will have an opportunity to review their own interview summaries for accuracy.

During any interviews with the complainant, respondent, or witnesses, if any deviation from College policy or procedure is suspected, the respective case manager or witness coordinator will have the ability to call for a short break in the proceedings to convene with the investigator to ensure that the proceedings comply with College policy and procedure. Any deviation from College policy or procedure or concerns with the investigation may be communicated directly to the Title IX coordinator by the complainant, respondent, witness, respective case manager, or witness coordinator.

The investigator may request any available physical or medical evidence and/or documentation from the parties. The investigator will seek to obtain relevant communications between the parties, including electronic records, voicemail messages, and/or letters. The complainant and respondent will have an equal opportunity to participate in the investigation with their case managers, and/or advisors of their choice, provide statements, submit additional information, and/or identify witnesses who may have relevant information. It is not the burden of the complainant, respondent, witnesses, or other community members to investigate these matters. The investigator is solely responsible for all aspects of the investigation.

The duration of the investigation is strongly influenced by the availability and/or responsiveness of all involved parties, the complexity of the circumstances of the complaint, and the College’s academic calendar.

F. Reviewing the Summary Report. At the conclusion of the investigation, the investigator will prepare a summary report and provide it to the Title IX coordinator (or designee). The report
will be a summary of the facts ascertained during the investigation and will not make a finding of responsibility or assessment of credibility, though it may include facts bearing on credibility. The Title IX coordinator (or designee) will provide access to the summary report to the parties and outline the available resolution options, including remedies-based resolution or a student conduct adjudication, and adjudicator options. The parties will be provided a minimum of two (2) days to consider the information and options presented by the Title IX coordinator.

1. Adjudicator Options.
   a. External adjudicator. The College can retain an external adjudicator to adjudicate allegations of violations of this policy. The external adjudicator will be a neutral party outside of the College, usually an attorney or seasoned student conduct administrator, who is trained and experienced in dispute resolution, the dynamics of sexual misconduct across identities, and is trained in the College’s policies and procedures. The student conduct administrator will be present during the adjudication to serve as a resource for the external adjudicator on issues of policy and procedure. Should the student conduct administrator recognize any deviation from College policy or procedure, the student conduct administrator will have the ability to call for a short break in the proceedings to convene with the external adjudicator to ensure that the proceedings comply with College policy and procedure. If the external adjudicator determines, by a preponderance of the evidence, that the respondent has violated the SAHP, the student conduct administrator and the external adjudicator will determine the appropriate sanction.

   b. Administrative Adjudication. While a complaint under this policy will typically be resolved by an external adjudicator, a complainant or respondent may request resolution through an administrative adjudication, to be conducted by the student conduct administrator (or their designee) if all parties agree or in cases of failure to comply with restrictions under this policy. The student conduct administrator will meet separately with the complainant and respondent to determine responsibility and render a decision as to what sanctions, if applicable, may be implemented. Both parties must agree to resolution by administrative adjudication. The investigative report will serve as the primary evidence in making a determination of responsibility. Both parties must have notice, the opportunity to review the investigative report in advance, and the opportunity to present relevant information to the student conduct administrator.

   An administrative adjudication is particularly appropriate when the respondent has admitted to the sexual misconduct and there is no discernible dispute in the relevant facts of the investigative report. However, at the discretion of the student conduct administrator, it may also be used when the facts are in dispute.
In reaching a determination as to whether the SAHP has been violated, the student conduct administrator will reach a determination by a preponderance of the evidence—that is, whether the conduct was more likely than not to have occurred as alleged. Depending upon the nature and severity of the allegations, the student conduct administrator may decline to handle the matter administratively and refer the case to an external adjudicator at any time.

In cases when there are reports of failure to comply with contact restrictions related to this policy, the student conduct administrator or their designee will conduct an administrative adjudication.

VI.  **Formal Complaint Process - Student Conduct Adjudication**

A. Overview. The student conduct adjudication process for sexual misconduct complaints is an administrative process and it is not subject to the same standards as a court of law. Rules of evidence ordinarily found in legal proceedings will not apply. Student conduct resolution of complaints based on the SAHP will occur through the use of an administrative adjudication or the use of an external adjudicator.

B. Group Adjudication. When members of a student group, organization, or team of individuals acting collusively operate in concert in violation of the SAHP, they may be charged as a group or as individuals and an adjudication may proceed against the group as joint respondents or against one or more involved individuals as appropriate given available information and the circumstances.

C. Threshold Determination. If a student conduct adjudication is the selected resolution option, the final report, which includes the summary report, interview summaries, written statements, and any other information the College deems relevant, will be reviewed by the Title IX coordinator and the student conduct administrator to make a threshold determination as to whether the conduct alleged in the investigation is covered under the SAHP.

If the Title IX coordinator and the student conduct administrator determine that this threshold has been reached, the student conduct administrator will issue a Notice of Adjudication in order for the student conduct adjudication process to proceed.

If the Title IX coordinator, in consultation with the student conduct administrator, determines that this threshold is not reached, the complainant and respondent will be notified in writing that the allegation will not proceed to adjudication. The threshold determination is final. The Title IX coordinator may offer other supportive measures or other resolution options, such as remedies-based resolution as appropriate.
D. Safeguarding of Privacy. All participants involved in an adjudication are expected to keep private the investigative report and any information learned during the process. The participants may not share any copies of the investigative and adjudicative materials. All documentation provided during the investigation and adjudication meeting must be returned to the College at the conclusion of the meeting and/or any appeals. Any violation of this directive may result in disciplinary action by the College. Nothing in this paragraph precludes disclosure of the outcome of the adjudication.

E. Notice of Adjudication and Review of Documents. If a student conduct adjudication is the selected resolution option, the student conduct administrator will issue a Notice of Adjudication to both parties indicating that a formal allegation(s) has been issued by the College. This Notice will provide a statement of the policy violation(s) that are alleged to have taken place, a brief description of the facts underlying the allegations, and the date scheduled for the adjudication meeting.

The parties will also receive access to the complete investigative report and will both have ten (10) days to review the investigative report. The investigative report will include the summary report, interview summaries, written statements, and any other documentary information. Any written responses by the complainant or respondent to the investigative packet must be provided to the investigator for their consideration. All information and/or materials the parties wish to include in the investigative report or have considered at the adjudication, must be provided to the investigator during the investigation.

F. Identification of Adjudicator; Contesting the Adjudicator. The parties will also be provided the name of the selected adjudicator in the Notice of Adjudication. The parties may submit a written request to the student conduct administrator to contest the external adjudicator. Such written request must present reasonable, articulable grounds to suspect bias, conflict of interest, or an inability to be fair and impartial on the part of the external adjudicator. This challenge must be raised within four (4) business days of receipt of the Notice of Adjudication. All objections must be raised prior to the commencement of the adjudication. The student conduct administrator will make the determination within two (2) business days whether to seek an alternative external adjudicator.

G. Format of the Adjudication Meeting. After reviewing the investigative report, the external adjudicator will have an opportunity to meet with the investigator, complainant, and respondent. The adjudicator may also request to meet with identified witnesses, as described below. The meetings are not designed to reinvestigate the facts collected in the investigative report, but instead to assist the adjudicator in making a determination based on the evidence collected during the investigation. These meetings allow the adjudicator to ask questions they may have, to allow the complainant and respondent to make any statements they deem appropriate, and evaluate the credibility of the parties and witnesses.
1. Complainant and Respondent Participation in the Adjudication. Should they choose to participate in the adjudication meeting, either in person or remotely, the complainant and respondent will meet separately with the adjudicator. During their designated time with the adjudicator, a complainant or respondent may request to participate remotely in their own adjudication meeting. Any proposed alternative must be reviewed in advance by the student conduct administrator to ensure that it is consistent with the goals of a fair and equitable process.

During all other meetings, the complainant and respondent will have the opportunity to listen remotely to the adjudication meetings of the other party, the investigator, and any witnesses. The student conduct administrator will work with each party’s case manager to arrange the space and technological needs.

If a party misses the adjudication meeting for any non-emergency or non-compelling reason, the adjudication may proceed in the individual’s absence at the discretion of the student conduct administrator.

If a respondent chooses to withdraw from the College prior to the conclusion of an investigation or student conduct adjudication under the SAHP, for non-medical or non-disability-related reasons, the student must go through the readmission process coordinated by the Dean’s Office and the case must typically be adjudicated prior to the student’s readmission to the College.

2. Participants in Adjudication Meetings. Adjudication meetings are closed and not open to the public. The adjudicator will meet with the complainant and respondent individually along with their respective advisor and/or case manager. The adjudicator may also choose to meet with witnesses individually with their witness coordinator. The student conduct administrator will attend all meetings, and the College’s attorney may also be present.

3. Duration of Adjudication Meeting. Adjudication meetings will typically conclude within one (1) day.

During an Adjudication Meeting, either party may request short breaks throughout the Adjudication meeting. The case managers, witness coordinator, and/or advisor of choice may request a short break on behalf of the individuals involved, which must be directed to either the external adjudicator and/or the student conduct administrator. Additionally, the student conduct administrator will call for short breaks at regular intervals throughout the student conduct process.
4. Participant Integrity. Parties and other individuals who offer information at adjudication meetings are expected to respond honestly and to the best of their knowledge. A complainant, respondent, or witness who intentionally provides false or misleading information may be subject to discipline under the Student Code of Conduct.

5. Adjudication Meeting Agenda.

a. The student conduct administrator will begin the meeting and explain the process and introduce meeting attendees. Prior to beginning the adjudication, the student conduct administrator will meet with all parties to answer any procedural questions.

b. Generally, the investigator will provide a summary of the investigation. The adjudicator, and the complainant or respondent, through the adjudicator, may make brief inquiries of the investigator at the conclusion of the summary.

c. The complainant may meet with the adjudicator. The adjudicator and the respondent, through the adjudicator, may pose questions to the complainant.

d. The respondent may meet with the adjudicator. The adjudicator and the complainant, through the adjudicator, may pose questions to the respondent.

e. The adjudicator may meet with relevant witnesses. The adjudicator will question called witness and provide the complainant or respondent an opportunity to pose questions through the adjudicator.

f. The adjudicator may call back any participant for additional questions or clarifications.

g. The adjudicator may meet with the complainant for follow-up questions.

h. The adjudicator may meet with the respondent for follow-up questions.

i. At the conclusion of the adjudication meeting, the complainant and respondent may submit a written impact statement to the student conduct administrator that will only be considered at the sanctioning phase should the respondent be found responsible of violating the SAHP.

6. Questioning by Adjudicator at Adjudication. At times, the adjudicator may need to ask difficult or sensitive questions in order to understand areas of factual dispute or gain a full understanding of the context. Complainants and respondents may submit questions for the other party to the student conduct administrator for the adjudicator’s consideration. At no time will the complainant or the respondent be permitted to directly question one another or any other participant.

7. Deliberation. After the adjudicator has met with all relevant parties, the adjudicator will conclude the adjudication and move to deliberation. The student conduct administrator will support deliberations to offer clarifications about policy or provide any other
appropriate information requested by the adjudicator. The adjudicator will make a
decision, using a preponderance of the evidence standard, to determine if there were any
violations of the *SAHP*.

The adjudicator will provide the student conduct administrator a written summary of the
findings, which will be included in the outcome letter. The summary will detail the
findings of facts and determination of responsibility.

8. Preponderance of the evidence. The adjudicator will determine a respondent’s
responsibility by a preponderance of the evidence. This means that the adjudicator will
decide whether it is “more likely than not,” based upon the information provided in the
investigative report and through the adjudication meeting, that the respondent is
responsible for the alleged violation(s). A not responsible finding means that the
evidence presented did not meet the standard necessary to determine responsibility.

H. Issues Related to the Adjudication Meeting.

1. Outside agreements. The College will generally not recognize or enforce agreements
between the parties reached outside of these procedures.

2. Witnesses. During the investigation, the complainant and respondent will have been
asked to identify witnesses. The investigator may also identify witnesses during the
course of the investigation. Witnesses may opt to contact the assigned witness
coordinator as a resource at any point in the process. Witnesses must have observed the
acts in question or have information relevant to the incident and cannot participate
solely to speak about an individual’s character. After reviewing the investigative report,
including all witness information, the adjudicator will ask the student conduct
administrator to notify relevant witnesses at least one (1) business day before the
adjudication, that they may be asked to attend. The names of retained witnesses will be
confirmed with parties at least one (1) business day before adjudication as well.

3. Relevance. The Title IX coordinator and student conduct administrator will review the
investigative report and associated materials to determine whether the included
information is relevant to the determination of responsibility. The Title IX coordinator
and student conduct administrator may redact information that is irrelevant, more
prejudicial than probative, or immaterial. The parties will have a full and fair
opportunity to respond to the information included in the investigative report.

   a. Prior sexual history of the parties. Prior sexual history of a complainant
   or respondent will never be used to prove character or
   reputation. Information related to the prior sexual history of the parties
   generally is not relevant to the determination of a *SAHP* violation and
only in limited circumstances will such evidence be made available for consideration by the adjudicator. For example, prior sexual history may be relevant to explain the presence of a physical injury, physical condition, or to help resolve another question raised in the investigation. Further, where there is a current or previous relationship between the complainant and the respondent, and the respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. However, as noted in other sections of the SAHP, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent and does not preclude a finding of a violation of the SAHP.

b. Prior or Subsequent Conduct of the Parties. When prior or subsequent conduct of the parties is included in the investigative report, the Title IX coordinator and student conduct administrator will assess the investigative purpose of the information. Prior or subsequent conduct of the parties may be considered by the adjudicator for the investigative purpose of demonstrating knowledge, intent, state of mind, motive, opportunity, preparation, planning, method of operation, pattern, absence of mistake, absence of accident, or identity. Such evidence of prior or subsequent conduct, regardless of whether there has been a prior finding of responsibility, may be relevant and probative to a determination of responsibility and/or assignment of a sanction. If these two criteria are met, the Title IX coordinator and the student conduct administrator will inform the adjudicator that the adjudicator must determine whether the prior or subsequent conduct is supported by a preponderance of the evidence and if so, use of that evidence is limited to the investigative purposes (listed above) for which the information was included.

4. Consolidation of Adjudication. The student conduct administrator has the discretion to consolidate multiple reports against a respondent in one adjudication if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident and not unfairly prejudicial to the respondent.

5. Recording of proceedings. The College does not audio or video record the student conduct proceedings or deliberations, nor is any other individual permitted to record the proceedings.

6. Request to Reschedule. Either party can request to reschedule their adjudication meeting. Absent extenuating circumstances, requests to reschedule must be submitted to the student conduct administrator at least three (3) business days prior to the scheduled meeting. A request
to reschedule must be supported by a compelling reason. The student conduct administrator may also reschedule the adjudication meetings, without a request by the parties, when there is reasonable cause to do so. The student conduct administrator will notify the parties of any changes to the scheduled adjudication meetings.

I. Sanctions. If the external adjudicator finds a student, group, or organization responsible for a violation of the SAHP, the external adjudicator and the student conduct administrator (together, the sanctioning body) will determine the appropriate sanction(s). Sanctions can only be made against a respondent after a finding of responsibility is reached. The sanctioning body may issue a single sanction or a combination of sanctions.

1. Factors Informing Sanction Decision. In considering the appropriate sanction within the recommended outcomes, the sanctioning body will consider the following factors together with any impact statements provided from the complainant and/or respondent:
   a. the respondent’s prior discipline history;
   b. how the College has sanctioned similar incidents in the past;
   c. the nature and violence of the conduct at issue;
   d. the impact of the conduct on the complainant, and their desired sanctions, if known;
   e. the impact of the conduct on the community, its members, or its property;
   f. whether the respondent has accepted responsibility;
   g. whether the respondent is reasonably likely to engage in the conduct in the future;
   h. any other mitigating or aggravating circumstances, including the College’s values;
   i. the respondent’s optional good faith participation in restorative / remedies based educational options during the report, complaint, and investigation portions of the resolution process

2. Remedial Actions. The sanctioning body may consider remedial actions and/or additional steps that may be taken to address and resolve any incident of discrimination or harassment and to prevent the recurrence of any discrimination and/or retaliation, including strategies to protect the complainant and any witnesses from retaliation; provide counseling for the complainant; other steps to address any impact on the complainant, any witnesses, and the broader student body; and any other necessary steps reasonably calculated to prevent future occurrences of harassment.
3. Suspension. If a sanction includes suspension, the respondent is subject to the readmission process as described in the Student Handbook. Prior to readmission, the complainant will be notified by the student conduct administrator or their designee.

4. Possible Sanctions. The College reserves the right to impose other reasonable sanctions or to combine sanctions as it deems appropriate. Sanctions include:
   a. **Warning**—A written notification that a violation of the SAHP occurred and that any further responsible finding of misconduct may result in more severe disciplinary action. Warnings are typically recorded for internal purposes only and are not considered part of a student’s permanent student conduct record. Though disclosed with a student’s signed consent, a student who receives a warning is still considered in good standing at the College.
   b. **Probation**—A written notification that indicates a serious and active response to a violation of the SAHP. Probation is for a designated period of time and includes the probability of more severe sanctions, if found responsible for additional violations of the Student Code of Conduct or SAHP, including suspension or expulsion from the College. Notification of probation is considered a change in status and will normally be sent to parents or guardians. As a result of a change in status, a student who is placed on probation is not considered to be in good standing at the College during their period of probation.
   c. **Suspension**—The separation of a student from the College for a specified period of time, after which the student is eligible to return. Conditions for re-enrollment may be required and will be included in the notification of suspension. Suspended students are required to comply with the College’s re-admission process prior to being eligible for re-enrollment.

   During the period of suspension, the student may not participate in College academic or extracurricular activities; may be barred from all property owned or operated by the College; and depending on the severity of the charge, the student might not be allowed to progress toward completion of their Swarthmore degree by taking courses at other institutions while suspended. Students who are suspended may not be on campus without specific, written permission of the dean of students or designee.

   Suspension is for a designated period of time and includes the probability of more severe sanctions, including expulsion, if found responsible for additional violations of the Student Code of Conduct or SAHP. Notification of suspension will normally be sent to guardians or parents, as it results in a change of status.
As a result of a change in status, a student who is suspended is not considered to be in good standing at the College during their period of suspension.

d. **Expulsion**—Expulsion is the permanent separation of the student from the College. Students who have been expelled may not be on campus without specific, written permission from the dean of students or designee. Notification of expulsion will normally be sent to guardians or parents, as it results in a change of status.

Expulsion may be particularly appropriate if the College has determined that the respondent has engaged in the same or similar conduct and/or has been found in violation of the *SAHP* in the past.

e. **Loss of privileges**—Denial of the use of certain College facilities or the right to participate in certain activities, events, programs or to exercise certain privileges for a designated period of time. This includes Contact Restrictions, denial of ability to represent the College in an official capacity, and/or organizational sanctions.

f. **Restitution**—A student may be required to make payment to an individual or to the College related to the misconduct for damage, destruction, defacement, theft, or unauthorized use of property.

g. **Fines**—Swarthmore reserves the right to impose fines, as appropriate, in addition to requiring payment for costs resulting from or associated with the offenses.

h. **Relocation or removal from (College-operated) housing**—Relocation is the reassignment of a student from one living space to another. Removal from housing is the removal of a student from all College-operated housing. Relocation and removal from housing are typically accompanied by the loss of privileges regarding the visitation to specific residential areas for a specified period of time.

i. **Educational requirements/referrals**—The College reserves the right to impose counseling or substance assessments or other required educational sanctions.

J. **Notice of Outcome.** The student conduct administrator will communicate the outcome of the adjudication to the respondent and the complainant at the same time. The notice will be in writing and will include notification of appeal options. Generally, the outcome of the adjudication will be communicated to the parties within five (5) business days from the date of the conclusion of the adjudication meeting.

   1. If the respondent has been found responsible for a policy violation under the *SAHP*, the respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The complainant will be informed of any sanctions that directly relate to the complainant.
2. The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of the appeal.

K. Appeals. Either party may appeal the determination of responsibility or sanction(s) in writing to the dean of students or designee. The appeal must be filed within five (5) business days of receiving the written notice of outcome. Dissatisfaction with the outcome of the adjudication is not grounds for appeal. The limited grounds for appeal are as follows:

1. new evidence that would affect the finding of the adjudication and that was unavailable at the time of investigation;
2. procedural error(s) that had a material impact on the outcome; or
3. the sanctions imposed were grossly disproportionate to the violation committed.

The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. Upon receipt of an appeal, the dean of students will notify both parties. Each party has an opportunity to respond in writing to the appeal. Any response to the appeal must be submitted within two (2) business days from receipt of the appeal.

The appeal consideration will be conducted in an impartial manner by the dean of students (or designee). In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The dean of students shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal and supporting information provided in the written request for appeal and the record of the original adjudication. The dean of students can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal.

In the case of new and relevant information, the dean of students can recommend that the case be returned to the original adjudicator to assess the weight and effect of the new information and render a determination after considering the new facts.

If the appeal is granted based on procedural error(s) that materially affected the outcome of the adjudication, the dean of students may return the case to the external adjudicator for additional review or forward the case for a new adjudication, which may be heard by an alternate external adjudicator if the dean of students finds that to be appropriate.

Absent extenuating circumstances, the dean of students will simultaneously and in writing communicate the result of the appeal to the complainant and respondent within three (3) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.
VII. Records

The Title IX coordinator will retain records of all reports and complaints, regardless of whether the matter is resolved by Title IX assessment, remedies-based resolution, or adjudicated resolution. Complaints resolved by Title IX assessment or remedies-based resolution are not part of a student’s conduct file or academic record.

The Title IX coordinator will document each report or request for assistance in resolving a case involving charges of sexual misconduct, whether by the complainant or a third party, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

Affirmative findings of responsibility in matters resolved through student conduct resolution are part of a student’s conduct record. Such records shall be used in reviewing any further conduct or in developing sanctions and shall remain a part of a student’s conduct record.

The conduct files of students who have been suspended or expelled from the College are maintained in the dean of students office for no fewer than seven (7) years after their departure from the College. Further questions about record retention should be directed to the dean of students.

Medical and law schools and some governmental agencies may require disclosure by the College of any student conduct findings. Students who transfer to other schools or participate in off-campus study programs may also be required to provide such information.

At the beginning of each academic year, the student conduct administrator will produce a summary of case dispositions summarizing the outcome of all cases that were adjudicated the previous academic year, without revealing the identity of any of the participants in the proceedings.