



GORDON COLLEGE POLICY ON SEXUAL MISCONDUCT AND HARASSMENT

September 2026

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Section A: Definitions, Introduction and Policies

A.1. Definitions

- **106.30 Offenses** refers to all offenses that are defined in the Title IX Regulations (Section 106.30); the umbrella term for these offenses is Sexual Harassment, which includes the offenses of Sexual Harassment, sexual assault, dating violence, domestic violence, and stalking. These offenses are strictly defined by federal regulations (34 C.F.R. §106.30), and our policy adopts those definitions. Section 106.30 also stipulates that the federal regulation only covers these offenses when: 1) the College has actual knowledge of the alleged offense(s); 2) the alleged offense(s) occurred within an educational program or activity of the college (this includes, but is not limited to any Gordon College campus and other buildings owned or controlled by the College; it does not include off-campus private residences or properties over which the College exercises no control); and, 3) the alleged offenses occurred against a person in the United States. IMPORTANT NOTE: The College will respond to and address *all* reports of Sexual Misconduct, regardless of whether they are 106.30 offenses (see section A.24 — *Other Reports of Sexual Misconduct* for details).
- **Advisor** means a person chosen by a party to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any. The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses. In the event of a live hearing, each party *must* have an Advisor to ask questions during cross-examination. If a party does not have an advisor, the Title IX Coordinator will assign a trained advisor from the Title IX team, but that advisor's role will be limited to asking questions during cross-examination at the hearing.
- **Complainant** means a person who has filed a Complaint alleging that the person has been the victim of conduct that could constitute sexual misconduct or retaliation, as defined in this policy. Please note that Complainant is a technical term (used in federal regulations) to refer to a person who has filed a complaint. See Reporting Party below to understand the distinction between a Complainant and a Reporting Party. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of Gordon College. This includes, but is not limited to, situations in which the Complainant:
 - has withdrawn from the school due to alleged sexual harassment and expresses a desire to re-enroll if the school responds appropriately to the allegations;

- has graduated but intends to apply to a new program or intends to participate in alumni programs and activities;
- is on a leave of absence and is still enrolled as a student or intends to re-apply after the leave of absence; or
- has applied for admission.
- **Complaint** (including **Formal Complaint**) means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment or sexual misconduct (or alleging retaliation against any party for engaging in a protected activity described within this policy) and requesting that the College investigate the allegation. When the Complaint contains Hearing-Qualifying-Allegations it is considered a Formal Complaint, which triggers certain federally mandated procedures. All complaints, whether Formal or otherwise are treated with the same level of seriousness. When federal regulations and/or this policy require the Mandatory Dismissal of a Formal Complaint, the College may still choose to investigate and/or address the allegations using other resolution processes (as described in this policy) but will not conduct a live hearing.
- **Confidential Resource** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- **Confidential Title IX Counselor (also known as a confidential resources provider)** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation, but who has been specifically trained to provide information (to both students and employees) regarding options and services available to someone who has experienced sexual harassment or violence. See section on Confidential Resources for more details.
- **Day** means a day when college offices are open for business, unless otherwise stated.
- **Directly Related Evidence** is evidence that is connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- **Education program or activity** means locations (including remote learning platforms¹), events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the Sexual Harassment or discrimination occurs. It includes any building owned or controlled by a student organization that is officially recognized by the College.

¹ A student using a personal device to perpetrate online sexual harassment during class time may constitute a circumstance over which the College exercises substantial control. In such case, the factual circumstances of online harassment will be analyzed to determine if it occurred in circumstances over which the College exercised substantial control over the Respondent and the context.

Conduct occurring off campus may qualify if the school exercised substantial control over the respondent and the context in which the alleged misconduct occurred (such as during a school sponsored trip or travel with a school athletics team).

- **Final Determination:** A conclusion (by the preponderance of the evidence standard of proof) that the alleged conduct did or did not violate policy.
- **Finding:** A conclusion (by the preponderance of the evidence standard of proof) that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Grievance Process** means a method of formal resolution, required by federal law and designated by the College to address 106.30 Offenses, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- **Decision-Makers** include any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- **Hearing Decision-maker** refers to those who have decision-making authority during a live hearing (and subsequent decision-making phase) within the Gordon College Formal Grievance process.
- **Hearing-Qualifying Allegations** refers to allegations of 106.30 Offenses when: 1) the College has actual knowledge of the alleged offense(s); 2) the alleged offense(s) occurred within an educational program or activity of the college (this includes, but is not limited to the Gordon College campus and other buildings owned or controlled by the College; it does not include off-campus private residences or properties over which the College exercises no control); and, 3) the alleged offenses occurred against a person in the United States. NOTE: Hearing-Qualifying Allegations describes those allegations that trigger a requirement under federal law that the College act, and that certain procedures (e.g. a live hearing) must be utilized. It is important to note, however, that the College will respond to and address *all* reports of Sexual Misconduct, regardless of whether they are Hearing-Qualifying Allegations (see Section A.24).
- **Investigator** means the person or persons charged by the College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- **Mandated Reporter** means an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- **Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

- **Official with Authority (OWA)** means an employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College.
- **Parties** include the Complainant(s) and Respondent(s), collectively.
- **Recipient** means a postsecondary education program that is a recipient of federal funding. For the purposes of this policy, the Recipient is Gordon College.
- **Relevant Evidence** is evidence that tends to prove or disprove an issue in the complaint.
- **Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the educational program of the College.
- **Reporting Party** means a person who has made the College aware (also known as “giving notice”) of any alleged violation of this policy.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- **Resolution** means the result of an informal or Formal Grievance Process.
- **Sanction** means a consequence imposed by the College on a Respondent who is found to have violated this policy.
- **Sexual Harassment (106.30 Offenses)** is the umbrella category including the offenses of Sexual Harassment, sexual assault, stalking, and dating violence and domestic violence. The definitions for these offenses are strictly defined by federal regulations (34 C.F.R. §106.30).
- **Sexual Misconduct** is a broader category, which includes 106.30 Offenses, as well as all other forms of misconduct prohibited by this policy. The distinction is important because federal regulations impose specific requirements on the College response to 106.30 Offenses, whereas there may be other options available to respond to other forms of misconduct.
- **Title IX Coordinator** is at least one official designated by the College to ensure compliance with Title IX and the Title IX program of Gordon College. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks. The Title IX Coordinator and the Deputy Title IX Coordinator, if any, are the only Gordon College officials who have the authority to institute corrective measures on the institution’s behalf for purposes of Title IX.
- **Title IX Team** refers to the Title IX Coordinator, any deputy coordinators, Title IX Investigators, and all Title IX Decision-Makers.

A.2. Introduction

As a Christian community of higher education, Gordon College is committed to providing a liberal arts education in an environment shaped by ideals and standards consistent with a Christian worldview. Inherent in a Christian worldview are the biblical injunctions to live to the glory of God and to recognize the Lordship of Christ in every activity.

Human beings, being created in God's image, are endowed by God with dignity and worth. Those are foundational values at Gordon for developing and maintaining a learning and working environment characterized by integrity, mutual respect, and accountability. All members of the Gordon community have a responsibility to foster a respectful, supportive, and safe campus environment.

Given this foundation of human dignity and worth, Gordon College approaches issues of discrimination and harassment (including, but not limited to, sexual misconduct in all its forms, stalking and intimate partner violence) not just as behaviors prohibited by applicable state and federal law, but as conduct that is antithetical to the scriptural values this community espouses. Sexual misconduct is harmful not only to the individuals involved, but it undermines the entire community. Gordon College prohibits all forms of sexual misconduct, as defined in this policy; we regard sexual misconduct as a serious offense, and a violation of trust and integrity. Such violations will result in discipline, including expulsion or termination of employment. State and federal laws also address conduct that may meet Gordon College's definition of prohibited conduct, and criminal prosecution may take place independently of any disciplinary action instituted by Gordon College.

A.3. Rationale for Policy

Gordon College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sex-based harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness in all aspects of the educational program or activity, the College has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of harassment on the basis of sex, and for allegations of retaliation. The College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

A.4. Applicable Scope

The core purpose of this policy is the prohibition of all forms of Sexual Misconduct, including Sexual Harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to the resolution processes detailed below.

When the Respondent is a member of the Gordon College community, an appropriate disciplinary process may be available even if the Complainant is not a member of the College

community². However, the Formal Grievance Process identified below is not available in the event a Complainant is not participating in or attempting to participate in the education program or activities of Gordon College.

The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

A.5. Title IX Coordinator

The Title IX Coordinator³ (currently Darlene Hubbard; TitleIX@gordon.edu) is responsible for overseeing the implementation of this policy.

The Title IX Coordinator will be informed of all complaints or reports of violations of this policy. The Title IX Coordinator's responsibilities include, but are not limited to, the following:

- Coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent Sexual Harassment (including sexual violence) and retaliation prohibited under this policy.
- Reviews College policies regarding sexual misconduct to ensure compliance with Title IX and the 2013 Amendments to the Violence Against Women Act (VAWA).
- Coordinates college-wide training, education and prevention efforts regarding Title IX and prohibited conduct defined in this policy.
- Advises the Title IX Team in procedures and resources under this policy to ensure that the College's review, investigation and resolution of reports of sexual misconduct are consistent, timely, effective, and in accordance with this policy.
- Maintains records of all Title IX reports, documenting the College's response, monitoring reports to identify and address any patterns or systemic problems that may contribute to a hostile environment. These records will be kept confidential to the extent required by law.
- The Title IX Coordinator may delegate responsibilities under this policy to designated employees if appropriately trained.

² This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. For the purpose of this policy, the College defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the College.

³ All references to the Title IX Coordinator in this Policy are understood to mean the Title IX Coordinator or his/her designee (such as a Deputy Title IX Coordinator or other appropriately trained administrator).

A.6. The Title IX Team

A. Title IX Administrators:

Title IX Coordinator

Darlene Hubbard (TitleIX@gordon.edu)

Mail: Darlene Hubbard, Title IX Coordinator

255 Grapevine Road, Wenham, MA 01984

P: 978-867-4598

Web: <https://www.gordon.edu/titleix>

Deputy Title IX Coordinator:

Glenn Deckert (glenn.deckert@gordon.edu)

Office: Gordon Police

P: 978-867-4736

B. Title IX Resolution Process Pool

The Formal Grievance Process relies on a pool (“the Pool”) of administrators to carry out the process. Members of the Pool are announced in an annual distribution of this policy. Pool members may be trained to serve as an Investigators, Hearing Panel members, Decision-Making Panel members, Appeal Decision-Makers, and/or Advisors, as assigned by the Title IX Coordinator on a case-by-case basis.

The College reserves the right to revise the list of team members at any time and will do so by updating the list on the college website. In addition, the College reserves the right at all times to engage an outside resource to function in any of the aforementioned roles.

A complete list of the current Title IX Team is available here:

- [Gordon College Title IX Team](#)

A.7. Title IX Resolution Process Pool Information

The list of Pool members and a description of the Pool can be found in The Title IX Team section above.

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints;
- To act as an Advisor to the parties;
- To serve in a facilitation role in Alternate Resolution if appropriately trained;
- To perform or assist with initial assessment;
- To investigate complaints;

- To serve as a hearing facilitator (process administrator, no decision-making role); and/or
- To serve as a Decision-maker regarding the complaint.

B. Pool Member Appointment

The Title IX Coordinator appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles. The College reserves the right to appoint an outside resource as a pool member for any role.

Individual employees of the College who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

C. Pool Member Training

The Pool members receive annual training (which may jointly or based on their respective roles, as appropriate). This training includes, but is not limited to:

- The scope of the College's Discrimination and Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the recipient with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy

- How to conduct an investigation and grievance process including hearings and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-makers, intake personnel, and live-Hearing Chairs. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool will be publicly posted on the college website (Title IX Training Materials).

A.8. Independence, Conflict-of-Interest, and Ensuring Impartiality

The Title IX Coordinator manages the Title IX Team and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

When team members are assigned to be materially involved in any resolution process (including as investigators, hearing panel members, decision-making panel members or appeals officers), the Title IX Coordinator is responsible to vet them to ensure impartiality by confirming there are no actual or apparent conflicts of interest or disqualifying biases for a party generally, or for a specific Complainant or Respondent.

The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable.

To raise concerns involving bias or a potential conflict of interest by any Title IX Team member (other than the Title IX Coordinator), or to report misconduct or discrimination committed by any other Title IX Team member, contact the Title IX Coordinator.

To raise any concern involving bias or potential conflict of interest by the Title IX Coordinator, or to report misconduct or discrimination committed by the Title IX Coordinator, contact the Dean of Students (currently, Chris Carlson, chris.carlson@gordon.edu).

If the appropriate administrator determines there is/was bias or conflict of interest, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

A.9. External Reporting Resources

A. Inquiries may be made externally to:

Office for Civil Rights (OCR), U.S. Department of Education • 400 Maryland Avenue, SW, Washington, D.C. 20202-1100 • Customer Service Hotline #: (800) 421-3481 • FAX: 202-453-6012 • TDD#: 877-521-2172 • Email: OCR@ed.gov • Web: <http://www.ed.gov/ocr>

Office for Civil Rights (OCR), Boston Office, U.S. Department of Education • 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 • Telephone: (617) 289-0111 • FAX: (617) 289-0150 • Email: OCR.Boston@ed.gov

B. For complaints involving employees:

Equal Employment Opportunity Commission (EEOC)

Local EEOC Field Office: Equal Employment Opportunity Commission, JFK Federal Building, 15 New Sudbury Street, Room 475, Boston, MA 02203-0506 • Phone: 800-669-4000 • Fax: 617-565-3196 • TTY: 800-669-6820 • ASL Video Phone: 844-234-5122

Massachusetts Commission Against Discrimination (MCAD) Locations:

- One Ashburton Place, Suite 601, Boston, MA 02108; (617) 994-6000
- 436 Dwight Street, Room 220, Springfield, MA 01103; (413) 739-2145
- 18 Chestnut Street, Room 520, Worcester, MA 01608; (508) 453-9630

A.10. Confidential Resources

A. Confidential Title IX Resources —

Gordon College Center for Student Counseling and Wellness

Location: Jenks 201 & 202

Phone: 978-867-4301

Hours: Monday-Thursday, 8 a.m. – 4:30 p.m.; Friday, 8 a.m. – 1 p.m.

The Center for Student Counseling and Wellness provides a broad range of general counseling and wellness services. All the counselors are designated as confidential resources, which means they will maintain strict confidentiality and are not mandated reporters of Title IX misconduct like other college employees. In addition, the counselors have all been specifically trained as Confidential Title IX Resources, and can provide the following information and/or services to any student or employee upon request:

- A description of reporting options (and the effects of each);
- Information about counseling and crisis services (on-campus and local);
- Information about medical and health services (on-campus and local);
- Description of available supportive measures on campus;
- Information about the institutional disciplinary process (described in this policy);
- Information about legal processes available from local law enforcement (including protective and no-contact orders); and,
- Assistance in coordinating with both on- and off-campus providers if supportive measures or similar services are requested.

All counselors (including Confidential Title IX Resources) are NOT mandated reporters; they will not notify anyone (including the College and/or Title IX Coordinator) about reported sexual harassment or assault, unless the reporting party specifically authorizes them and/or requests their help in doing so.

If you have been sexually assaulted or are unsure of whether you have been, you need a safe, confidential place to talk about what has occurred. When you are ready, the Gordon College Center for Student Counseling and Wellness provides a free counseling session for Gordon students by professional licensed counselors or professional supervised counselors who are able to support you during this confusing and scary time. If you have been sexually assaulted, you may find yourself feeling alone, more fearful, unable to make it to class, having difficulty eating, or eating too much, not sleeping at all, or sleeping more than normal, feeling sad, crying, or feeling nothing at all.

The Center for Student Counseling and Wellness counselors are here to help you, to listen to you, and support you in all aspects of being a victim of sexual assault. Individuals who have been sexually assaulted often blame themselves. The Center for Student Counseling and Wellness offers a place for you to process what has happened in a non-judgmental, supportive environment to determine what, if anything, you would like to do, and to help you begin to heal.

Appointments can be made using an online intake form available here:

<https://www.gordon.edu/counselingwellness>

The intake coordinator will contact you within 24 hours to schedule you for an appointment during normal business hours.

B. Other Campus Confidential Resources

1. Chapel Office

College chaplains are not mandated reporters when providing pastoral counseling within the scope of their training and/or ordination. As of the date of this policy, there are no Gordon employees serving in the role of chaplain.

2. Health Center

Location: Lane Student Center, downstairs

Phone: 978-867-4300

Hours: Monday through Thursday, 9 a.m. to 2 p.m. and Friday, 9 a.m. to 12 p.m.

C. Off Campus Confidential Resources

1. YWCA North Shore Rape Crisis Center (24-hour hotline: 1-800-922-8772)

In compliance with Massachusetts regulations, Gordon College has partnered with YWCA North Shore Rape Crisis Center (NSRCC) to ensure that members of the Gordon Community have access to:

- free and confidential counseling and advocacy services either on campus or off campus; and,
- sexual assault crisis services, including assistance in accessing a sexual assault nurse examiner if available, or domestic violence crisis services in response to sexual misconduct.

To facilitate this partnership, Gordon College has entered into a Memorandum of Understanding (MOU) with NSRCC, which describes the various ways in which the College and NSRCC will work together to ensure that community members have access to these services.

Students or employees who would like to receive support or counseling from NSRCC are encouraged to call the above hotline any time.

2. HAWC (Healing Abuse, Working for Change) Domestic Violence Services (24-hour hotline: 1-800-547-1649)

HAWC provides free services to abuse victims, including a 24-hour hotline, one-on-one advocacy, support groups, legal advocacy, legal clinics, parent child trauma recovery programs, emergency shelter and community outreach and education. Gordon College has entered into a Memorandum of Understanding (MOU) with HAWC to ensure that students or employees are able to access free and confidential counseling and advocacy services either on campus or off campus, to encourage cooperation and trainings between the College and HAWC, and to ensure an understanding of the roles that the College and HAWC should play in responding to reports and disclosures of sexual misconduct against students and employees.

3. Other Off Campus Resources

A Complainant who would like the details of an incident to be kept confidential may speak with:

- Licensed professional counselors and other medical providers
- Local or state assistance agencies
- Clergy/Chaplains

- Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor, elder or individual with a disability, or when required to disclose by law or court order.

D. Optional Sharing of Statistical Information

Employees who are confidential resources and who receive reports within the scope of their confidential roles may, *at the request of the reporting party*, timely submit anonymous statistical information for Clery Act purposes.

A.11. Mandated Reporting

A. Who Is a Mandated Reporter?

All Gordon College employees (including faculty, staff and administrators, with the exception of confidential resources and Confidential Title IX Counselors described above) are considered Mandated Reporters. Mandated Reporters must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment, if that report involves allegations of sexual misconduct. Mandated Reporters must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Failure of a Mandated Reporter to report an incident of Sexual Harassment or Sexual Misconduct (as defined in this policy) of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct. Failure to do so is a second (and serious) violation of this Policy. The College is only deemed to be on notice of the Sexual Harassment of a Mandated Reporter when the alleged harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

B. Mandated Reporters: Considerations for the Complainant

1. If a Complainant expects formal action in response to his/her allegations, reporting to any Mandated Reporter can connect that person with resources to report crimes and/or policy violations, and these employees will promptly pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

2. Complainants may want to carefully consider whether to share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.
3. In order to make informed choices, it is important that Complainants be aware of confidentiality and mandatory reporting requirements when consulting campus resources. If you share details about sexual misconduct with a college employee who is not designated as a confidential resource, that employee is required by college policy to share the information with the Title IX Coordinator, who will contact the Complainant to offer supportive measures and assess how the College should respond to the report.
4. NOTE: Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College.

C. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identifying the Complainant. The Mandated Reporter cannot remain anonymous themselves. The Complainant must make the request for anonymity in writing, signed and dated by the Complainant. The Mandated Reporter must preserve this written request for seven years.

If a Complainant has requested that a Mandated Reporter maintain the Complainant’s anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits the College’s ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant’s personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements

A.12. Right to an Advisor

The parties may each have one Advisor⁴ of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor, as long as the Advisor is eligible and available.⁵

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

A. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the College community.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. However, federal regulations require that all parties have an Advisor present during hearings (see C. below for additional details).

B. Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. The role of the Advisor is narrow in scope: the Advisor may attend any interview or meeting connected with the grievance process that the party whom they are advising is invited to attend, but the advisor may not actively participate in interviews and may not serve as a proxy for the party. During meetings, the advisor may talk quietly with the student or pass notes in a non-disruptive manner. The advisor may not intervene in meetings with the school. In addition, while advisors may provide guidance and assistance throughout the process, all written submissions must be authored by the student. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

⁴ This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

⁵ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

C. Advisors in Hearings/College-Appointed Advisor

Under U.S. Department of Education regulations under Title IX, a form of questioning known as cross-examination is required during the live hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

D. Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and the College's policies and procedures.

E. Advisor Violations of College Policy

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not regularly address College officials during meetings or interviews unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during cross-examination in a hearing proceeding.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, privately as needed. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented.

Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

F. Sharing Information with the Advisor

The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this

information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

If a party wishes to authorize the College to share such information directly with the party's Advisor, such a request must be made in writing (email is acceptable) to the Title IX Coordinator, demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, the College may comply with that request at the discretion of the Title IX Coordinator.

G. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

H. Expectations of an Advisor

The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

I. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

J. Assistance in Securing an Advisor

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>

A.13. Notice/Complaints of Sexual Misconduct and/or Retaliation

Notice or complaints of Sexual Misconduct (including Sexual Harassment and sexual violence) and/or retaliation may be made using any of the following options:

- A. File a complaint with, or give verbal notice to, the Title IX Coordinator, any Deputy Title IX Coordinator, or any member of the Title IX Team (see contact information in #7 above). Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
- B. If a report is made to any other Mandatory Reporter at the College, it will not be considered a Formal Complaint. However, once the Mandated Reporter has notified the Title IX Coordinator, he/she will contact the reporting party to assist him/her in determining whether a Formal Complaint is desired.
- C. Anonymous reports (including those submitted via the College's anonymous reporting web page) are accepted but can give rise to a need to investigate. Gordon College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report.
 1. We are aware that individuals sometimes opt for an anonymous complaint because of a concern that reporting might obligate them to cooperate with an investigation.
 2. Please be aware that reporting to Title IX carries no obligation to initiate a formal response or participate in an investigation.
 3. The College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety of anyone on campus.
 4. The Complainant is largely in control of this process and should not fear a loss of privacy by making a report (which allows the College to discuss options, offer supportive measures, and assist the Complainant in making an informed decision about what is best for him/her).

A Formal Complaint means a written document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by e-mail sent to TitleIX@gordon.edu.

A reporting party may meet with the Title IX Coordinator to discuss options prior to preparing a written complaint, and the Coordinator can assist that person in making an informed decision and, if desired, assist in filing a Formal Complaint.

A.14. Online Standard and Anonymous Reporting Forms

The College provides two online forms for those who wish to report sexual misconduct to the College via the Title IX Coordinator. One is an anonymous reporting form, for an individual who would like to report without divulging his or her name (please note the caveats regarding anonymous reports in the previous section). The other is a standard form, which is a convenient way to make an initial report to the College (a report may also be made by email to TitleIX@gordon.edu).

Both forms are available on the College website's [Report Sexual Misconduct page](#).

A.15. Presumption

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof. However, this presumption does not imply that the alleged harassment did not occur, or that the Respondent is truthful or a Complainant is untruthful. Instead, the presumption is designed to ensure that investigators and decision-makers serve impartially and do not prejudge that the Respondent is responsible for the alleged harassment.

A.16. Standard of Review

In all cases, decisions made under this Policy will be based on the preponderance of the evidence standard. This means that the Decision Maker(s) will determine whether it is more likely than not that the Respondent violated the Policy as alleged, based on the totality of the evidence.

A.17. Promptness and Resolution Timeline

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. The resolution process may include Informal Resolution processes, the investigation (if any), the determination (which may be a live hearing or determination panel), and notification of findings.

The College will not delay investigations or hearings solely because in-person interviews or hearings are not feasible. Instead, when necessary and appropriate, the College will use technology to conduct activities remotely and in a timely and equitable manner.

This entire process can take 90 to 120 business days to resolve, typically, and the College will make a good faith effort to complete the process within a 120 business day time period.

There may be exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control. If an extended time

period is required, the Coordinator will provide notice and rationale for any extensions or delays to the parties as appropriate, including the cause of the delay and an estimate of the anticipated additional time that will be needed as a result of the delay.

A.18. Privacy and Confidentiality

Every effort is made by the College to preserve the privacy of reports. For the purpose of this policy, privacy and confidentiality have distinct meanings. Privacy means that information related to a Complaint will be shared with a limited number of College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

Only a small group of officials who need to know will typically be told about the Complaint, including but not limited to: Student Life, Human Resources, and/or Gordon Police. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ rights and privacy.

The College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The College has designated individuals who have the ability to have privileged communications as Confidential Resources (see Section 20.A. below).

The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law or to carry out the purposes of 34 CFR Part 106, including the conduct of any investigation, hearing, or grievance proceeding arising under these policies and procedures. The privacy of employee records will be protected in accordance with Human Resources policies.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

A.19. Jurisdiction of the College

This policy applies to the education program and activities of the College and to conduct that takes place on the campus or on property owned or controlled by the College, at College-

sponsored events, or in buildings owned or controlled by the College's recognized student organizations. The Respondent must be a member of the Gordon College community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program. The College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest or it is determined that it occurred within the College's education program and activities.

Regardless of where the conduct occurred, the College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial College interest includes:

- A. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- B. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- C. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- D. Any situation that is detrimental to the educational interests or mission of the College.

If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the Gordon College community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events.

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers, or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where Sexual Harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

A.20. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction, the Complainant is no longer participating in or attempting to participate in the educational program at Gordon College, and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

The College will typically apply the policy and procedures in place at the time of notice/complaint. In the event of a change in law, the Title IX Coordinator reserves the right to apply the new policy and procedures resulting from the change in law to any existing complaint, if the investigation had not started at the time of the effective date of the change in law. A complaint regarding conduct alleged to have occurred before August 14, 2020 will be addressed by this policy, but it will not be considered a Hearing-Qualifying Allegation.

A.21. Online Harassment and Misconduct

The policies of the College are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities or use College networks, technology, or equipment.

Although the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects. A student using a personal device to perpetrate online sexual harassment during class time may constitute a circumstance over which the College exercises substantial control. In such case, the factual circumstances of online harassment will be analyzed to determine if it occurred in circumstances over which the College exercised substantial control over the Respondent and the context.

Members of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Gordon College community.

A.22. Policy on Nondiscrimination

Title IX of the Education Amendments of 1972 requires that all educational institutions that receive federal funds or financial assistance prohibit sex discrimination in their education

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

It is the policy of Gordon College not to discriminate against any student, employee, applicant for employment, or applicant for admission on the basis of sex. College policy prohibits discrimination on the basis of sex in all student services and academic programs, including, but not limited to, recruitment, admissions, financial aid, academic advising, athletics, counseling, grading, discipline and employment.

Sexual harassment (which includes any act of sexual violence), is a form of sex discrimination that is illegal under both federal and Massachusetts state law, including Title IX of the Educational Amendments of 1972, and the Title VII of the Civil Right Act of 1964.

When brought to the attention of the College, any such discrimination will be promptly and fairly addressed and remedied by the College. When the allegation includes conduct covered under this Title IX policy, the processes in this policy will be used. Alleged conduct that is not covered by this policy may still represent possible discrimination under Title VII or misconduct as defined in applicable faculty, staff or student codes of conduct. In such cases, the allegation will be addressed using other applicable student or employee process(es).

A.23. Policy on Sexual Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of Sexual Harassment. This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited Sexual Harassment that are also prohibited under College policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of College policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

The College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

A. Sexual Harassment

The Department of Education’s Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Massachusetts regard Sexual Harassment as an unlawful discriminatory practice.

The College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the sex or the sexual orientation and/or gender identity of those involved. Sexual Harassment is an umbrella category, which includes the offenses of quid pro quo

and hostile environment sexual harassment, sexual assault, domestic violence, dating violence, and stalking, which are defined below.

1. Prohibited Conduct

a. Quid Pro Quo:

An employee of the College conditions (implicitly or explicitly) the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct. If the person committing the alleged misconduct is not an employee, but the conduct is determined to be a form of Quid Pro Quo (for example, between a sports team captain and a team member, or between a student organization officer and a member), it is not a hearing-qualifying allegation, but the College will still respond to and address the allegation.

b. Hostile Environment Sexual Harassment:

Unwelcome conduct⁶ on the basis of sex, or that is sexual, that is determined by a reasonable person to be so severe, *and* pervasive, *and* objectively offensive that it effectively denies a person equal access to the College's education program or activity.

c. Sexual Assault:

A form of Sexual Harassment under this policy. Sexual assault is itself an umbrella category; it encompasses several offenses, which are defined below.

d. Dating Violence:

Dating Violence is another form of Sexual Harassment under this policy; it is defined below.

e. Domestic Violence:

Domestic Violence is another form of Sexual Harassment under this policy; it is defined below.

f. Stalking:

Stalking is another form of Sexual Harassment under this policy; it is defined below.

2. Sexual Harassment: Additional Guidance & Examples

The definition of Sexual Harassment includes the requirement that the conduct "effectively denies a person equal access to the College's education program or activity." The following examples and guidance are intended explain some of the ways that the College will evaluate whether a reasonable person in the Complainant's position would be effectively denied equal access to education compared to a similarly situated person who is not suffering the alleged sexual harassment.

⁶ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar situation.

- a. An “effective denial of equal access” may include skipping class to avoid a harasser, a decline in a student’s G.P.A., or having difficulty concentrating in class.
- b. Examples of specific situations that likely constitute “effective denial of equal access” also include “a student who develops a sleeping disorder due to sexual harassment, or an athlete who quits the team but carries on with other school activities following sexual harassment.”
- c. A complainant does not need to have already suffered loss of education before being able to report sexual harassment.
- d. Effective denial of equal access to education does not require that a person’s total or entire educational access has been denied.
- e. While these examples help illustrate an effective denial of access, no concrete injury is required to prove an effective denial of equal access.
- f. Complainants do not need to have dropped out of school, failed a class, had a panic attack, or otherwise reached a “breaking point” or exhibited specific trauma symptoms to be effectively denied equal access.
- g. College officials turning away a Complainant by deciding the Complainant was “not traumatized enough” to meet the definition of Sexual Harassment would *not* be permissible under this policy.

B. Sexual Assault

Sexual Assault (which is defined in federal regulations and this policy as a form of Sexual Harassment) is itself a broad category, which includes both forcible and nonforcible sex offenses such as rape, fondling, incest and statutory rape. Definitions of the various forms of Sexual Assault are as follows:

1. **Sex Offenses, Forcible** — Any sexual act directed against the Complainant, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent; these include:
 - a. **Rape:**
Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant. Attempts to commit rape are included in this category.
 - b. **Forcible Sodomy:**
Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will (non-consensually); or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. Forcible Sodomy is a form of rape.

c. Sexual Assault with an Object:

The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of Complainant, forcibly, and/or against Complainant's will (non-consensually); or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. Sexual Assault with an Object is a form of rape.

d. Prohibited Sexual Contact⁷:

The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent without the consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Or the intentional touching by the Complainant of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts, without the consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication. Attempts to commit fondling are included in this category.

2. Sex Offenses, Non-forcible:

a. Incest:

Non-forcible sexual intercourse between persons who are related to each other, within the degrees wherein marriage is prohibited by Massachusetts law.

b. Statutory Rape:

Non-forcible sexual intercourse with a person who is under the age of 16, which is the statutory age of consent in Massachusetts.

C. Dating Violence

Dating Violence, a form of Sexual Harassment under this policy, is defined as violence committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

The existence of such a social relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

⁷ Formerly referred to as Fondling, which is a legacy term and is now referred to as Criminal Sexual Contact by the Federal Bureau of Investigations as outlined in the National Incident-Based Reporting System (NIBRS).

D. Domestic Violence

Domestic Violence, a form of Sexual Harassment under this policy, is defined as felony or misdemeanor crimes of violence committed by:

- a current or former spouse or intimate partner of the Complainant;
- a person with whom the Complainant shares a child in common;
- a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner;
- a person similarly situated to a spouse of the Complainant under Massachusetts' domestic or family violence laws; or,
- any other person against a Complainant who is protected under the domestic or family violence laws of Massachusetts. These include:
 - persons who are living together (which may include college roommates; see note below⁸);
 - persons related by blood or marriage; and,
 - persons involved in a substantive dating or engagement relationship.

E. Stalking

Stalking, a form of Sexual Harassment under this policy, is defined as engaging in a course of conduct, based on sex, directed at a specific person that would cause a reasonable person to:

- fear for their own safety or the safety of others; *or*
- suffer substantial emotional distress.

For the purposes of this definition:

- “Course of conduct” means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. (This course of conduct may include stalking that occurs online or through messaging platforms, when it occurs in the school’s education program or activity.)

⁸ “Domestic Violence” in Massachusetts protects “family or household members.” In the context of a college setting, roommates are not automatically defined as “household members.” The Trial Court of the Commonwealth evaluates college-roommates on a basis of four factors: Did the housemates or roommates choose to live together, or were they assigned? How is the living space configured (including how much of the space is shared)? How long has the relationship existed? What is the type of relationship? A determination regarding status as “household members” must be made considering all these factors and in view of the totality of the circumstances.

- “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the Complainant.
- “Substantial emotional distress” means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

F. Consent, Force, Coercion, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

1. Consent

Consent is defined as knowing, voluntary, *and* clear permission, by word or action, to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

For consent to be valid, there must be a clear expression in words or actions that the other individual affirmatively consented to that specific sexual conduct. For the purposes of this policy, all references to “consent” should be construed to mean “affirmative consent.” This means that the consent is expressed in an active (not passive) way; if no clear consent, verbal or nonverbal, is given, then there has been no consent. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

2. Force:

Force is the use of physical violence and/or physical imposition to gain sexual access (e.g., pinning a person down to engage in sexual contact). Force also includes threats, intimidation (implied threats), and coercion (defined below) that is intended to overcome resistance or produce consent.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

3. Coercion:

Coercion is defined as the application of unreasonable pressure to take part in sexual activity. Unreasonable pressure can be exerted through physical or emotional force, intimidation, misuse of authority, or outright threats. In addition, ignoring or dismissing the objections of another person *may* be a form of coercion. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive (for example, repeatedly demeaning a person because of their lack of interest in sexual activity to pressure them into consenting).

4. Incapacitation:

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state. It is important to note that incapacitation is not synonymous with intoxication, impairment, blackout, and/or being drunk. If a person has consumed alcoholic beverages or used drugs, they are considered incapacitated only if they are impaired to an extent that makes them incapable of making rational, reasonable decisions for the reasons described above.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

A.24. Other Forms of Sexual Misconduct

Gordon College prohibits its students and employees from engaging in sexual misconduct in all its forms, regardless of whether the alleged sexual misconduct is specifically prohibited by Title IX regulations. The College will respond to and address *all* reports of sexual misconduct.

When the College becomes aware of alleged misconduct covered by Title IX regulations (that is, sexual harassment, sexual assault, dating violence, domestic violence and stalking, as defined in this policy, and when they occur in the United States and within an educational program or activity of the College or that the College controls), the College will investigate and employ the grievance procedures required by federal law (described in Section B of this policy).

Other forms of sexual misconduct (not regulated by Title IX regulations) fall into three general categories:

1. **Hostile Environment Sexual Misconduct:** This is unwelcome, sex-based conduct (harassing verbal, written, graphic, or physical conduct) that is objectively offensive and severe or pervasive.
2. **Title IX Offenses Outside of College Control:** This is when the alleged conduct *does* meet the definitions of Sexual Harassment (including sexual violence), domestic or dating violence, or stalking in this policy, but it is alleged to have occurred outside of programs, property or areas controlled by the College (for example, a student reports being sexually assaulted by another student at an off-campus party at a private home).
3. **Sexual Exploitation Offenses:** In addition to the forms of Sexual Harassment described above, which are covered by Title IX, the College additionally prohibits the following forms of sexual misconduct. Any such conduct that does not meet the definition of Sexual Harassment will be handled under appropriate sections of this Policy or the College's conduct policies, depending on the circumstances.

Sexual Exploitation is defined as taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute meet the definition of Sexual Harassment under this policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed).
- Invasion of sexual privacy.
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography.
- Prostituting another person.

- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection.
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections.
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.
- Knowingly soliciting a minor for sexual activity.
- Engaging in sex trafficking.
- Creation, possession, or dissemination of child pornography.

For all such allegations (alleged misconduct not addressed by Title IX regulations), the Title IX Coordinator will perform an assessment and determine the appropriate grievance procedures to address the alleged misconduct and ensure that the involved parties are supported. The Coordinator may choose to assign investigators and decision-makers from within the Title IX Team, may work cooperatively with Student Life or Human Resources, as appropriate, and/or may forward the report to another appropriate department to address under applicable College policies and procedures. Sanctions for the above-listed offenses range from reprimand through expulsion or termination.

A.25. Policy on Unethical Relationships

Gordon College strives to provide a learning and working environment that is characterized by trust and mutual responsibility, and that observes the Christian virtues of justice, love and freedom. Consensual romantic relationships in which one party has any professional responsibility (or potential responsibility) for another's academic or job performance are a violation of professional ethics, create a risk for real or perceived coercion, and are expressly a violation of this policy.

A. Relationships Involving Authority and Power

Sexual misconduct often involves relationships of unequal power, even if the relationship appears to be consensual. The power differential inherent in such relationships may compromise free choice. Such situations may contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting privileges or favorable treatment in the classroom or on the job. However, sexual misconduct may also

involve relationships among persons of equal authority or power, such as when repeated advances or demeaning verbal comments by a co-worker have a harmful effect on a person's ability to perform his or her work.

B. Relationships between Employees and Students

Romantic (e.g. dating, amorous) relationships between faculty and students pose a threat to the integrity of the educational process and are specifically prohibited.

First, these relationships may be unjust to the involved student because of the inherent asymmetry of power existing between students and faculty. The pedagogical relationship between teacher and student must be protected from influences or activities that can interfere with learning and personal development. Second, the trust and collaboration of other students with the involved persons may be compromised and impair the learning environment for other students. Finally, by their nature, such relationships may undermine justice in subtle or inadvertent ways by unbalancing the attentions of the person in authority.

Likewise, consensual romantic relationships between staff members and students can interfere with a free and focused learning and working environment for each party and are discouraged.

Consensual romantic relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic and are therefore discouraged. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must promptly inform their supervisor and/or the Title IX Coordinator. When an applicable relationship existed prior to adoption of this Policy or prior to employment, the duty to notify the appropriate supervisor still pertains.

This type of relationship includes Resident Assistants (RAs) and students for whom the RA has direct responsibility. While such relationships are not specifically prohibited by this Policy, failure to timely self-report such relationships to a supervisor (such as the Resident Director) as required can result in disciplinary action for an employee. Violations of this provision will be addressed by the employee's supervisor for resolution.

C. Relationships between Employees

All members of the Gordon community are expected to maintain appropriate professional relations with one another.

Romantic relationships between co-workers can raise serious concerns about conflicts of interest and preferential treatment, diminishing trust and jeopardizing the working environment for all employees. This is especially the case if one individual has professional influence or authority over the other.

If a staff member becomes involved in a romantic relationship within their own department, he or she must disclose its existence to her or his supervisor and must

cooperate fully in making whatever arrangements are necessary to protect the workplace rights of all employees.

Consensual romantic relationships in which one employee maintains a direct supervisory or otherwise evaluative role over the other employee are inherently problematic and are therefore discouraged. When an applicable relationship existed prior to adoption of this Policy or prior to employment, the duty to notify the appropriate supervisor still pertains.

A.26. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

While the Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, every reasonable effort will be made to comply with the Complainant's wish not to proceed, unless a violence risk assessment shows a compelling risk to the health and/or safety of the community exists.

When such compelling risk exists, and the Title IX Coordinator determines that an investigation must be undertaken, the Complainant is not required to participate or cooperate. In such cases, the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process upon completion of the appropriate violence risk assessment. In such cases, the Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

When the Title IX Coordinator executes the Complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or Formal Grievance Process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below) and supportive measures to the Complainant, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

A.27. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of policy violation.

Additionally, witnesses and parties who are found to have knowingly provided false evidence, tampered with or destroyed evidence, or deliberately misled an official conducting an investigation will be subject to serious discipline under applicable College policy.

A Complaint asserting that a party or witness has made a materially false allegation or statement in bad faith must specifically identify the allegation or statement that is alleged to be materially false. Upon receipt of such Complaint, the Title IX Coordinator will determine the appropriate process for responding to the Complaint.

It is important to note that a Respondent's denial of the allegations in a Complaint of Sexual Misconduct will not be treated as a Complaint of false allegations or evidence unless the Respondent specifically alleges a false allegation or evidence made in bad faith. In such circumstances, if the Respondent does not provide specific evidence of a materially false statement at the time of such Complaint, the Sexual Misconduct investigation will go forward and the Respondent's allegation will be addressed in the context of the investigation. If the Respondent does provide specific evidence of a materially false statement made in bad faith at the time of such Complaint, the Title IX Coordinator will determine whether the evidence is sufficient to dismiss the underlying Sexual Misconduct Complaint without further proceedings.

A.28. Counter-Complaints

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counter-complaints (e.g., a complaint, filed by the Respondent, that the Complainant engaged in Sexual Misconduct against the Respondent) but uses an initial assessment to assess whether the allegations in the counterclaim are made in good faith and are covered by this policy.

Counter-complaints determined to have been reported in good faith will be processed using the appropriate grievance procedures. Investigation of such complaints may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counter-complaints may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counter-complaints are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

A.29. Retaliation

The College and every member of the College community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has engaged in protected activity.

Protected activity under this policy includes reporting an incident that may be covered by this policy, participating in the investigation or grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation (i.e., outside of this Sexual Misconduct Policy) for making a deliberately and materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

A.30. Amnesty for Complainants and Witnesses

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking, use of illicit drugs, or open hall violations at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol, use of illicit drugs, and open hall violations – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

A. Students assisting a reporting party:

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to the Campus Police).

The College maintains a policy of amnesty for students who offer help to others in need. Although some policy violations cannot be simply overlooked, the College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need. Indeed, we strongly encourage all community members to offer assistance to those in need.

B. Employees experiencing harassment:

Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to College officials.

The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis for conduct not involving Sexual Misconduct.

A.31. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

A.32. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;

- Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- VAWA-based crimes⁹, which include sexual assault, domestic violence, dating violence, and stalking; and
- Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with the Gordon Police regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: Student Life staff, employees of the Gordon Police department, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

A.33. Preservation of Evidence

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and is particularly time-sensitive. The College will inform the Complainant of the importance of preserving evidence by recommending the following actions:

- Seek forensic medical assistance at the Beverly Hospital (or another appropriate hospital), ideally within 120 hours of the incident (sooner is better).
- Avoid showering, bathing, washing hands or face, or douching, if possible; but evidence may still be collected even if you do.
- Try not to urinate.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic can degrade evidence).
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

⁹ VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

Section B: Reporting & Resolution Process

B.1. Overview

The College will act on any informal report (aka Notice) or Formal Complaint of any violation of the policy on Sexual Misconduct & Harassment that is received by the Title IX Coordinator or Deputy Title IX Coordinator (who are the only Officials with Authority to institute corrective measures), a member of the administration, faculty, or other employee (with the exception of Confidential Resources) as articulated in this policy.

Per federal regulations, this policy makes a distinction between a report and a Formal Complaint (see discussion in the next section). Any time the College is made aware of a possible violation, it is considered a report, and the Title IX Coordinator will reach out to the affected person(s), provide supportive measures, explain the process for making a Formal Complaint, and explain the option to report to local law enforcement. In contrast, a formal complaint is when the person alleged to have experienced the harassment (i.e., the Complainant) requests in writing that the College investigate the alleged misconduct. The Reporting Party doesn't need to make this decision in advance, and the Title IX Coordinator can discuss options and assist the Reporting Party in making an informed decision about submitting a Formal Complaint.

All reports of Sexual Misconduct as defined in this policy are under the purview of the College Title IX process. When there is a Formal complaint and it has been determined to involve Hearing-Qualifying Allegations of Sexual Harassment involving students, staff, administrator, or faculty members, federal regulations require specific procedures (one of which is the requirement of a live hearing), which will be described where applicable below.

When, after an initial assessment, the Title IX Coordinator determines that the allegations do not meet the definition of Hearing-Qualifying Allegations, the College will still respond, including but not limited to: offering supportive measures; investigating; and implementing sanctions if a respondent is determined to be responsible for a violation of college policy. These procedures are described in more detail below.

All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the applicable student, faculty, and staff handbooks.

B.2. Distinction Between Report and Complaint

Report (sometimes called "Notice") refers to any time the College becomes aware of an allegation that this policy has been violated and/or a community member has experienced alleged Sexual Harassment (including sexual violence). Some examples of reports/notices are:

- A Mandated Reporter (all college employees, with the exception of confidential resources) has talked with someone who has alleged experiencing Sexual Harassment, and the Mandated Reporter has promptly notified the Title IX Coordinator, as required by policy;

- A Mandated Reporter (or any community member) has observed possible offenses first-hand and reported to the Title IX Coordinator or Deputy Title IX Coordinator;
- The person who has alleged being subjected to Sexual Harassment contacts the Title IX Coordinator (or another team member) to simply discuss options; or
- A community member makes an anonymous report to the Title IX Coordinator.

When the College receives a second-hand report from someone who is not the victim or a witness, with no identity of the parties involved, it may not be considered a report, depending on the nature of the conduct and the reliability of the information received.

A Complaint (which is a form of report) means that it has been determined by the Title IX Coordinator that the allegations represent a possible violation of this policy, and a Grievance Process will be initiated. When the report involves Hearing-Qualifying Allegations, this is called a Formal Complaint, and certain aspects of the process are strictly defined by federal law.

In most cases, a Complaint means that the Complainant has decided to pursue a Formal Grievance Process, including an investigation, and has submitted the Complaint in writing (this can be done with the assistance of the Title IX Coordinator during an intake meeting). In some rare cases, the Title IX Coordinator may sign the Complaint himself/herself, if the reporting party does not pursue a Complaint, and the Coordinator determines that there is a compelling risk to the community that requires a College response.

B.3. Initial Assessment of Report or Complaint

Following receipt of report or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

- A. The Title IX Coordinator typically takes the following steps as part of the intake process when a report/complaint is received:
 1. Determine the identity and contact information of the Complainant
 2. Initiate or assist with any necessary supportive measures
 3. Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
 4. Conduct a prompt initial assessment to determine if the allegations indicate a potential policy violation
- B. The Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
 1. If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.

2. If a Formal Complaint is desired, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- C. The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or an investigation and Formal Grievance Process.
 1. If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged meets the definition of Hearing-Qualifying allegations under the scope of Title IX:
 - a. If it does, the Title IX Coordinator will initiate the investigation and Formal Grievance Process, which must include a live hearing before a hearing panel (described below).
 - b. If it does not, and the Title IX Coordinator determines the Complaint contains no Hearing-Qualifying Allegations, the Coordinator will:
 - Dismiss the Formal Complaint (note: this does not mean that the process is stopped; it is simply a procedural requirement that documents that the allegations do not fall under the scope of Title IX regulations); and,
 - Assess which policies apply and initiate an investigation, if appropriate (note: in this case, the process will *not* involve a live hearing).
 2. If the Complainant prefers supportive measures only, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 3. If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
- D. The Title IX Coordinator offers supportive measures to the Complainant (and to the Respondent, if appropriate).
- E. The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor. In the case of a Hearing-Qualifying Allegation, the Complainant is also informed of the requirement to have an advisor present during a Formal Hearing.

B.4. Threat and Risk Assessment

In some cases, the Title IX Coordinator may determine that a threat and/or risk assessment (which may include an individualized safety and risk analysis) should be conducted as part of the initial assessment. This assessment can aid in a number of critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a Formal Complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a Complaint through informal resolution;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to communicate with a transfer College about a Respondent;
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A risk assessment is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

A risk assessment authorized by the Title IX Coordinator should occur in collaboration with other personnel determined to be necessary to address the specific situation. This may include, but is not limited to: campus law enforcement, mental health professionals, representatives of student affairs and human resources, and, if available, college or university counsel. Where a risk assessment is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A risk assessment is not an evaluation for an involuntary behavioral health hospitalization (e.g., M.G.L. Section XII), nor is it a psychological or mental health assessment. A risk assessment assesses the risk of actionable violence.

B.5. Emergency Removal

The College can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with other individuals necessary to perform the analysis. This may include, but is not limited to: campus law enforcement, mental health professionals, representatives of student affairs and human resources, and, if available and necessary, college counsel.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, the College may suspend (with or without pay) the employee if the Title IX Coordinator determines that is necessary based on the facts and circumstances of the complaint.

B.6. Dismissal (Mandatory and Discretionary)

The following describes the circumstances under which the college *must* (Mandatory Dismissal) or *may* (Discretionary Dismissal) dismiss a Formal Title IX Complaint. It should be noted, however, that Mandatory Dismissal is a procedural requirement under federal law; and neither mandatory nor discretionary dismissal prevent the College from taking other action under another provision of the College code of conduct, other College policy, or this policy (see Section A.24).

- A. **Mandatory Dismissal:** the College *must* dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:
1. The conduct alleged in the formal complaint could not constitute Sexual Harassment as defined above, even if proved; and/or
 2. The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent; and/or
 3. The conduct did not occur against a person in the United States; and/or
 4. At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the recipient. However, please note that the Title IX Coordinator, in his/her discretion, may file a Formal Complaint even if Complainant is not participating in or attempting to participate in the education program or activity of the College.
- B. **Discretionary Dismissal:** the College *may* dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:
1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
 2. The Respondent is no longer enrolled in or employed by the recipient¹⁰; or
 3. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal occurring after the Notice of Investigation and Allegations (NOIA) has been distributed, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. If the dismissal occurs prior to notice being sent to a Respondent, the College reserves the right to send the notice only to those parties who have already been notified of the allegations.

This dismissal decision is appealable by any party under the procedures for appeal below.

B.7. Options Available to a Reporting Party

When a Formal Complaint has been received (and it has not been dismissed, as described above), the following options may be available to a reporting party.

¹⁰ The College has discretion to assess the facts and circumstances of a case before deciding whether to dismiss the complaint because the Respondent has left the school. For example, they may assess whether a Respondent poses an ongoing risk to the College community or whether a determination regarding responsibility provides a benefit to the complainant even where the College lacks control over the Respondent and would be unable to issue disciplinary sanctions.

A. Supportive Measures

In all cases, supportive measures will be available, and the Title IX Coordinator will work with the reporting party to determine which supportive measures are necessary and appropriate. The reporting party may also choose to request that the college respond by providing only supportive measures (in which case the Complainant has the right to request additional measures at a future time). See [Supportive Measures Section](#) for more details.

B. Informal Resolution

If the report or complaint involves Hearing-Qualifying Allegations, Informal Resolution will only be available if both parties agree to its use. In all cases, the Title IX Coordinator has discretion regarding the appropriateness and likely effectiveness of Informal Resolution. See [Informal Resolution Processes Section](#) for more details.

C. Investigation with Determination by a Decision-Making Panel

If the report or complaint does *not* involve Hearing-Qualifying Allegations, the Formal Grievance Process will include a timely, thorough and unbiased investigation, after which a Decision-Making Panel will determine whether or not the evidence collected supports a finding that the Respondent is responsible for the alleged violation(s). More information is available [here](#).

D. Investigation with Determination by a Hearing Panel

If the report or complaint involves Hearing-Qualifying Allegations, the Formal Grievance Process will include a timely, thorough and unbiased investigation, after which a live hearing will be conducted. The hearing panel decision makers will then determine whether or not the evidence presented supports a finding that the Respondent is responsible for the alleged violation(s). See the [Live Hearing Panel Section](#) for more details.

B.8. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them, if they choose to do so (noting that an advisor is only *required* during live hearings, which are only applicable with Hearing-Qualifying Allegations). The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,

- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A description of the potential sanctions/responsive actions that could result,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the College's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing during a live hearing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the College Policy prohibits knowingly making false statements, including knowingly submitting false information during the Formal Grievance Process,
- Detail on how the party may request disability accommodations during the interview process,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and will typically be delivered by e-mail to the parties' College-issued e-mail accounts; but the Title IX Coordinator may also opt to deliver them in person or by mail. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

B.9. Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual misconduct and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to a Gordon College education program or activity, including measures designed to protect the safety of all parties or the Gordon College educational environment, and/or deter harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic/occupational impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral for supportive services from Human Resources (employees)
- Referral to community-based service providers
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing mutual contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass and/or Be-On-the-Lookout (BOLO) orders
- Timely Warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

B.10. Informal Resolution Processes

Informal Resolution Processes are an option that allows a Formal Complaint to be resolved without the need for an investigation and Formal Grievance Process (either a live hearing or decision-making panel).

A. Overview of Informal Resolution

The following are types of Informal Resolution potentially available under College policy:

1. The Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation;
2. The Title IX Coordinator negotiates a resolution acceptable to all parties and the College; or,
3. The Respondent accepts responsibility for the violating policy and desires to accept a sanction and/or remedies and end the resolution process.

B. When Is Informal Resolution Available?

The following conditions must be met to pursue Informal Resolution:

- The Complainant must have submitted a Formal Complaint (a Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator);
- The Title IX Coordinator must have determined that Informal Resolution is appropriate, given the details of the Complaint, and is likely to be effective; and,
- If the Complaint involves Hearing-Qualifying Allegations, both parties must have indicated in writing that they wish to pursue Informal Resolution.
- *NOTE:* Informal Resolution may **not** be used for reports of Sexual Harassment (as defined in this policy) where the Respondent is an employee and the Complainant is a student. In cases where the Respondent is a student employee, Informal Resolution may not be used when the alleged conduct occurred within the context of the Respondent's supervisory role (ex. An RA allegedly assaults a resident in their building).

C. Other Considerations

1. Informal Resolution may be pursued (if appropriate) at any point prior to arriving at a Determination during a resolution process.
2. It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The facilitator of an Informal Resolution cannot be considered a witness if the Formal Grievance Process is initiated or resumed.
3. Even after an investigation and/or a hearing has been completed (as long as it is prior to a Determination), either party may indicate to the Title IX Coordinator that he/she wishes to pursue an Informal Resolution.
4. Prior to implementing Informal Resolution, the College will provide the parties with written notice of the reported misconduct being addressed through Informal Resolution and any sanctions or measures that may result from participating in

such a process, including information regarding any records that will be maintained or shared by the College.

5. The College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

D. Types of Informal Resolution

Informal Resolution can include three different approaches:

1. Supportive Measures Only

In some cases, the Complainant may wish to resolve the Complaint by requesting that the College provide supportive measures only, without pursuing an investigation and Formal Grievance Process. When the Title IX Coordinator determines that this approach is appropriate, he/she will:

- a. Inform the Complainant of the supportive measures available; and,
- b. Advise the Complainant that he/she has the right to re-open the Complaint and pursue a Formal Grievance Process at any future time.

2. Negotiated Resolution:

With the consent of the parties, the Title IX Coordinator may negotiate and implement a resolution that satisfies all parties and the college. A Negotiated Resolution may include, but is not limited to, mediation, restorative measures or remedies (such as educational conversation or training), and/or some acceptance of responsibility by the Respondent. Negotiated Resolutions are not appealable.

3. Respondent Accepts Responsibility for Alleged Violations:

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of College policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

B.11. The Investigation

When there has been a Formal Complaint, the Title IX Coordinator will typically initiate an investigation, unless:

- The parties have agreed to pursue Informal Resolution and the Title IX Coordinator has determined it is appropriate to do so;
- The complainant has withdrawn the complaint and/or requested that the College not investigate.
 - While every reasonable effort will be made to respect the wishes of the Complainant, the Title IX Coordinator has discretion to continue with an investigation and may choose to do so if there are compelling reasons (including, but not limited to: compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence).

A. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

B. Steps in the Investigation Process

Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Interview the Complainant and Respondent separately at least once and potentially multiple times as needed.

- Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, a pandemic or natural disaster) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding.
- Gather, assess, and synthesize evidence, and write a comprehensive Draft Investigation Report, fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. At this stage, the Investigator(s) make no conclusions, engage in no policy analysis, and render no findings in the Draft Investigation Report.
- Prior to the conclusion of the investigation, provide the Coordinator with the Draft Investigation Report; the Coordinator will then provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period, so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.

- The Investigator(s) will incorporate relevant elements of the parties' written responses into the Final Investigation Report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
 - *For Hearing-Qualifying Allegations:* The Investigator(s) make no conclusions regarding responsibility, engage in no policy analysis, and render no recommendations as part of the Final Investigation Report.
 - *For non-Hearing Cases:* The Investigator(s) make no conclusions regarding responsibility, engage in no policy analysis, and render no recommendations in the Final Investigation Report itself. However, in addition to the Final Investigation Report, the Investigator(s) will create a separate written recommended determination of responsibility, based on a preponderance of the evidence, whether a policy violation is more likely than not to have occurred.
- The Investigator(s) shares Final Investigation Report (and the separate written recommended determination of responsibility, if a non-hearing case) with the Title IX Coordinator for review and feedback.
- The Investigator will incorporate any relevant feedback, and the Final Investigation Report (not the recommended determination of responsibility, if a non-hearing case) is then shared with all parties and their Advisors through secure electronic transmission or hard copy. If the process will involve a live hearing, the final report will be provided to the parties at least ten (10) business days prior to the hearing. In this case, the parties are also provided with a file of any directly related evidence that was not included in the report. Either party may submit a written response to the Final Investigation Report prior to the day of the hearing. These responses should be submitted to the Title IX Coordinator who will distribute them to the parties, their Advisors, and the Decision-Maker(s), and they will become part of the case file.

C. Possible Outcomes of an Investigation

At the end of an investigation, the following may happen:

- The case will move to the formal decision-making phase, with a live Hearing Panel (for Hearing-Qualifying allegations) or a Decision-Making Panel (for non-Hearing-Qualifying allegations); or
- If all parties agree to do so, the case may move to an [Informal Resolution](#), negating the need for a Hearing Panel or Decision-Making Panel. If Informal Resolution is pursued, all parties have a right to move back to the Formal Grievance Process at any time before an Informal Resolution is completed; or

- If it is determined during the investigation that the alleged conduct did meet the definition of Sexual Harassment under this policy, the College may still pursue other grievance processes under other faculty, staff or student conduct policies.

D. Evidentiary Considerations During an Investigation

1. For Formal Complaints (Hearing-Qualifying Allegations)

For Formal Complaints, the investigation does *not* consider:

- c. Incidents not directly related to the possible violation, unless they evidence a pattern;
- d. The character of the parties; or,
- e. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

2. For All Other Complaints (not Formal Complaints)

For all other complaints the above considerations will typically apply, but the Title IX Coordinator may choose to consider an individual's prior misconduct history when that information suggests a potential pattern and/or predatory conduct.

E. Additional Considerations During an Investigation

1. Delays in the Investigation Process and Interactions with Law Enforcement

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The College will communicate in writing the anticipated duration of the delay and reason to the parties, and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

2. Employee Witnesses

Witnesses (as distinguished from the parties) who are employees of the College are expected to cooperate with and participate in the investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

3. Character Witnesses

Neither the Title IX Coordinator nor the Investigator(s) meet with character witnesses; however, at the request of a party, the Investigator(s) may accept up to two (2) letters supporting the character of that of the party. Such request must be made and the letters must be provided to the Investigator(s) prior to the investigation report being finalized; otherwise, the parties have waived their right to provide such letters.

4. Recording of Interviews

At their discretion, Investigators may create a recording of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator(s) elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

B.12. The Live Hearing (Hearing-Qualifying Allegations Only)

When the complaint involves Hearing-Qualifying Allegations, and provided that the complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the parties, the Title IX Coordinator will refer the matter for a live hearing and will select appropriate Decision-makers from the Pool.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –which occurs when the Final Investigation Report is transmitted to the parties and the Decision-maker–unless all parties and the Decision-maker agree to an expedited timeline.

A. Hearing Decision-maker Composition

The College will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the panel members will be appointed as Chair by the Title IX Coordinator.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

B. Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider:

1. Incidents not directly related to the possible violation, unless they evidence a pattern;
2. The character of the parties; or
3. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared until then.

C. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information explaining that the live hearing will occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions.

- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement prior to the start of the hearing that the Decision-maker will review during any sanction determination if a determination of responsibility is reached. No impact statements will be accepted after the hearing has started.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) business days prior to the hearing.
- Notification that parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 90-120 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

D. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in

person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

E. Pre-Hearing Preparation

The Chair or hearing facilitator after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the Final Investigation Report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least ten (10) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least ten (10) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

Either party may submit a written response to the Final Investigation Report prior to the day of the hearing. These responses should be submitted to the Title IX Coordinator who will distribute them to the parties, their Advisors, and the Decision-Maker(s), and they will become part of the case file.

F. Pre-Hearing Meetings

The Chair or Title IX Coordinator may convene a pre-hearing meeting(s) with the parties and/or their Advisors. At this meeting, the parties and their advisors will be provided with an overview of the upcoming hearing and will be invited to ask questions about the hearing process. In addition, the parties have the option of submitting questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and

share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair may decide in advance of the hearing that certain witnesses do not need to be present, if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing. In such cases, the parties will be notified in advance, and they will have an opportunity to object to the decision to not require any particular witness to appear. If any party submits such written objections, the Chair will consider the objection and respond in writing to both parties.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the Final Investigation Report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings. The pre-hearing meeting(s) will not be recorded.

G. Hearing Procedures

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The hearing facilitator (or the Chair, if no hearing facilitator has been appointed) will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The hearing facilitator (or the Chair, if no hearing facilitator has been appointed) will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused.

H. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

I. The Order of the Hearing

The Live Hearing will normally include the following:

1. Introductions and Explanation of Procedure

The hearing facilitator (or the Chair, if no hearing facilitator has been appointed) explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

2. Investigator Presents the Final Investigation Report

An Investigator(s) will then present a summary of the Final Investigation Report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). After this presentation and questioning, the Investigator(s) will be dismissed.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

3. Testimony and Questioning

After the Investigator is finished, the Complainant's Advisor will be given an opportunity to make a brief statement. The Decision-maker(s) and the Respondent's Advisor will be given an opportunity to cross-examine the Complainant. The Complainant's Advisor may ask follow-up questions of the Complainant after the cross-examination by the Respondent's Advisor.

The Decision-maker(s) and the Complainant's Advisor will then have an opportunity to cross-examine the Respondent. The Respondent's Advisor may ask follow-up questions of the Respondent after cross-examination by the Complainant's Advisor.

During the cross-examination portion of the hearing, the Decision-maker(s) may pose questions to the Complainant or Respondent or their respective Advisors.

The Decision-maker(s) may hear from witnesses, provided that any witness scheduled to appear must have been interviewed by the Investigator prior to the hearing or must have offered a written statement or answered written questions posed by the Investigator. Each witness will be questioned by the Decision-

maker(s), the Complainant's Advisor, and the Respondent's Advisor. The Decision-maker(s) will allow for each party's Advisor to ask any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally. Only relevant cross-examination and other questions may be asked of a witness.

At the conclusion of the presentation of all witnesses, the Complainant (or their Advisor) and the Respondent (or their Advisor) will each be given a brief final opportunity to address any outstanding issues of fact and submit additional written questions to the Decision-maker(s). The Chair will determine the appropriateness and relevance of the questions. If any questions are approved, the Complainant and Respondent will be permitted to ask their questions in the same questioning format as previously used in the hearing, with the Complainant being the first to ask, followed by the Respondent.

All questions are subject to a relevance determination by the Chair. The Advisor will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may choose to ask the Advisor for an explanation regarding the relevance of a question if the Chair. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

The College requires that relevant questions must be asked in a respectful, non-abusive manner. If the manner in which an Advisor attempts to ask questions is harassing, intimidating, or abusive, the Chair will warn the Advisor. If the Advisor continues asking questions in a disrespectful or abusive manner, the Chair has discretion to remove the Advisor from the hearing. This may result in the need to reschedule the remainder of the hearing, while the party secures the assistance of a new Advisor.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve

them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

J. Restricted Questions in a Live Hearing

During questioning in a Live Hearing, the following restrictions will apply:

- Questions about the Complainant's sexual predisposition or prior sexual behavior (that is, sexual behavior unrelated to the alleged conduct) are not relevant, unless such questions are offered to prove that someone other than the Respondent committed the conduct alleged, or the questions concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Questions that seek information about any party's medical, psychological, or similar records are not permitted unless that party has given written consent.

K. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, they attend but refuse to participate in questioning, or they attend and answer some questions but refuse to answer others, the Decision-maker(s) may still consider any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility to the extent permitted by applicable law.¹¹

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a College-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

L. Recording Hearings

Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings, and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment

¹¹ The original 2020 regulations restricted the ability of the College to consider testimony that was not subject to cross-examination, but a Federal court order (*Victim Rights Law Center v. Cardona*, July 28, 2021) vacated that provision of the regulation, and the Department of Education has stated that they will no longer enforce that provision of the regulations.

determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

B.13. The Determination

The Determination is handled differently depending on whether the process was resolved using a live hearing (for Hearing-Qualifying allegations only) or not.

A. Hearing Deliberation, Decision-making, and Standard of Proof

After the conclusion of the hearing, the Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator, if any, will attend the deliberation, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate recommended sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, and credibility assessments.

This report will normally be submitted to the Title IX Coordinator within seven (7) business days of the end of deliberations, unless the Coordinator grants an extension. If an extension is granted, the Coordinator will notify the parties.

Upon receipt of the written deliberation statement, the Title IX Coordinator will review the statements and any pertinent conduct history. The Coordinator will then determine remedies and sanctions in consultation with an appropriate administrator (typically the Dean of Students for student Respondents or the Chief Human Resources Officer for employee Respondents).

B. Decision-Making and Determination for Non-Hearing Cases

The Title IX Coordinator will assign trained Decision-Makers from the Title IX team. This may be a Decision-Making panel or a single Decision-Maker at the Coordinator's discretion.

After receiving the Final Investigation Report and the separate investigators' recommended finding, the Decision-Maker(s) will review the Report, the Investigators'

written recommended determination of responsibility, and all responses, and make the final determination on the basis of the preponderance of the evidence. .

If the record is incomplete, the Title IX Coordinator/Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The recommendation of the investigators should be strongly considered but is not binding on the Decision-Maker(s), who may invite and consider impact statements from the parties if and when determining appropriate sanction(s), if any.

The Title IX Coordinator then provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties. This Notice is typically provided to the parties within fourteen (14) business days of the receipt of the Final Investigation Report.

B.14. Notice of Outcome

In the case of a hearing, and using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. For all other cases, the Title IX Coordinator will work with the Investigators to prepare this Notice.

The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors (in the case of hearings, this will occur within seven (7) business days of receiving the Decision-maker(s)' deliberation statement).

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and will typically be delivered by e-mail to the parties' College-issued e-mail addresses; but it may be delivered in person or mailed to the local or permanent address of the parties as indicated in official College records. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanctions issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College's educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

B.15. Sanctions

Factors considered when the Title IX Coordinator determines a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

A. Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion

from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students under suspension are usually barred from entering college property or attending College-sponsored events until the suspension is lifted. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the College.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events.
- *Withholding Diploma*: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including College registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

B. Employee Sanctions/Responsive Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement Plan/Management Process
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of tenure track progress
- Assignment to new supervisor

- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

B.16. Withdrawal or Resignation While Charges Pending

If a Respondent resigns or withdraws from the College with a Formal Complaint pending, the Title IX Coordinator has discretion to end the resolution process, as the College no longer has disciplinary jurisdiction over Respondent.

In this case, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

If the process is ended, the following may occur:

- The College may place a hold on a student Respondent's ability to graduate and/or to receive an official transcript/diploma until the resolution process has concluded.
- The student Respondent who permanently withdraws while the process is pending may not return to the College. Such exclusion applies to all campuses of the College. A hold will be placed on their ability to be readmitted.
- The employee Respondent who resigns with a Formal Complaint pending may not be eligible for rehire with the College or any campus of the College, and the records retained by the Title IX Coordinator may reflect that status.
- College responses to future inquiries regarding employment references for the employee Respondent may include that the former employee resigned during a pending disciplinary matter.
- The College may choose to bar the Respondent from College property and/or events indefinitely.

The Title IX Coordinator has discretion to continue the resolution process for any valid reason, including but not limited to:

- When it is determined that a Respondent may pose an ongoing risk to the College community;" or
- When a determination regarding responsibility provides a benefit to the complainant even where the College lacks control over the Respondent and would be unable to issue disciplinary sanctions.

If a student Respondent takes a leave for a specified period of time (e.g., one semester or term) but does not permanently withdraw, the resolution process generally continues

and that student is encouraged to cooperate in the resolution process remotely. In such cases, that student may not be permitted to return to Gordon College unless and until all sanctions have been satisfied.

B.17. Appeals

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within seven (7) business days of the delivery of the Notice of Outcome.

A. Grounds for Appeal

Appeals are limited to the following grounds:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

It is recommended that the appealing party provide supporting evidence pointing to the specific way(s) that the grounds were met. Appeals that make a general allegation without supporting rationale are likely to be dismissed as not meeting one of the grounds for an appeal.

B. Initial Appeal Review

When any party requests an appeal, it will be initially reviewed by the Title IX Coordinator. During the initial review, the Title IX Coordinator will not consider the merits of the appeal but will simply determine if the request meets the grounds for appeal (described above) and has been timely filed.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, or it was not timely filed, that request will be denied by the Title IX Coordinator, and the parties and their Advisors will be notified in writing of the denial and the rationale. If any part of the appeal meets the required grounds, the Coordinator will send written notification to the appealing party, describing the portion(s) that have been approved and the rationale for any portions that were not approved.

If any part of the Request for Appeal meets the grounds in this Policy and the request was timely filed, the Coordinator will then provide (usually by e-mail) a copy of the appeal request with the approved grounds to all parties and their Advisors and to the Investigators and original Decision-makers, if appropriate.

The non-appealing party will then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The investigators may

also submit a written response within five (5) business days. Once received, all responses will be forwarded by the Coordinator to all parties for final review and comment. Such comments must be submitted in writing within five (5) business days.

The Title IX Coordinator will then provide the Appeals Officer(s) with the following:

- a copy of the appeal request with approved grounds;
- the Notice of Outcome;
- the Final Investigation Report, including any relevant evidence; and
- all written responses to the appeal request received.

The Appeals Officer(s) will then begin the Appeal Determination.

C. The Appeal Determination

The Appeals Officer(s) will collect any additional information needed and all documentation regarding the approved grounds and will render a decision. Every reasonable effort will be made to render the decision within fourteen (14) business days, barring exigent circumstances. All decisions will be made using the preponderance of the evidence standard.

Additional principles governing the review of appeals include the following:

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error.
- Appeals are not intended to provide for a full re-hearing (de novo) of the Formal Complaint. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeals Officer(s) may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).

- If the appeal result is a remand to the original Investigator(s) and/or Decision-maker(s), the results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

D. Notice of Appeal Outcome

The Appeals Officer(s) will provide a written Notice of Appeal Outcome to the Title IX Coordinator; the Notice will include the decision on each approved ground and rationale for each decision. The Title IX Coordinator will promptly send the Notice of Appeal Outcome to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

Notification will be made in writing and will typically be delivered by e-mail, though it may also be delivered in person or mailed to the local or permanent address of the parties as indicated in official institutional records. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

E. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

The College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

B.18. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral for supportive services from Human Resources (employees)
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found. In such cases, the Title IX Coordinator will ensure that none of these measures are punitive or effectively deny educational access to the Respondent.

The College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

B.19. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

B.20. Recordkeeping

The College will maintain for a period of at least seven years records of:

- A. Each Sexual Harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- B. Any disciplinary sanctions imposed on the Respondent;
- C. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
- D. Any appeal and the result therefrom;

- E. Any Informal Resolution and the result therefrom;
- F. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on the College website; and
- G. Any actions, including any supportive measures, taken in response to a report or formal complaint of Sexual Harassment, including:
 - 1. The basis for all conclusions that the response was not deliberately indifferent;
 - 2. Any measures designed to restore or preserve equal access to the College's education program or activity; and
 - 3. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will also maintain any and all records in accordance with state and federal laws.

B.21. Disabilities Accommodations in the Resolution Process

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College resolution process.

Any student or employee needing such accommodations or support should contact the Title IX Coordinator, who may consult with other administrators to ensure the student or employee is offered appropriate assistance. The Coordinator will review the request and, in consultation with the person requesting the accommodation and other personnel (if applicable), determine which accommodations are appropriate and necessary for full participation in the process.

B.22. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that compliance with law or regulation requires policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures were implemented in September 2026.

APPENDIX: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by College officials.
- The right to have College policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by College authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by College law enforcement and/or other College officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.

- The right to a College-implemented no-contact order (or a no-trespass order against a non-affiliated third party) when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available.
- The right to have the College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice (including date, time, location, participants, and purpose) ahead of any investigative interview, hearing or meeting that the party is expected to attend.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.

- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have one Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to have the College compel the participation of faculty and staff witnesses.
- The right to the use of the preponderance of evidence standard to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the College is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.
- The right to a fundamentally fair resolution as defined in these procedures.