

Preventing Sexual Violence in Higher Education Act Annual Report

January 1-December 31, 2022

Name of Higher Education Institution: **Augustana College**
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PART A

Provide one copy of the most recent version of each of the following documents:

- The higher education institution's comprehensive policy (*see* 110 ILCS 155/10); and
- The higher education institution's concise, written notification of a survivor's rights and options under its comprehensive policy (*see* 110 ILCS 155/15).

PART B

I. Campus Training, Education and Awareness

A. Student Primary Prevention Programming

Identify any and all institutional actions and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches, including, without limitation, training programs, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars or panel discussions that occurred during the preceding calendar year. *See* 110 ILCS 155/30(b). If necessary, append additional pages.

Title of Program	How was this program delivered?	Dates	Location	Target Audience	# of Attendees
Bystander Intervention Program	Webinar (either "live" or recorded)	1/5/2022	On campus	Softball Team	30
Bystander Intervention/Stalking Presentation	Webinar (either "live" or recorded)	1/7/2022	On campus	Fy100 Class	19
Well Being Lab: Stalking: Know It, Name It, Stop It	Webinar (either "live" or recorded)	1/13/2022	On campus	Students and Employees	5
Stalking Awareness Table	In person ("live")	1/18/2022	On campus	Students and Employees	25
Bystander Intervention	Webinar (either "live" or recorded)	1/18/2022	On campus	Fraternities	137
Bystander Intervention	Webinar (either "live" or recorded)	1/18/2022	On campus	Sororities	216
Bystander Intervention	Webinar (either "live" or recorded)	1/18/2022	On campus	Fraternities	200
Stalking Awareness Table	In person ("live")	1/19/2022	On campus	Students and Employees	20
Spring Welcome	In person ("live")	1/31/2022	On campus	International Students	25
Bystander Intervention for Men's Tennis	In person ("live")	2/1/2022	On campus	Men's Tennis Team	13
Bystander Intervention/In	In person ("live")	2/8/2022	On campus	Fraternities	6

Their Shoes					
Bystander Intervention	In person ("live")	2/10/2022	On campus	Women's Wrestling Team	5
Poetry Slam	In person ("live")	2/10/2022	On campus	All students	22
Healthy Relationships Table	In person ("live")	2/14/2022	On campus	Students and Employees	17
Bystander Intervention	Webinar (either "live" or recorded)	2/15/2022	On campus	Baseball Team	57
Student Government Meeting	In person ("live")	2/17/2022	On campus	Student Government	45
Well Being Lab: Healthy Relationships	In person ("live")	2/17/2022	On campus	All Students	4
Healthy Relationships Bingo	In person ("live")	2/18/2022	On campus	All Students	35
Healthy Relationships Program	In person ("live")	2/21/2022	On campus	Greek Council	30
Bystander Intervention Training	In person ("live")	2/22/2022	On campus	Women's Lacrosse Team	13
Healthy Relationships Awareness/In Their Shoes	In person ("live")	2/25/2022	On campus	Black Student Union/African Student Association	7
Bystander Intervention Program	Webinar (either "live" or recorded)	2/28/2022	On campus	Men's Soccer Team	40
Meet and Greet	In person ("live")	3/2/2022	On campus	Delta Omega Zu	45
Meet and Greet	In person ("live")	3/2/2022	On campus	Delta Omega Nu	60
Meet and Greet	In person ("live")	3/3/2022	On campus	Phi Omega Phi	11
Bystander Intervention	In person ("live")	3/3/2022	On campus	Women's Swimming and Diving Team	23
Bystander Intervention	In person ("live")	3/5/2022	On campus	New Member Sororities	145
Bystander Intervention for New Member Retreat	In person ("live")	3/5/2022	On campus	New Greek Life Members	65
International Women's Day Fair	In person ("live")	3/8/2022	On campus	Students, staff, faculty, and community	129
Bystander Intervention	In person ("live")	3/9/2022	On campus	Men's Lacrosse Team	30
Bystander Intervention	Webinar (either "live" or recorded)	3/10/2022	On campus	Men's Swimming and Diving Team	20
Bystander Intervention	In person ("live")	3/15/2022	On campus	Women's Golf Team	6
Bystander Intervention	In person ("live")	3/16/2022	On campus	Women's Soccer Team	30
Bystander Intervention	In person ("live")	3/22/2022	On campus	Women's Water Polo Team	17
Bystander Intervention with Cross Country/Track	In person ("live")	3/31/2022	On campus	Cross Country/Track and Field Teams	30
Bystander Intervention	Webinar (either "live" or recorded)	4/4/2022	On campus	Women's Bowling Team	14
Day of Action Table	In person ("live")	4/5/2022	On campus	Students/Faculty/Staff in the Brew	10
Healthy Relationships Program	In person ("live")	4/6/2022	On campus	Phi Rho Sorority	53
Healthy Relationships	In person ("live")	4/7/2022	On campus	Sorority Members	52

Listening Session	In person ("live")	4/12/2022	On campus	Students and Employees	6
Well Being Lab: Understanding Consent	In person ("live")	4/14/2022	On campus	Students and Employees	3
Take Back the Night	In person ("live")	4/24/2022	On campus	Students, Faculty, Staff, and Community	150
LGBTQ+ Panel Discussion	In person ("live")	4/28/2022	On campus	First Year Students	20
Global Ambassadors Training	In person ("live")	8/18/2022	On campus	Global Ambassadors	7
Bystander Intervention Training	In person ("live")	8/19/2022	On campus	Community Advisors	50
Bystander Intervention Training	In person ("live")	8/19/2022	On campus	Men's Golf Team	13
Bystander Intervention Training	In person ("live")	8/19/2022	On campus	Women's Golf Team	16
Bystander Intervention	In person ("live")	8/23/2022	On campus	Football Team	130
Bystander Intervention Training	In person ("live")	8/23/2022	On campus	Women's Tennis Team	20
Bystander Intervention	In person ("live")	8/24/2022	On campus	Men's Water Polo	20
Bystander Intervention Training	In person ("live")	8/31/2022	On campus	Women's Volleyball Team	34
Student Activities Fair	In person ("live")	9/3/2022	On campus	First Year Students	50
Speak About It! Keynote and Breakout Sessions	In person ("live")	9/4/2022	On campus	First-Year Students	500
Alcohol Awareness	In person ("live")	9/14/2022	On campus	Zeta Phi Kappa	15
Bystander Intervention	In person ("live")	9/26/2022	Off campus	Students and Employees	12
Bystander Intervention	In person ("live")	9/29/2022	On campus	Omicron Sigma Omicron	6
Bystander Intervention Program	In person ("live")	9/29/2022	On campus	Cross Country Team	39
The Clothesline Project	In person ("live")	10/5/2022	On campus	All Students and Employees	6
Bystander Intervention	In person ("live")	10/6/2022	On campus	Chi Alpha Pi	50
Bystander Intervention	In person ("live")	10/6/2022	On campus	GAMMA Fraternity	11
Bystander Intervention	In person ("live")	10/10/2022	On campus	Women's Water Polo	15
Bystander Intervention	In person ("live")	10/10/2022	On campus	First Year Students	14
Table in the Brew	In person ("live")	10/11/2022	On campus	Students and Employees in the Brew	10
Bystander Intervention	Webinar (either "live" or recorded)	10/20/2022	On campus	COG Sorority	38
Bystander Intervention	In person ("live")	10/24/2022	On campus	Men's Basketball	22
Bystander Intervention	In person ("live")	10/25/2022	On campus	Softball Team	23
In Their Shoes	In person ("live")	10/26/2022	On campus	Greek Life	11
Bystander Intervention	In person ("live")	10/30/2022	On campus	E Sports	22
Bystander Intervention	In person ("live")	10/31/2022	On campus	Alpha Sigma XI	7
Bystander Intervention	In person ("live")	11/2/2022	On campus	Phi Rho Sorority	55
Bystander Intervention	In person ("live")	11/2/2022	On campus	Men's Volleyball Team	19

Bystander Intervention	In person ("live")	11/3/2022	On campus	Baseball Team	55
Bystander Intervention	In person ("live")	11/14/2022	On campus	First Year Students	12
Bystander Intervention	In person ("live")	11/16/2022	On campus	Sigma Pi Delta	40
Healthy Relationships and Sexuality	Webinar (either "live" or recorded)	11/17/2022	On campus	Sorority sisters struggling with a healthy environment	30
Bystander Intervention	In person ("live")	11/21/2022	On campus	Women's Swimming and Diving Team	28
Take Back the Night Chapter	In person ("live")	11/29/2022	On campus	All Students	10
Bystander Intervention	In person ("live")	11/30/2022	On campus	Delta Omega Nu	28
Bystander Intervention	In person ("live")	12/5/2022	On campus	Gamma Alpha Beta	12
Bystander Intervention	In person ("live")	12/7/2022	On campus	Rho Nu Delta	37
Bystander Intervention	In person ("live")	12/7/2022	On campus	Zeta Phi Kappa	11
Preventing Sexual Violence	Online Training	Spring & Fall 2022	Online	All students	2031

B. Employee Training (*optional*)

Identify any and all training provided to higher education institution employees who, with respect to reports of sexual violence, domestic violence, dating violence or stalking: (1) receive student reports, (2) refer or provide services to survivors or (3) participate in the complaint resolution procedure. See 110 ILCS 155/30(c). If necessary, append additional pages.

Title of Program	Program Type	Dates	Location	Target Audience	# of Attendees
Well Being Lab: Stalking: Know It, Name It, Stop It	Webinar (either "live" or recorded)	1/13/2022	On campus	Students and Employees	5
Stalking Awareness Table	In person ("live")	1/18/2022	On campus	Students and Employees	25
Stalking Awareness Table	In person ("live")	1/19/2022	On campus	Students and Employees	20
Poetry Slam	In person ("live")	2/10/2022	On campus	All students	22
Healthy Relationships Table	In person ("live")	2/14/2022	On campus	Students and Employees	17
International Women's Day Fair	In person ("live")	3/8/2022	On campus	Students, employees, community	129
Day of Action Table	In person ("live")	4/5/2022	On campus	Students/Faculty/Staff in the Brew	10
Take Back the Night	In person ("live")	4/24/2022	On campus	Students, employees, community	150
Annual Training for Advanced Title IX Coordinators and Deputy Coordinators	Webinar (either "live" or recorded)	7/25/2022	Off campus	TIX coordinators	5
New Faculty Orientation	In person ("live")	8/26/2022	On campus	New Faculty	30
Improving Law enforcement Response to Sexual Assault and Domestic Violence by Identifying and Preventing Gender Bias	Webinar (either "live" or recorded)	9/13/2022	Off campus	Law Enforcement	40

Bystander Intervention	In person ("live")	9/26/2022	Off campus	Students and Employees	12
Title IX Sexual Harassment Response: Participants in the Sexual Harassment Policy Process	Zoom	10/5/2022	Off campus	Staff involved in Title IX process	4
Time with IX: Reluctant Complainants	Webinar (either "live" or recorded)	10/7/2022	Off campus	TIX Staff	1
Awareness Table in the Brew	In person ("live")	10/11/2022	On campus	Students and Employees	10
Time With IX: Reluctant Complainants	Webinar (either "live" or recorded)	10/28/2022	Off campus	Title IX Team	2
Title IX investigator 2 training	Webinar (either "live" or recorded)	11/2/2022	On campus	title IX investigators	2
NPRiMer: Preparing for the 2023 Title IX Regulations: Training and Certification Course for Higher Education	Webinar (either "live" or recorded)	11/8/2022	Off campus	Title IX Coordinators/Legal Counsel	1
Title IX/VAWA Appeal Officer Training	Webinar (either "live" or recorded)	11/9/2022	Off campus	Appeal Officer	1
Restorative Justice Module 1	Webinar (either "live" or recorded)	11/16/2022	Off campus	Cabinet, Bias Response Team, Title IX	20
Bystander Intervention with Coaches	In person ("live")	12/14/2022	On campus	Athletic Coaches and Staff	20

II. Reports

Identify the total number of reports made to the following groups of individuals in the preceding calendar year. If a higher education institution is aware that a student reported an incident more than once, it may provide an explanation for this or any other additional information regarding its reports in Part C below. *See* 110 ILCS 155/25 and 110 ILCS 205/9.21(b).

	Reports to the Title IX coordinator/responsible employees	Reports to confidential and anonymous resources
Sexual violence	9	20
Domestic violence	2	1
Dating violence	5	1
Stalking	6	1

A. Responses to Reports to the Title IX Coordinator or Responsible Employees

Of the total number of reports or disclosures made to the Title IX coordinator or responsible employees at the higher education institution (identified in Part B, Section II), please report the number of times the following occurred:

	Survivor requested not to proceed with the complaint resolution procedure	HEI investigated allegation	HEI referred allegation to local or State law enforcement	HEI resolved allegation through complaint resolution procedure
Sexual violence	6	3	0	1
Domestic violence	2	0	0	0
Dating violence	3	2	0	1
Stalking	5	1	0	0

B. Complaint Resolution Procedure Outcomes

Of the total number of reports reviewed through the complaint resolution procedure, identify the number of students who received the following outcomes. Please provide a description of the other types of discipline students received for violating the comprehensive policy in Part C of this report.

	Found not responsible for violation of comprehensive policy	Dismissed/expelled	Suspended	Otherwise disciplined
Sexual violence	0	0	0	2
Domestic violence	0	0		
Dating violence	0	0	1	
Stalking	0	0	1	

PART C

Use this space to provide any explanations or clarifications for information and data provided as part of the report. (Append additional pages as necessary.)

Of the reports submitted to confidential resources, 11 of the reports were also submitted to a Title IX/Deputy Title IX Coordinator. Three case investigations were stopped because one or both of the parties withdrew from the College.

Appendix A - Policies

Policy Against Discrimination & Harassment

It is the policy and commitment of Augustana College to provide an environment free from discrimination based upon race, color, religion, national origin, service in the uniformed service (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, disability, genetic information, gender identity, gender expression, sexual orientation, or any other classification protected by law in matters of admissions, employment, housing, or services or in the educational programs or activities operated by the College.

Harassment, whether verbal, physical, or visual, that is based on any of these characteristics is a form of discrimination. This includes harassing conduct that impacts job benefits, or interferes unreasonably with an individual's academic or work performance, or creates what a reasonable person would perceive to be an intimidating, hostile, or offensive environment. Prohibited sex discrimination includes sexual harassment and sexual violence (see Policy Against Sexual Misconduct and Title IX Sexual Harassment).

Some examples of what may be considered discrimination or harassment, depending on the facts and circumstances, include the following:

- **Verbal behaviors:** derogatory comments regarding a person's race, color, gender, sexual orientation, religion, ancestry, ethnic heritage, mental or physical disability, age, appearance or other classification protected by law; threats of physical harm or distribution of written or graphic material having such effects. Derogatory gestures or the display of signs or pictures that may be offensive to others may also be examples of harassment.
- **Physical behaviors:** physical contact including touching, hitting, pushing or other aggressive contact.
- **Sexual behaviors:** unwelcome verbal or physical conduct of a sexual nature such as sexual advances, demands for sexual favors or other unwelcome verbal or physical conduct of a sexual nature.

Conduct may be considered harassment if:

- Submission to or rejection of such conduct is used as the basis of an academic or employment decision or is either an explicit or implicit term of employment or admission to any college program or college-related activity; or
- Such conduct is sufficiently serious (i.e., severe, pervasive, and/or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance.

It is expected that each and every member of the Augustana community will assist and support the College in its prohibition of discrimination and harassment. All employees of Augustana College are required to promptly report suspected violations of this Policy, even if the individual who was or is the victim has not filed a complaint. The report can be made to a supervisor, the Director of Human Resources, the Dean of Students Office, or in the case of sex discrimination, the Chief Title IX Coordinator or Deputy Title IX Coordinators.

SCOPE OF POLICY

This Policy applies to all employees, including faculty, staff and administrators, of the College, as well as all students, guests and visitors of the Augustana community.

REPORTING PROCEDURES

Sexual or other harassment can occur intentionally or unintentionally. A member of the Augustana community who feels harassed by an employee of the College, a student, guest or visitor or any other third-party (such as a supplier or vendor) should make this concern known by:

- If possible, telling the person who is engaging in the conduct or communication that their actions are offensive to you and that those actions must stop
- If the offensive behavior does not stop, **or if you are not comfortable communicating directly with the person**, you should advise your manager, or any member of the Office of Human Resources, Chief Title IX Coordinator or Deputy Title IX Coordinators, the Dean of Students Office, or a member of the Residential Life staff of the offensive behavior. This can be done by meeting in person or in writing.
- Follow up a verbal complaint with a written report of the complaint. It is helpful for allegations of improper

behavior to be put in writing to assure a clear understanding of the behaviors and the issues raised. The written report should contain as much specific information as possible.

- Please see the College's Policy Against Sexual Misconduct and Title IX Sexual Harassment for additional options in reporting sex discrimination, including sexual and interpersonal misconduct.

All complaints of harassment or discrimination will be kept as confidential as possible. The College will promptly and thoroughly investigate alleged behavior that would constitute a violation of this Policy Against Discrimination and Harassment and will take steps necessary to stop behavior that violates this Policy. The investigation and grievance procedures may vary depending on the type of discrimination reported, the nature of the allegations reported and where they occurred, as well as the classification of the individual accused of a violation (i.e, student, employee or faculty member). If you feel that your complaint has not received appropriate attention, you should discuss your concern with the Director of Human Resources, Chief Title IX Coordinator or Deputy Title IX Coordinators, the Dean of Students Office, or the General Counsel of the College.

RETALIATION PROHIBITED

It is central to the values of Augustana College that any individual who believes they may have been the target of prohibited discrimination or harassment feel free to report their concerns without fear of retaliation or retribution. The College strictly prohibits retaliation against an employee or any other individual who opposes or reports in good faith any practices prohibited under this Policy, including bringing a complaint of discrimination or harassment, assisting someone with such a complaint, attempting to stop such discrimination or harassment, or participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. Any individual who believes they have been subjected to or affected by retaliatory conduct for reporting a suspected violation of this Policy or participating in an investigation should report the concern immediately to the Director of Human Resources, the General Counsel, the Dean of Students Office or the Chief Title IX Coordinator or Deputy Coordinators.

Policy Against Sexual Misconduct and Title IX Sexual Harassment

It is the policy of Augustana College to provide a work and educational environment free from all forms of sex discrimination. Accordingly, Augustana has established this Policy Against Sexual Misconduct and Title IX Sexual Harassment ("Policy") that articulates the College's behavioral standards and descriptions of prohibited conduct. The Policy and related procedures—the Title IX Sexual Harassment Investigation and Resolution Procedures ("Title IX Sexual Harassment Procedures") and Sexual Misconduct Investigation and Resolution Procedures ("Sexual Misconduct Procedures")—outline the College's approach to addressing reports of Title IX Sexual Harassment and Sexual Misconduct, and other alleged or suspected violations of this Policy, taking into account the College's status as a private institution of higher education and its unique mission and culture. Augustana College is committed to the prompt and equitable resolution of all alleged or suspected violations of this Policy about which the College knows or reasonably should know to the fullest extent possible under the circumstances.

The College is committed to complying with the requirements of Title IX of the Education Amendments of 1972 ("Title IX") and the U.S. Department of Education's regulations implementing Title IX, the Violence Against Women Reauthorization Act of 2013, and the Illinois Preventing Sexual Violence in Higher Education Act. The College is also committed to complying with Title VII of the Civil Rights Act of 1964 ("Title VII") and the Illinois Human Rights Act ("IHRA"), which prohibit discrimination on the basis of sex in employment (Title VII and IHRA) and in higher education and places of public accommodation (IHRA).

Consistent with the College's Non-Discrimination Notice and the U.S. Department of Education's implementing regulations for Title IX of the Education Amendments of 1972 ("Title IX") (see 34 C.F.R. § 106 *et seq.*), the College prohibits Sexual Harassment that occurs within its education programs and activities.

Administrators, faculty members, staff, students, contractors, guests, and other members of the College community who commit Sexual Harassment are subject to the full range of College discipline including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; fines; permanent separation from the institution (i.e., termination or dismissal); physical restriction from College property; cancellation of contracts; and any combination of the same.

The College will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the College's education programs and activities.

SCOPE OF THIS POLICY

This Policy applies to all students, faculty, and staff of the College, and to guests and visitors, including third parties such as contractors, consultants, and vendors doing business or providing services to the College. The College's ability to implement grievance procedures against individuals who are not members of the College Community is limited.

This Policy prohibits Sexual Harassment meeting specific definitions according to the Title IX regulations, as well as other sexual misconduct, not falling under specific Title IX regulatory definitions but prohibited by other policies and Augustana College.

This Policy applies to Title IX Sexual Harassment that occurs in the United States and within the College's Education Programs and Activities and is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the College community. As further defined herein, Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking. Reports or complaints of Title IX Sexual Harassment will be governed by the College's Title IX Sexual Harassment Procedures.

This Policy also applies to Sexual Misconduct that occurs on-campus and off-campus, when the off-campus conduct: (i) occurs during a College sponsored employment or education activity or program; (ii) adversely impacts the education or employment of a member of the College community; or (iii) otherwise threatens the health and/or safety of a member of the College community. As further defined herein, Sexual Misconduct includes sex-based discrimination and harassment that does not fall within the definition of Title IX Sexual Harassment. It also includes Title IX Sexual Harassment that occurs outside the College's Education Programs and Activities or outside the United States (such as in a study abroad program). Reports or complaints of Sexual Misconduct will be governed by the College's Sexual Misconduct Procedures.

Where a complaint or report alleges conduct that allegedly or potentially includes acts of both Title IX Sexual Harassment and Sexual Misconduct, and where the allegations involve the same parties or are otherwise materially related, the allegations will be consolidated and addressed using the Title IX Sexual Harassment Procedures.

DEFINITIONS OF PROHIBITED CONDUCT

A. TITLE IX SEXUAL HARASSMENT

"Title IX Sexual Harassment" is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

1. Quid Pro Quo Sexual Harassment

Quid Pro Quo Sexual Harassment is an employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual contact.

2. Hostile Environment Sexual Harassment

Hostile Environment Sexual Harassment is unwelcome conduct determined by a reasonable person to be so severe, pervasive, *and* objectively offensive that it effectively denies a person access to the College's education programs and activities.

3. Sexual Assault¹

"Sexual Assault" includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.

- (a) "Rape" is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. There is "carnal knowledge" if there is the slightest penetration of the vagina or penis by the sexual organ of the other person. Attempted Rape is included.
- (b) "Sodomy" is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of

¹ The College's definition of "Sexual Assault" is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the College to adopt a definition of "Sexual Assault" that incorporates various forcible and non-forcible sex crimes as defined by the FBI's Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.

- (c) "Sexual Assault with an Object" is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
- (d) "Fondling" is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- (e) "Incest" is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Illinois law.
- (f) "Statutory Rape" is sexual intercourse with a person who is under the statutory age of consent as defined by Illinois law.

4. Domestic Violence

"Domestic Violence" is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Illinois and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim who is cohabitating or has cohabitated with the victim as a spouse or intimate partner, shares a child in common with the victim; or commits acts against a youth or adult against an adult or youth victim who is protected from those acts under the family or domestic violence laws of Illinois.

5. Dating Violence

"Dating Violence" is violence committed by a person –

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

6. Stalking

"Stalking" is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their safety or the safety of others; or
- Suffer substantial emotional distress.

7. Other Definitions

Economic abuse, in the context of domestic violence and dating violence, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- (A) restrict a person's access to money, assets, credit, or financial information;
- (B) unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or
- (C) exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty

Technological abuse means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, stalking, or sexual misconduct and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of information technology, including but not limited to: internet enabled devices, online

spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

Important Information on Consent, Capacity & Coercion as they relate to Sexual Misconduct and Title IX Sexual Harassment

Consent refers to words or actions that a reasonable person in the perspective of the Respondent would understand as agreement to engage in the sexual conduct at issue. Consent to engage in sexual activity must be informed, freely given, and mutual. Consent does not exist if a person is mentally or physically incapacitated so that such person cannot understand the fact, nature or extent of the sexual situation or sexual activity. This includes incapacitation due to (1) the use or influence of alcohol or drugs, (2) being asleep or unconscious, or (3) a mental disability. Incapacitation due to drug or alcohol use is a state beyond drunkenness or intoxication. Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated requires an individualized determination. Facts that will be considered in determining a lack of capacity to give consent due to consumption of drugs or alcohol may include, but are not limited to:

- Control over physical movements (for example, inability to or difficulty with walking or standing without assistance);
- Awareness of circumstances or surroundings (for example, lack of awareness of where one is, how one got there, who one is with, or how or why one became engaged in a sexual interaction);
- Ability to effectively communicate (for example, slurring speech, difficulty finding words).

A person may appear to be giving consent but may not have the capacity to do so. When determining whether a person has the capacity to provide consent, the College will consider whether a sober, reasonable person in the same position (as the respondent) knew or should have known whether the other party (complainant) could or could not consent to the sexual activity. It is important that anyone engaging in sexual activity be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity. Use of drugs or alcohol by the respondent is not a defense against allegations of sexual misconduct and does not diminish the personal accountability of the respondent.

Consent must be ongoing, throughout each instance of sexual activity, and for each form of sexual contact.

Consent cannot be assumed by: silence; lack of verbal or physical resistance or submission resulting from the use of force; a person's manner of dress; or the existence of a prior or current relationship. When determining whether a person has provided consent for sexual activity, the College will consider whether a sober, reasonable person in the same position (as the respondent) knew or should have known whether the other party (complainant) consented to the sexual activity.

If coercion, intimidation, threats, or physical force are used, there is no consent. Coercion refers to behavior that would compel an individual to do something against their will based on fear of harm to self or others. Coercion may involve intimidation, manipulation, or threats of severely damaging consequences. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. When determining whether a person has been subjected to coercion, the College will consider whether a sober, reasonable person in the same position would have felt coerced to participate in the sexual activity. The College will evaluate the following in determining whether coercion was used: (a) the frequency of the application of the behavior, (b) the intensity of the behavior, (c) the duration of the behavior, and (d) severity of the threats or consequences.

Consent cannot be given by those who are under the legal age of consent (17 years in Illinois).

There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. A person's consent to past sexual activity does not constitute consent to future sexual activity. A person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent can be withdrawn at any time. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.

B. SEXUAL MISCONDUCT

Complaints involving allegations of sex discrimination that do not constitute Title IX Sexual Harassment as defined above may constitute Sexual Misconduct. Complaints of Sexual Misconduct are resolved using the Sexual Misconduct Investigation and Resolution Procedures ("Sexual Misconduct Procedures"). "Sexual Misconduct" is prohibited by this Policy and includes "Non-Title IX Sexual Harassment" and "Sex Discrimination" as defined below:

1. Non-Title IX Sexual Harassment

Non-Title IX sexual harassment ("sexual harassment") is unwelcome communication or conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors and other verbal, written or physical conduct of a sexual nature, without regard to whether the parties are of the same or different genders or gender identities. It includes:

(a) Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, Economic and/or Technological Abuse as defined above, that occurs outside of the College's Education Programs or Activities or outside the United States;

(b) Unwelcome conduct that does not rise to the level of Hostile Environment Sexual Harassment, as defined in this Policy, but that:

- is sufficiently serious (severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities; or
- that has the purpose or effect of unreasonably interfering with an individual's work or academic performance

(c) Inducing Incapacitation for Sexual Purposes. Inducing incapacitation for sexual purposes means using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as "consent" is defined in this Policy) to sexual contact. This also includes causing or inducing a person, when consent is not present, to touch, fondle, or contact oneself or someone else in a sexual nature.

(d) Sexual Exploitation. Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses.

Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person
- Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity
- Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information
- Exceeding the boundaries of consent
- Engaging in non-consensual voyeurism
- Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status
- Exposing one's genitals in non-consensual circumstances, or inducing another to expose their genitals
- Possessing, distributing, viewing or forcing others to view illegal pornography

2. Sex Discrimination

(a) Sex Discrimination means material, adverse treatment of a person or group on the basis of sex. Discrimination occurs when persons are excluded from participation in, or denied the benefits of, any College program or activity on the basis of a protected status.

(b) Pregnancy discrimination is a type of Sex Discrimination and means treating a woman unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

OTHER DEFINITIONS

Complainant: the party who has alleged Sexual Misconduct or Title IX Sexual Harassment or to whom Sexual Misconduct or Title IX Sexual Harassment was directed.

Respondent: the party who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct or Title IX Sexual Harassment

Third Party Reporter/Witness: An individual who reports conduct that could constitute Sexual Misconduct or Title IX Sexual Harassment occurring between or directed towards individuals other than him/her/themselves.

“Education Programs and Activities” refers to all the operations of the College, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the College. It also includes off-campus locations, events, or circumstances over which the College exercises substantial control over the Respondent and the context in which the Title IX Sexual Harassment occurs, including Title IX Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the College.

Understanding Hostile Environment Sexual Harassment

In considering whether a hostile environment exists for purposes of both Title IX Sexual Harassment and Sexual Misconduct, as defined above, the College will consider the totality of the circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. The College will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant’s position. A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

The College encourages members of the College Community to report any and all instances of sexual harassment, even if they are unsure whether the conduct rises to the level of a Policy violation. Some specific examples of conduct that may constitute Hostile Environment Sexual Harassment and/or sexual harassment if unwelcome include, but are not limited to:

- Repeated comments about a person's physical appearance;
- Sexually suggestive remarks, insults, jokes, humor, or innuendo;
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes
- Displays of sexually suggestive material, including sexual graffiti, pictures, videos, or posters;
- Using sexually explicit profanity;
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities;
- Leering or staring at someone in a sexual way, such as staring at a person’s breasts or groin;
- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person’s dress in a sexual manner
- Unwelcome advances or conduct such as touching, patting, caressing, kissing or sexual propositions; and

- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Sexual advances accompanied by threat of punishment or promise of reward including the withholding or giving of grades and promotions.
- E-mail and Internet use that violates this policy.

RETALIATION

“Retaliation” is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or the Illinois Preventing Sexual Violence in Higher Education Act, or because an individual has, in good faith, opposed any practices forbidden under this Policy or made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy or the related Sexual Misconduct Procedures or Title IX Sexual Harassment Procedures.

It is a violation of College Policy to engage in Retaliation. This includes action taken against a bystander who intervened to stop or attempted to stop Sexual Misconduct or Title IX Sexual Harassment. Retaliation may take many forms, and may include intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy.

The College will take immediate and responsive action upon receiving any report of Retaliation and may pursue disciplinary action as appropriate.

Reports or Formal Complaints of Retaliation based on a complaint of Title IX Sexual Harassment or participation in the Title IX Sexual Harassment Procedures may be made as outlined in the reporting sections below, and will be processed in the same manner as a report or Formal Complaint of Title IX Sexual Harassment.

Reports of Retaliation based on a complaint of Sexual Misconduct or participation in the Sexual Misconduct Procedures may be made as outlined in the reporting sections below, and will be processed in the same manner as a report of Sexual Misconduct.

The College retains discretion to consolidate a report or Formal Complaint of Retaliation with a report or Formal Complaint of Title IX Sexual Harassment or Sexual Misconduct, as the case may be, for investigation and/or adjudication purposes if the two complaints share a common nexus.

Individuals who engage in Retaliation as defined by this Policy may be subject to disciplinary action that may include, but is not limited to, the sanctions listed in the Title IX Procedures or the Sexual Misconduct Procedures, up to and including dismissal or other separation from the College.

REPORTING SEXUAL MISCONDUCT, TITLE IX SEXUAL HARASSMENT, AND RETALIATION

Contact the Chief Title IX Coordinator or Deputy Title IX Coordinators with any questions about this Policy or to file a complaint of sex discrimination, including sexual harassment, sexual misconduct, or retaliation. The College's Chief Title IX Coordinator is Dr. Jennie Hemingway, who can be reached at 309-794-7313 or at titleIX@augustana.edu. While Dr. Hemingway is the Chief Title IX Coordinator, all of the following individuals serve as Title IX Coordinators for the College and may be contacted with questions, or receive complaints. In addition to the Title IX Coordinators, the Office of Public Safety and Police can receive reports of Policy violations and oversee investigations of alleged Policy violations.

Title IX Coordinator: Jennie Hemingway, Ph.D. 309-794-7313. As the Title IX Coordinator, Jennie Hemingway is responsible for enforcement of and compliance with Title IX at the College. Jennie can receive complaints from any individual regarding Title IX. She is responsible for outreach and education regarding the College's prohibition of sex discrimination, the process for addressing concerns of sex discrimination, and the forms of sex discrimination.

Deputy Title IX Coordinator: Mindy Zumdom, Director of Human Resources, 309-794-7452. As Deputy Title IX Coordinator, Human Resources Director Mindy Zumdom can receive complaints from any individual regarding Title IX. She and the Human Resources staff will handle reports of staff and administrative employee violations of the College's policy and will be responsible for employee training regarding the College's prohibition of sex discrimination and the process for addressing concerns of sex discrimination.

Deputy Title IX Coordinator: Chris Beyer, Director of Residential Life, 309-794-2686. As a Deputy Title IX Coordinator, Chris Beyer is primarily responsible for organizing student training required under Title IX. Chris can also receive a complaint of a violation of Title IX from any member of the Augustana community.

Deputy Title IX Coordinator: Laura Schnack, Associate Dean of Students, 309-794-7533. As a Deputy Title IX Coordinator, Laura Schnack coordinates with the Chief Title IX Coordinator when a student has reported or is accused of violating the College's policy. Dean Schnack can also receive a report of a violation of Title IX from any individual.

Deputy Title IX Coordinator: Greg Domski, PhD Associate Dean of Academic Strategic Priorities, 309-794-3482. As a Deputy Title IX Coordinator, Greg Domski coordinates with the Title IX Coordinator when a faculty member has reported or is accused of violating the College's policy. Dean Domski can also receive a report of a violation of Title IX from any individual.

Office of Public Safety & Police 309-794-7711

Tom Phillis, Chief of Police

Chief Phillis can receive a complaint of a violation of this Policy from any member of the Augustana community. Chief Phillis oversees the investigation of student complaints of Title IX violations under this Policy.

Any person may report sex discrimination. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in a Title IX Coordinator receiving the report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.

In addition to reporting to a Title IX Coordinator, any person may report Title IX Sexual Harassment or Sexual Misconduct to any College employee with managerial authority over other employees, including cabinet members,

deans, department heads, unit supervisors, and other managers (collectively “Reporting Officials”) who must promptly forward such report of Title IX Sexual Harassment or Sexual Misconduct to the Title IX Coordinator.

Campus Conduct Hotline

The College has a campus conduct hotline (1-866-943-5787) for individuals to report matters **anonymously**. This means that it is not necessary to disclose names or any other identifying information. Reports received through this hotline relating to alleged violations of the Policy Against Sexual Misconduct and Title IX Sexual Harassment will be forwarded to a Title IX Coordinator who will respond to the complaint. The College’s ability to respond effectively, or at all, may be limited if the reporter wishes to remain anonymous. This reporting mechanism is not a substitute for the obligation of College employees to report any alleged Policy violations to a Title IX Coordinator, as described above.

Electronic Reporting

Reports of a potential violation of this Policy may also be filed electronically at: www.augustana.edu/titleIX. An electronic report may be made anonymously. As noted, the College’s ability to respond effectively may be limited if the reporter remains anonymous. This reporting mechanism is not a substitute for the obligation of College employees to report any alleged Policy violations to a Title IX Coordinator, as described under the reporting obligations section of this policy..

VICTIM AND THIRD PARTY/BYSTANDER REPORTING

Anyone who feels that s/he/they has been the victim of sex discrimination, sexual harassment, sexual misconduct, or other interpersonal misconduct as defined in the Policy is encouraged to bring it to the attention of a Title IX Coordinator or to the Office of Public Safety and Police for assistance. Bystanders and third parties who have information they believe could constitute a violation of this Policy are also encouraged to inform a member of the Title IX Team, or utilizing the Campus Conduct Hotline or the College’s electronic reporting option outlined below. Reports will be treated as confidential as possible. This means that the Title IX Team will share information gathered through reports and any investigation on a need to know basis only.

The Title IX Team at Augustana College consists of the Chief Title IX Coordinator, the Deputy Title IX Coordinators, and the Chief of the Office of Public Safety and Police. The Title IX Team is responsible for ensuring the prompt and impartial review, investigation and resolution of all reports of alleged violations of the Policy, along with the provision of interim remedies and measures to support all individuals involved and to ensure that they are treated with dignity and care.

REPORTING OBLIGATIONS

With the exception of the confidential resources identified below, all College employees who receive a report of or otherwise become aware of sex discrimination, sexual harassment, sexual misconduct or other interpersonal misconduct are obligated to promptly inform the Title IX Coordinator (either the Chief Title IX Coordinator or one of the Deputy Title IX Coordinators) or the Office of Public Safety and Police, all the alleged details of the incident, unless they are expressly prohibited by law from disclosing such information. With the exception of students employed in Residential Life, Augustana College students who are also employed by the College are not included in this reporting requirement.

At Augustana, counselors in the Counseling Center and the Campus Pastor are not required to disclose the information obtained while serving in these roles as they have professional obligations to maintain the confidentiality of their clients. These employees can also help individuals understand their options for proceeding with their complaint. More information about these confidential resources is provided below. Confidential Advisors (see below) are also not required to disclose information to the College.

CONFIDENTIAL RESOURCES

Individuals who feel they have been victims of sexual misconduct may require time and support in reaching the decision as to whether to make formal complaints. There are confidential resources on campus and in the community available to individuals who do not wish to make a formal report to campus authorities or who wish to speak with a confidential resource in addition to making a formal report. Information disclosed to a confidential resource will not be shared with other individuals. These resources generally only report to the College the fact that an incident occurred without

revealing any personally identifying information. This also means that disclosures to a confidential resource will not result in a College investigation into an incident. These confidential resources include:

Confidential resources on campus

Counseling Services 309-794-7357

Counselors at Counseling Services can provide emotional and medical support in a safe and confidential space. They are not required to disclose your identifying information as they have professional obligations to maintain the confidentiality of their clients. They can also help you think through your options for filing a formal report.

Campus Chaplain, Office of Campus Ministries, 309-794-7213

Confidential Advisors

Through a partnership, the College has arranged for the availability of confidential advisors employed by Family Resources – Survivor Services to provide emergency and on-going support to survivors of sexual assault. Confidential Advisors may, but are not required to, serve as Advisors of Choice.

Confidential resources in the community

Family Resources -Survivor Services of the Quad Cities – 24 Hour Free Crisis Line 309-797-1777

<http://www.famres.org/services/survivor-services>

Family Resources- Survivor Services is a community based program that serves the needs of women, men, children and families whose lives have been affected by domestic or sexual violence, human trafficking, or other violent crimes.

Illinois Domestic Violence Help Line 1-877-863-6338

<http://www.dhs.state.il.us/page.aspx?item=30275>

National Sexual Assault Telephone Hotline: 800-656-HOPE (4673)

Rape, Abuse, and Incest National Network: <https://www.rainn.org>

OFF-CAMPUS REPORTING & OTHER REPORTING INFORMATION

The College encourages all individuals who feel they have been victims of sexual misconduct or other interpersonal misconduct (also referred to as complainants) to seek immediate assistance from a medical provider for emergency services, including treatment of any injury, and to collect and preserve physical and other forms of evidence. Seeking medical attention preserves the full range of options, including the options of working through the College's grievance procedures and/or filing criminal complaints.

Local medical assistance can be obtained at Unity Point Health- Trinity Rock Island Hospital, 2701 – 17th Street, Rock Island, telephone 309-779-5000. Under Illinois law, forensic medical examinations (i.e., evidence collection) sought subsequent to instances of sexual violence are free of charge to the patient.

A complainant has the option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue a complaint with the College or to pursue both processes consecutively or concurrently.

Rock Island City Police Emergency Reporting – Dial “911”

Non-Emergency Reporting (309) 732-2677

A complainant also has the right not to pursue any complaint. Unless deemed necessary by the Title IX team or requested by an alleged victim, the College will not contact law enforcement outside of the College Office of Public Safety and Police. In addition to having the option of pursuing a criminal complaint, victims also have the option of exploring whether they might be entitled to an order of protection, no contact order, restraining order, or other similar

orders issued by a criminal or civil court. For more information about such orders see <http://www.illinoisattorneygeneral.gov/women/victims.html>.

The Title IX team will assist victims with transportation to a hospital if they so request, with making contact with appropriate law enforcement authorities upon request and with accessing all appropriate resources and support, including on- and off-campus confidential victim services and sexual violence crisis support.

Any pending criminal investigation or criminal proceeding may have some impact on the timing of the College's investigation, but the College will commence its own investigation as soon as is practicable under the circumstances. The College reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding.

Augustana's authority to sanction members of the College community applies only to the violation of College rules, policies and procedures. Legal action to pursue either civil or criminal proceedings may be initiated by contacting the police or the State's Attorney. Students who believe they are the victims of a crime as defined by federal and state laws are encouraged to report to law enforcement authorities as the legal system of the State of Illinois offers recourse through law enforcement officials and the courts. The College's Chief Title IX Coordinator and the Augustana College Office of Public Safety and Police are available to assist students with any reports they might wish to make to law enforcement authorities.

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by calling 1-800-421-3481 or visiting www2.ed.gov/about/list/ocr/complaintintro.html.

PRESERVING EVIDENCE

Individuals are encouraged to do everything possible to preserve evidence by making certain that the crime scene is not disturbed and any physical evidence is preserved. Individuals who believe they are victims of sexual misconduct should avoid bathing, using the toilet, rinsing one's mouth or changing clothes, where possible. Clothing that was worn at the time of the incident should be placed in a paper bag, not a plastic one. Bedding should not be laundered or discarded. All forms of electronic communication that occurred before, during, or after the assault should be preserved.

Under Illinois law, forensic medical examinations (i.e., evidence collection) sought subsequent to instances of sexual violence are free of charge to the patient. Local medical assistance can be obtained at Unity Point Health- Trinity Rock Island Hospital, 2701 – 17th Street, Rock Island, telephone 309-779-5000.

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of investigations.

ADDITIONAL REPORTING INFORMATION

Timing of Report

The College encourages individuals to report as soon as practically possible, but there is no time limit on reporting. The College will undertake an investigation of past events made by individuals currently participating in, or attempting to participate in, the education program, but the College cannot typically impose disciplinary sanctions on an individual who is no longer a member of the Augustana community (e.g., a student who has graduated or an individual who is no longer in the employ of the College).

Amnesty

In order to encourage the reporting of alleged sexual or interpersonal misconduct, the College will not pursue disciplinary action against any student (including a Complainant or third party witness) who reports in good faith or is involved in the investigation of an alleged violation of this Policy and who has violated College policy regarding alcohol or other drugs, provided that such violations did not/do not place the health or well-being of any other person at risk. While disciplinary action will not typically be pursued for violations of the College's alcohol or drug policies in such circumstances, the College may pursue educational interventions where appropriate.

Applicable Adjudication Procedures

Individuals who file a report of an alleged violation under this Policy will be informed in writing of the applicable investigation and adjudication procedures; this may be updated as additional facts or information becomes available during the Complaint.

Policy Updated: August 2023

Title IX Sexual Harassment Investigation & Grievance Procedures: Alleged Student Violations

Augustana has established a Policy Against Sexual Misconduct and Title IX Sexual Harassment ("Policy") that articulates the College's behavioral standards and descriptions of prohibited conduct.

These are the Title IX Sexual Harassment Investigation and Resolution Procedures ("Title IX Sexual Harassment Procedures"). Complaints of Sexual Misconduct that do not constitute Title IX Sexual Harassment are handled under the Sexual Misconduct Investigation and Resolution Procedures ("Sexual Misconduct Procedures").

These Title IX Sexual Harassment Procedures outline the College's approach to addressing reports of suspected Policy violations by a student. Title IX Sexual Harassment Procedures vary based on the nature of the allegations, including where the alleged conduct occurred, and the classification of the individual who is accused of violating the Policy. Allegations that a faculty member violated the Policy are governed by the Title IX Sexual Harassment Procedures outlined in Section 10 of the Faculty handbook. Allegations that a staff or administrative employee violated the Policy are governed by the Title IX Sexual Harassment Procedures generally outlined in the Employee Handbook. The rights and options afforded to individuals who report violations as outlined in this Policy relating to confidentiality and supportive measures will apply in all cases.

The College is committed to promptly, fairly, impartially, and equitably resolving alleged or suspected violations of the Policy. The College's investigation and resolution of alleged violations, including the issuance of any sanctions, will typically be completed within 90 calendar days. The College's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the Complainant is willing to file a complaint or participate in an investigation, the location where the alleged conduct occurred, and the College's access to information relevant to the alleged or suspected violation of the Policy. The College is nonetheless committed to investigating and resolving all alleged and suspected violations of the Policy to the fullest extent possible under the circumstances.

These Title IX Sexual Harassment Procedures ("Procedures") apply to all suspected or alleged acts of Title IX Sexual Harassment by students as defined by federal law and will be used in place of the Augustana Code of Social Conduct or any other student conduct policies or procedures used to address other alleged misconduct involving students. In addition, any sanctions or other corrective actions imposed against students who violate the Policy shall be imposed pursuant to these Procedures, rather than pursuant to the Code of Social Conduct, Student Judiciary procedures, or any other set of policies and procedures governing student conduct, unless the College determines in its discretion that the Code of Social Conduct, Student Judiciary procedures, or other policy governing student conduct should be used to resolve a particular matter. In addition, the College may, upon finding of good cause, modify these Procedures in the interests of promoting full and fair resolution of suspected or alleged violations of the Policy in accordance with applicable law. The College officials responsible for investigating and resolving alleged violations of this Policy in accordance with these Title IX Sexual Harassment Procedures will receive a minimum of 8 hours annual training on issues related to sexual assault, dating violence, and domestic violence, and how to conduct an investigation and hearing process that is fair, balanced, and equitable and promotes accountability.

Preliminary Assessment, Initial Response, Supportive Measures, and Investigation

PRELIMINARY ASSESSMENT

Upon receipt of a report the Title IX Coordinator will conduct a Preliminary Assessment to determine:

- Whether the College has jurisdiction over the parties involved;
- Whether the conduct, as reported, falls or could fall within the scope of the Policy Against Sexual Misconduct and Title IX Sexual Harassment; and
- Whether the conduct, as reported, constitutes or could constitute Title IX Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Sexual Harassment, even if investigated, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act ("FERPA"). The Title IX Coordinator may refer the report to other College offices, as appropriate.

If the Respondent is not a member of the College community or is no longer affiliated with the College at the time of the report or at the time of an investigation or resolution process is initiated (including if the Respondent has graduated or left the College), the College may be unable to take disciplinary action or conduct an investigation.

If the Title IX Coordinator determines that the conduct reported could constitute Title IX Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant as specified below.

As part of the Preliminary Assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if such identity is not apparent from the report.

INITIAL RESPONSE

If a report is not closed as a result of the Preliminary Assessment specified above and the Complainant's identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures specified in these Procedures; to discuss and consider the Complainant's wishes with respect to such Supportive Measures; to inform the Complainant of the availability of such Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint.

The Title IX Coordinator will also discuss with the Complainant with the following information:

- Options for filing complaints with the local police and information about resources that are available on campus and in the community
- Provide a written statement of his/her rights and options under the Policy and these Procedures
- The availability of a confidential advisor. Confidential advisors provide confidential emergency and on-going assistance to alleged victims of sexual assault upon request. Confidential advisors are employees of Family Resources- Survivor Services of the Quad Cities.
- The right to be accompanied during any College grievance proceeding and any related meeting by an advisor of choice whose participation will be limited as outlined in this Procedures
- The hearing process
- The prohibition against retaliation
- The need to preserve any relevant evidence or documentation.

Any time after this meeting, a Complainant may choose to file a Formal Complaint, which initiates the College's disciplinary process.

Formal Complaint

A "Formal Complaint" is a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Title IX Sexual Harassment in accordance with these Procedures. A "document filed by a Complainant" means a document or electronic submission (such as an email) that contains the Complainant's physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the College investigate and adjudicate a report of Title IX Sexual Harassment in accordance with these Procedures. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the College's education programs or activities. A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified above. No person may submit a Formal Complaint on the Complainant's behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the College if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community. Factors the Title IX Coordinator may consider in determining whether to

file a Formal Complaint on behalf of the College include (but are not limited to):

- Whether the alleged Respondent is likely to commit additional acts of sexual or other violence, such as:
 - Whether there have been other Title IX Sexual Harassment about the same alleged Responding Party;
 - Whether the alleged Respondent has a history of arrests or records from a prior school indicating a history of violence;
 - Whether the alleged Respondent threatened further sexual misconduct or interpersonal violence or other violence against the Reporting Party or others;
- Whether the Title IX Sexual Harassment was committed by multiple perpetrators
- The Title IX Sexual Harassment was perpetrated with a weapon
- The Reporting Party is a minor
- Augustana possesses other means to obtain relevant evidence of the Title IX Sexual Harassment (e.g., security cameras or personnel, physical evidence)
- The Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the College will commence an investigation and proceed to adjudicate the matter as specified in these Procedures. In all cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

If neither the Complainant or the Title IX Coordinator files a Formal Complaint, the investigation and adjudication provisions of these Procedures will not be applied, but the Title IX Coordinator may assess the matter under the College's Sexual Misconduct Investigation Procedures or refer the matter to other College offices, as appropriate.

Consolidation of Formal Complaints

The College may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this Policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Title IX Sexual Harassment.

Dismissal Prior to Commencement of Investigation

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and **must** dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint did not occur in the College's Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States.

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in these Procedures. The Title IX Coordinator may assess the matter under the College's Sexual Misconduct Investigation Procedures or refer the matter to other College offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination for purposes of these Title IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

Notice of Formal Complaint

Within five (5) days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of this Policy or a hyperlink to this Policy;
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notifying the Complainant and Respondent of their right to be accompanied by an advisor of their choice, as specified in these Procedures.
- Notifying the Complainant and Respondent of their right to inspect and review evidence as specified in these Procedures.
- Notifying the Complainant and Respondent of the College's prohibitions on retaliation and false statements specified in the Policy.
- Information about resources that are available on campus and in the community.

Should the College elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the College will provide a supplemental written notice describing the additional allegations to be investigated.

The Respondent may elect to accept responsibility for all or part of the conduct alleged by the Complainant. In that case, the Title IX Coordinator or designee may continue their investigation in order to provide additional information that may be relevant in determining any appropriate sanctions. If the Respondent does not accept responsibility, the investigation process, as described below, will begin.

SUPPORTIVE MEASURES

Supportive Measures are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the College's Education Programs and Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the College's education environment, or to deter Title IX Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, other changes to academic, living, dining, transportation, and working situations, honoring an order of protection or no contact order entered by a State civil or criminal court, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

If a report is not closed as a result of the Preliminary Assessment specified in these Procedures, the College will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the College will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The College will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint, if the Respondent requests such measures.

The Title IX Coordinator will provide the Complainant and Respondent with a written document (separate from this Policy) listing the available rights, options, and resources, including Supportive Measures, and describing the Title IX Procedures in plain, concise language.

The College will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the College's ability to provide the Supportive Measures in question.

ACCOMMODATIONS

College programs and procedures must be accessible to all students. Students who have a documented disability have the right to reasonable accommodations that are necessary to make college policies accessible, including these investigation and resolution procedures. Students with disabilities may request accommodations by contacting with the Director of Disability Services and filling out the “request for academic accommodations” form on the link provided: <https://www.augustana.edu/student-life/residential-life/accommodations>. The Title IX Coordinator or their designee will work with the Director of Disability Services to provide reasonable accommodations that are necessary to make these policies and procedures accessible. Students who have or think they may have a disability are invited to contact the Director of Disability Services for a confidential discussion. For more information, please contact the Office of Disability Services.

INTERIM REMOVAL

At any time after receiving a report of Title IX Sexual Harassment, the Title IX Coordinator may remove a student Respondent from the College’s Education Programs and Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the College may place the Respondent on administrative leave at any time after receiving a report of Title IX Sexual Harassment, including during the pendency of the applicable investigation and adjudication process.

For all other Respondents, including independent contractors and guests, the College retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Title IX Sexual Harassment or otherwise.

INVESTIGATION

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the College and not with the parties. The investigation will culminate in a written investigation report, specified in these Procedures, that will be submitted to the hearing officer during the hearing process. Although the length of each investigation may vary depending on the totality of the circumstances, the College strives to complete each investigation within 90 days of the transmittal of the written notice of Formal Complaint.

The nature and extent of the investigation will vary depending upon the circumstances, including whether the parties are amenable to pursuing an informal resolution. Both parties will have equal procedural rights during the investigation and resolution of a complaint. As part of the investigation, the investigator(s) will seek to interview both the Complainant and the Respondent, as well as any other witnesses who the investigator determines can provide relevant information. Each party will receive written notice in advance of any interview to allow for meaningful preparation. The College may audio-record interviews of any parties and witnesses, and any such recording will become part of the investigation record.

To help ensure a prompt and thorough investigation, Complainants are asked to provide as much information as possible, including the following:

- The name, department, and position of the person or persons allegedly causing the prohibited discrimination, harassment, or retaliation.
- A description of any relevant incident(s), including the date(s), location(s), and the presence of any witnesses.
- The alleged effect of the incident(s) on the Complainant's opportunity to participate in or benefit from the College's programs or activities.
- The names of other individuals who might have relevant information about the alleged actions and/or have been subject to the same or similar acts of discrimination, harassment, or retaliation.
- Although it is not required, any steps the Complainant has taken to try to stop the discrimination, harassment, or retaliation.

- Any other information the Complainant believes to be relevant to the alleged discrimination, harassment, or retaliation.

The Respondent is also expected to provide as much information as possible in connection with the investigation.

Equal Opportunity

During the investigation, the investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant, as specified in these Procedures. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Formal Complaint. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

Access to the Evidence

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the investigator will transmit to each party and their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the College may choose not to rely on at any hearing and inculpatory or exculpatory evidence whether obtained from a party or some other source. Thereafter, the parties will have one ten (10) day period in which to submit to the investigator a written response, which the investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not duplicate or disseminate the evidence to the public.

Investigation Report

After the period for the parties to provide any written response as specified in these Procedures has expired, the investigator will complete a written investigation report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their advisor, in either electronic or hard copy form.

Upon conclusion of the investigation, the investigator(s) will produce a written report that summarizes and analyzes the relevant facts and any supporting documentation (which may include statements by the parties, third-party witnesses, or others with information and any physical, written, or electronic or other evidence) and shall provide such report to the Title IX Coordinator. This investigation report will be shared with the parties and will be used in either an informal or formal resolution procedure, as appropriate and as outlined below. Each party will have an opportunity to respond to the investigation report either in writing or before the Hearing Panel. Written responses must be received by the College within 10 calendar days after either party has received the investigation report. The investigation report is treated as a confidential document, and is intended to be shared only with individuals who have a "need to know" its contents. All individuals are expected to honor the confidential nature of the report. Disciplinary action may be taken in the event the confidential nature of the report is disregarded by a party or individual in the proceeding.

Documentation of Investigation

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and

witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The

particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.

INFORMAL RESOLUTION PROCEDURE

At any time after the parties are provided written notice of the Formal Complaint as specified in and before the completion of any appeal specified in these Procedures, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another College official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will outline the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the College, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the College. Informal resolution pursuant to this Section is not subject to appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) days from the date the informal resolution process started. If an informal resolution process does not result in a resolution within twenty-one (21) days, and absent an extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Formal Complaint will be resolved pursuant to the investigation and adjudication procedures. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended due to the informal resolution.

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee accused of committing Title IX Sexual Harassment against a student.

Formal Resolution Procedure

NOTICE OF HEARING

A. Hearing Officer

The Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint, at the conclusion of the hearing process. The Title IX Coordinator will see that the hearing officer is provided a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator as specified in these Procedures.

B. Hearing Notice and Response to the Investigation Report

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of the College's Hearing Procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten (10) days from the date of transmittal of the written notice specified in these Procedures.

A party's written response to the investigation report must include:

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history specified in these Procedures, or for any other reason;
- A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- Any objection that the party has to the College's Hearing Procedures;
- Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
- If the party does not have an advisor who will accompany the party at the hearing, a request that the College provide an advisor for purposes of conducting questioning as specified in these Procedures.

A party's written response to the investigation report may also include:

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Title IX Sexual Harassment.

PRIOR TO THE HEARING

Pre-Hearing Conference

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with the parties and their advisors. The pre-hearing conference will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the pre-hearing conference will be conducted with the hearing officer, the parties, the advisors, and other necessary College personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the hearing officer's discretion, the pre-hearing conference may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

During the pre-hearing conference, the hearing officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have

requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing.

Issuance of Notices of Attendance

After the pre-hearing conference, the hearing officer will transmit notices of attendance to any College employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. All such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The College will not issue a notice of attendance to any witness who is not an employee or a student.

GRIEVANCE HEARING

Attendance

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the College's Hearing Procedures. The hearing will be audio recorded. The audio recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the hearing officer, the parties, the advisors, witnesses, and other necessary College personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio. Neither party will be compelled to testify in the physical presence of the other party.

In the hearing officer's discretion, the hearing may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing Procedures and rulings from the hearing officer will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;
- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary College personnel. With the exception of the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete. The parties will not be permitted to question the other party or any witness directly.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them.

While a party has the right to attend and participate in the hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the hearing in such a way as to be materially disruptive, may be barred

from further participation and/or have their participation limited, as the case may be, in the discretion of the hearing officer.

Subject to the minimum requirements specified in this Section, the hearing officer will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility. The hearing officer will independently and contemporaneously screen questions for relevance in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

The hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The hearing officer will have discretion to modify the Hearing Procedures, when good cause exists to do so, and provided the minimal requirements specified in this Section are met.

The Complainant and Respondent will have equal access to information before and during the hearing, including access to the Investigation Record as noted above. The College will arrange for audio-recording the entire Hearing; this recording will become part of the Investigation Record.

Deliberation and Determination

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The hearing officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference or during the hearing. The hearing officer will resolve disputed facts using a preponderance of the evidence (i.e., "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the Policy as alleged in the Formal Complaint.

Discipline and Remedies

In the event the hearing officer determines that the Respondent is responsible for violating this Policy, the hearing officer will, prior to issuing a written decision, consult with an appropriate College official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The hearing officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing Supportive Measures or other remedies will be provided to the Complainant.

Written Decision

After reaching a determination and consulting with the appropriate College official and Title IX Coordinator, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the College upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Title IX Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline determined by the appropriate College official;
- Whether the Complainant will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator; and
- A description of the College's process and grounds for appeal.

The hearing officer's written determination will be transmitted to the parties. Transmittal of the written determination to the parties concludes the hearing process, subject to any right of appeal as specified in these Procedures.

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the College strives to issue the hearing officer's written determination within seven (7) days of the decision.

Dismissal During Investigation or Adjudication

The College may dismiss a Formal Complaint at any point during the investigation or hearing process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled or employed by the College, as the case may be; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may assess the subject matter of the Formal Complaint under the College's Sexual Misconduct Procedures or refer the subject matter of the Formal Complaint to other College offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination as it pertains to the Title IX Sexual Harassment Procedures, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

Sanctions & Corrective Action/Remedies

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the appropriate sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. The potential disciplinary sanctions that may be imposed along with other corrective actions for a finding of a Policy violation are set forth below. One or more of these sanctions may be imposed at the discretion of the College. Any sanctions imposed will be proportionate with the violation. In imposing disciplinary sanctions, the College will consider the impact of separating a student from their education.

The College will take reasonable steps to prevent the recurrence of any violations of the Policy and to correct the discriminatory effects on the Complainant (and others, if appropriate). The potential sanctions that may be imposed for any violation of this Policy includes:

- Verbal warning
- Written warning
- Mandatory discrimination or harassment training or education
- Mandatory counseling
- Disciplinary hold on academic and/or financial records
- College campus access restrictions
- Housing restrictions on campus, class enrollment restrictions, campus restrictions
- Ineligibility to participate in co-curricular activities
- No Contact Directives
- Probation
- Suspension
- Dismissal from the College

Corrective actions taken by the College might also include, but are not limited to: providing and/or requiring appropriate forms of counseling and training, developing educational materials and programming, implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns

of violations. Additional corrective actions for a Complainant may include, but are not limited to, support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support.

When a student is found responsible for sexual assault, which is one form of prohibited sexual misconduct under this Policy, the following sanctions that are common in addition to any of the sanctions listed above. In all cases, however, the sanctions assigned to a student found responsible will depend on the full context in which the offense takes place. For instance, repeat offenders can expect to be assigned more severe sanctions than if they did not have prior offenses. Offenders who commit multiple offenses in a single episode can expect to be assigned more severe sanctions than they would have been assigned had they committed fewer offenses. The presence of aggravating factors such as the use of force, the use of a weapon, the involvement of multiple perpetrators, intimidation or intentional incapacitation will also lead to more severe sanctions.

Sexual Assault: Non-consensual Sexual Intercourse

Sanctions for non-consensual sexual intercourse may result in suspension to expulsion from the College.

Sexual Assault: Attempted Sexual Intercourse

Sanctions for attempted sexual intercourse may result in probation up to expulsion.

Sexual Assault: Touching

Sanctions for non-consensual sexual touching may result in probation up to expulsion.

In instances where the College is unable to take disciplinary or other corrective action in response to a reported violation, the College will consider other steps available to limit the effects of the conduct at issue and prevent its recurrence, such as training and education.

Remedies

When a determination is made that an individual is responsible for an act or acts of Title IX Sexual Harassment, the College may also offer additional measures, and/or take other action, to eliminate any hostile environment caused by the Title IX Sexual Harassment, prevent the recurrence of any Title IX Sexual Harassment, and remedy the effects of the Title IX Sexual Harassment on the Complainant and the College community. Remedies that may be offered or provided to a Complainant may include the same individualized services described as Supportive Measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Additional corrective actions may include but are not limited to support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support for one or both parties. Corrective actions and remedies at the level of the institution may include but are not limited to providing and/or requiring appropriate forms of counseling and training, developing educational materials and programming, implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns of violations.

In no event will a party in matters involving an alleged violation of the Policy be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome.

APPEAL PROCESS

Either party may appeal the determination of a hearing or a dismissal of a Formal Complaint, on one or more of the following grounds:

- A procedural irregularity affected the outcome;
- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The Title IX Coordinator, investigator, hearing officer, or administrative officer, as the case may be, had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.
- The sanction is disproportionate with the violation.

No other grounds for appeal are permitted

A party must file an appeal within ten (10) days of the date they receive notice of dismissal or the determination appealed from. The appeal must be submitted in writing to the Title IX Coordinator. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

The Title IX Coordinator will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the Title IX Coordinator determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal will be dismissed and written notice of the dismissal will be provided to the parties.

If the Title IX Coordinator confirms that the appeal is timely and invokes at least one permitted ground for appeal, they will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) days. Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the Title IX Coordinator will forward the appeal to the Appeal Officer. The Appeal Officer shall also receive from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal. The Appeal Officer will promptly decide the appeal and transmit a written decision to the parties within seven (7) days that explains the outcome of the appeal and the rationale.

The determination of a Formal Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the Appeal Officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, the College strives to issue the Appeal Officer's written decision within (21) days of an appeal being filed.

OTHER PROVISIONS

Advisors of Choice

From the point a Formal Complaint is made, and until an investigation, hearing, and appeal are complete, both parties are entitled to bring an advisor of their choice to any meetings, interviews, and hearings that are part of the investigation, resolution, and appeal process, provided that the involvement of the advisor does not result in undue delay of the meeting or interview. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing specified in these Procedures, the role of the advisor of choice is limited to consulting privately with the party they accompany. The advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the College about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in writing by the Hearing Office, or as outlined in these Procedures, including engaging in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or an individual investigating or resolving the complaint, the College may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing specified in these Procedures, the College will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The College will have sole discretion to select the advisor it provides. The advisor the College provides may be, but is not required to be, an attorney or any individual with specialized legal training.

The College is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing specified in these Procedures.

Treatment Records and Other Privileged Information

During the investigation and hearing processes, the investigator and adjudicator, as the case may be, are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally-recognized privilege, such as the attorney client privilege;

unless the College has obtained the party's voluntary, written consent to do so for the purposes of the investigation and adjudication process.

Notwithstanding the foregoing, the investigator and/or adjudicator, as the case may be, may consider any such records or information otherwise covered by this Section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense, as the case may be.

Sexual History

During the investigation and hearing processes, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, 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. Notwithstanding the foregoing, a Complainant who affirmatively uses information otherwise considered irrelevant by this Section for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this Section.

Presumption of Non-Responsibility

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

Conflicts of Interest, Bias, and Procedural Complaints

The Title IX Coordinator, investigator, hearing officer, administrative officer, appeals officer, and informal resolution facilitator will be free of any material conflicts of interest or material bias. The parties will be notified of the identities of the decision maker and appeal reviewer for their proceeding before those individual(s) initiate contact with either party. Any party who believes one or more of these individuals has a material conflict of interest or material bias must raise the concern promptly so that the College may evaluate the concern and find a substitute, if appropriate. If a party believes that the investigator, hearing officer, administrative officer, appeals officer, or informal resolution facilitator has a conflict of interest, the party should raise the concern to the Title IX Coordinator. If a party believes a Title IX Coordinator has a conflict of interest, the party should raise the concern to the Dean of Students (when requesting party is a student) or the Vice President of the College (when requesting party is an employee). The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in these Procedures or otherwise.

Objections Generally

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the College may evaluate the matter and address it, if appropriate.

Recordings

Wherever this Policy specifies that an audio or video recording will be made, the recording will be made only by the College and is considered property of the College, subject to any right of access that a party may have under this Policy, FERPA, and other applicable federal, state, or local laws. Only the College is permitted to make audio or video recordings under this Policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this Policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

Vendors, Contractors and Third Parties

The College does business with various vendors, contractors, and other third-parties who are not students or employees of the College. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under the Policy or these Title IX Sexual Harassment Procedures, the College retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the College retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under these Title IX Sexual Harassment Procedures.

Confidentiality

The College will keep confidential the identity of any individual who has made a report or Formal Complaint of Title IX Sexual Harassment or Retaliation, including any Complainant, the identity of any individual who has been reported to be a perpetrator of Title IX Sexual Harassment or Retaliation, including any Respondent, and the identity of any witness. The College will also maintain the confidentiality of its various records generated in response to reports and Formal Complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, adjudication records, and appeal records.

Notwithstanding the foregoing, the College may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the College's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this Policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the College's general obligation to maintain confidentiality as specified herein, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials in the circumstances specified in this Policy. In all interviews and meetings held in connection with these Title IX Sexual Harassment procedures, the College will protect the privacy of the participating parties and witnesses as required by FERPA and other applicable law.

While the College will maintain confidentiality specified in these Procedures, the College will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Title IX Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this Policy.

Note that certain types of Title IX Sexual Harassment are considered crimes for which the College must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

Other Violations of this Policy

Alleged violations of the Policy, other than violations of the prohibitions on Title IX Sexual Harassment, Sexual Misconduct, and Retaliation, such as failing to abide by a supportive measure or emergency removal, will be subject to review under the Student Code of Conduct for students, the Faculty Handbook for faculty, or other College policies and standards for employees.

Signatures and Form of Consent

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where these Title IX Sexual Harassment Procedures provide that written consent

must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

Deadlines, Time, Notices, and Method of Transmittal

Where these Title IX Sexual Harassment Procedures specify a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period;
- Count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the federal government;
- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

All deadlines and other time periods specified in this Policy are subject to modification by the College where, in the College's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the College's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, hearing officer, administrative officer, appeal officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The College officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the College.

The parties will be provided written notice of the modification of any deadline or time period specified in this Policy, along with the reasons for the modification.

Where these Title IX Sexual Harassment Procedures refer to notice being given to parties "simultaneously," notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

Unless otherwise specified in these Title IX Sexual Harassment Procedures, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this Policy will be email using College email addresses.

A party is deemed to have received notice upon transmittal of an email to their College email address. In the event notice is provided by mail, a party will be deemed to have received notice three (3) days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in the Title IX Sexual Harassment Procedures, the sufficient time to be provided will be determined in the sole discretion of the College, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at issue; the schedules of relevant College officials; approaching holidays or closures; and the number and length of extensions already granted.

Other Forms of Discrimination

These Title IX Sexual Harassment Procedures apply only to (1) complaints of Title IX Sexual Harassment or (2) complaints that include acts of both Title IX Sexual Harassment and Sexual Misconduct, where the allegations involve the same parties or are otherwise materially related. Complaints of Sexual Misconduct, as defined in the

Policy, are governed by the College's Sexual Misconduct Procedures.

Outside Appointments, Dual Appointments, and Delegations

The College retains discretion to retain and appoint suitably qualified persons who are not College employees to fulfill any function of the College under this Policy, including, but not limited to, the investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The College also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The functions assigned to a given College official under this Policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, administrative officer, informal resolution officer, and appeals officer, may, in the College's discretion, be delegated by such College official to any suitably qualified individual and such delegation may be recalled by the College at any time.

RECORDS MAINTENANCE

The College will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven years after which point in time they may be destroyed, or continue to be retained, in the College's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

For a period of 7 years, the College will maintain documentation and records regarding alleged violations of the Policy and their resolution in a manner that protects the confidentiality of the parties involved, complies with the Family Educational Rights and Privacy Act, and to the extent possible excludes personally identifiable information of victims of domestic violence, dating violence, and stalking.

If a student has been found responsible for violating the Policy, this finding remains a part of that student's conduct record. The finding is not referenced on a student's transcript.

Discretion in Application

The College retains discretion to interpret and apply this Policy in a manner that is not clearly unreasonable, even if the College's interpretation or application differs from the interpretation of the parties.

Despite the College's reasonable efforts to anticipate all eventualities in drafting this Policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the College retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this Policy and the Hearing Procedures referenced in these Procedures are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the College retains discretion to revise this Policy and the Hearing Procedures at any time, and for any reason. The College may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

Training and Educational Programming

The College will ensure that College officials acting under this Policy, including but not limited to the Title IX Coordinator, investigators, hearing officers, informal resolution facilitators, College provided advisors, and appeals officers, receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii), the Illinois Preventing Sexual Violence in Higher Education Act, and any other applicable federal or state law.

The College officials responsible for investigating and resolving alleged violations of this Policy in accordance with these Title IX Sexual Harassment Procedures will receive a minimum of 8 hours annual training on issues related to sexual assault, dating violence, and domestic violence, and how to conduct an investigation and hearing process that is fair, balanced, and equitable and promotes accountability.

The College will also provide education to students and employees on issues relating to Title IX Sexual Harassment and the College's policies and procedures that complies with the Illinois Preventing Sexual Violence in Higher Education Act and any other applicable federal or state law.

The College will provide the following education programming designed to promote the awareness of sexual assault, domestic violence, dating violence and stalking.

Employees with Responsibility for Receiving Reports of Violations of this Policy; Providing or Referring Services to Victims; and/or Adjudicating Alleged Violations of this Policy

- Training on at least an annual basis on the issues related to sexual assault, sexual violence, dating violence and stalking; and
- Training on at least an annual basis on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

PRIMARY PREVENTION AND AWARENESS PROGRAMS

The College will provide primary prevention and awareness programs for all incoming students and new employees that includes the following:

- a statement that the College prohibits the offenses of discrimination, harassment, sexual assault, domestic violence, dating violence and stalking, and a description of the College's policies that prohibit this conduct;
- the definition of consent and inability to consent, in reference to sexual activity, as defined in this Policy and under Illinois law;
- the definition of discrimination, harassment, including sexual assault, domestic violence, dating violence, and stalking (or similar offenses) in this Policy and under Illinois law;
- safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of discrimination, harassment, sexual assault, domestic violence, dating violence and stalking against a person other than such individual;
- information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- the procedures that a Complainant/victim should follow if discrimination, harassment, sexual assault, domestic violence, dating violence and stalking has occurred, as described in this Policy, including options for a Complainant/victim to report such incidents to a confidential advisor or other confidential resource;
- the possible sanctions and protective measures that the College may impose following a final determination of a violation of College policy regarding discrimination, harassment, sexual assault, domestic violence, dating violence and stalking;
- the procedures for College disciplinary action in cases of alleged discrimination, harassment, sexual assault, domestic violence, dating violence and stalking, as described in this Policy, including the standard of proof that is used;
- information about how the College will protect the confidentiality of Reporting Parties, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the Reporting Party, to the extent permissible by law;
- information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for student and employee accusers and victims both on-campus and in the community; and
- information about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by a Complainant and if such accommodations are reasonably available, regardless of whether the Complainant chooses to report the crime to campus security or local law enforcement.

ONGOING PREVENTION AND AWARENESS CAMPAIGNS

The College will also provide ongoing prevention and awareness campaigns for students and employees that include the information covered in the primary prevention and awareness programs.

CHANGES IN THIS POLICY

The College reserves the right to make adjustments and changes in this policy at any time.
Policy Updated: August 2023

Investigation & Grievance Procedures: Sexual Misconduct Allegations Against Students

Augustana has established a Policy Against Sexual Misconduct and Title IX Sexual Harassment (“Policy”) that articulates the College’s behavioral standards and descriptions of prohibited conduct. There are separate procedures for resolving allegations of Sexual Misconduct and Title IX Sexual Harassment. These Investigation and Grievance Procedures: Sexual Misconduct Allegations Against Students (“Procedures”) apply to all suspected or alleged acts of Sexual Misconduct that do not meet the definition of Title IX Sexual Harassment.

The College has established a **Policy Against Sexual Misconduct and Title IX Sexual Harassment (“Policy”)** that articulates conduct prohibited by the College which applies to all members of the College community. The Policy and these Investigation and Grievance Procedures outline the College’s approach to addressing reports of suspected Policy violations by a student. Investigation and grievance procedures vary based on the nature of the allegations, including where the alleged conduct occurred, and the classification of the individual who is accused of violating the Policy. Allegations that a faculty member violated the Policy are governed by the investigation and grievance procedures outlined in Section 10 of the Faculty handbook. Allegations that a staff or administrative employee violated the Policy are governed by the investigation and grievance procedures generally outlined in the Employee Handbook. The rights and options afforded to individuals who report violations as outlined in this Policy relating to confidentiality and supportive measures will apply in all cases. The College’s investigation and grievance procedures take into account the College’s status as a private institution of higher education and its unique mission and culture. Because the College’s approach to resolving alleged or suspected violations of the Policy is grounded in its mission and purpose as an educational institution, its approach to resolving alleged or suspected violations of the Policy is educational, rather than legal or judicial. As a result, the College retains the discretion to exercise its academic and educational judgment in investigating and resolving alleged or suspected violations of the Policy in a manner that is consistent with its mission and the various anti-discrimination laws that apply to its programs.

The College is committed to promptly, fairly, impartially, and equitably resolving alleged or suspected violations of the Policy. The College’s investigation and resolution of alleged violations, including the issuance of any sanctions, will typically be completed within 90 calendar days. The College’s ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the Complainant is willing to file a complaint or participate in an investigation, the location where the alleged conduct occurred, and the College’s access to information relevant to the alleged or suspected violation of the Policy. The College is nonetheless committed to investigating and resolving all alleged and suspected violations of the Policy to the fullest extent possible under the circumstances. In most cases, the College will not proceed with a formal investigation if the alleged victim of the conduct that violates the Policy is unwilling to file a formal complaint. A Title IX Coordinator may elect to proceed with a complaint and to seek resolution of the complaint in accordance with the Investigation and Grievance Procedures described below or other process that resolves the complaint in a manner consistent with applicable law and relevant OCR or other governmental guidance. In any case, the unwillingness of an alleged victim to proceed with a complaint is not a violation of this policy.

RELATIONSHIP TO THE TITLE IX SEXUAL HARASSMENT INVESTIGATION AND RESOLUTION PROCEDURES

“Title IX Sexual Harassment,” as defined in the Policy, will be governed by the Title IX Sexual Harassment Investigation and Resolution Procedures and should be addressed according to the processes stated therein. All other forms of sex-based discrimination are governed by these procedures, including sexual harassment, as defined in the Policy, that do not rise to the level of Title IX Sexual Harassment as defined in the Policy.

Conduct that is initially raised through a complaint under the Title IX Sexual Harassment Procedures may also be addressed under these Sexual Misconduct Procedures, in the College’s discretion, when: (i) the conduct at issue, or some part of it, may constitute Sexual Misconduct irrespective of whether it constitutes Title IX Sexual Harassment under the Policy; (ii) the Formal Complaint, or some part of it, has been dismissed under the Title IX Sexual Harassment Procedures; or (iii) a final determination of a Formal Complaint has been made under the Title IX Sexual Harassment Procedures and separate or additional action may be necessary to enforce this policy.

Where the College determines, in its discretion, that these Sexual Misconduct Procedures will govern for suspected or alleged acts of Sexual Misconduct, the procedures herein will be used in place of any Student Code of Conduct or Faculty or Employee Handbook policies or procedures used to address other alleged misconduct. In addition, any sanctions or other corrective actions imposed against students who violate the Policy shall be imposed pursuant to these Procedures, rather than pursuant to the Code of Social Conduct, Student Judiciary procedures, or any other set of policies and procedures governing student conduct, unless the College determines in its discretion that the Code of Social Conduct, Student Judiciary procedures, or other policy governing student conduct should be used to resolve a particular matter.

The College may at any time, upon finding of good cause, modify the Sexual Misconduct Investigation and Grievance Procedures in the interests of promoting full and fair resolution of suspected or alleged violations of the Policy in accordance with applicable law.

The College officials responsible for investigating and resolving alleged violations of this Policy in accordance with these Investigation and Grievance Procedures will receive a minimum of 8 hours annual training on issues related to sexual assault, dating violence, and domestic violence, and how to conduct an investigation and hearing process that is fair, balanced, and equitable and promotes accountability.

CONFIDENTIALITY

In matters involving incidents of sexual misconduct or other interpersonal misconduct, a request by an individual who is an alleged victim not to proceed with an investigation will be respected to the extent allowable under federal and state law, and information pertaining to such incidents will be treated with sensitivity and disseminated with care when it is necessary to do so for purposes of conducting an investigation or taking appropriate corrective action. However, the College reserves the right (as permitted or required by applicable law) to issue timely warnings and make other announcements to the College community when the College determines that there is a serious or continuing threat to members of the College community or that there is another significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on the College's campus. In making such announcements to students and employees, the College will withhold the names of victims as confidential to the greatest extent permitted by law. Under federal law, the College must report the occurrence of certain designated crimes that occur on campus or in certain other designated areas, including sex offenses as defined by the federal government, in an annual security report that is submitted to the U.S. Department of Education. This annual security report does not include personally identifiable information.

Initial Response, Supportive Measures, and Investigation

INITIAL RESPONSE

Preliminary Assessment of Alleged Misconduct

For every report of an alleged or suspected violation of the Sexual Misconduct and Title IX Sexual Harassment Policy, the Title IX Coordinator or designee will review the circumstances of the reported conduct to determine the following:

- Whether the College has jurisdiction over the parties involved;
- Which procedure is applicable to the parties and the conduct being reported; and
- The actions within the College's control necessary to eliminate, prevent, and address the reported conduct.

If the Respondent is not a member of the College community or is no longer affiliated with the College at the time of the report or at the time an investigation or resolution process is initiated (including if the Respondent has graduated or left the College), the College may be unable to take disciplinary action or conduct an investigation.

As a result of the Preliminary Assessment, the Title IX Coordinator or designee may determine that the conduct constitutes or could constitute Title IX Sexual Harassment, as defined in the Policy, and may proceed to apply the Title IX Sexual Harassment Investigation and Resolution Procedures.

If the Title IX Coordinator determines that the conduct reported does not or could not constitute Title IX Sexual Harassment but could constitute Sexual Misconduct, as defined in the Policy, the Title IX Coordinator will proceed with the procedures set forth in these Sexual Misconduct Procedures below.

Upon receiving a report or complaint alleging a violation of the Policy, the Title IX Coordinator or their designee will provide the Complainant a written statement of their rights and options under the Policy and these Procedures. The Complainant will also be informed of the availability of a confidential advisor. Confidential advisors provide confidential emergency and on-going assistance to alleged victims of sexual assault upon request. Confidential advisors are employees of Family Resources- Survivor Services of the Quad Cities. The Title IX Coordinator or their designee will also meet with the Complainant and discuss fully the options afforded to him/her, including the availability of supportive measures, the option to proceed with a formal complaint, the rights and responsibilities of both parties when a formal complaint is made (including the right to be accompanied during any College grievance proceeding and any related meeting by an advisor of their choice whose participation will be limited as outlined in this Policy), the process of identifying potential witnesses, the Grievance Panel Procedures, the prohibition against retaliation, and the need to preserve any relevant evidence or documentation. Any time after this meeting, a Complainant may choose to file a formal complaint, which initiates the College's disciplinary process. Supportive measures may be requested by an individual regardless of whether that individual chooses to proceed with a formal complaint.

If a Complainant chooses not to file a formal complaint, the College must still discharge its responsibility to understand what occurred and take steps to foster an educational environment that is free of discrimination and harassment for all members of the campus community. As a result, the College will seek to respect the Complainant's request, but it must also take into account the seriousness of the alleged misconduct and threats to community safety. Factors that will be considered include the following:

- Whether there have been other sexual violence complaints about the same alleged perpetrator;
- Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- Whether the alleged perpetrator threatened further sexual violence or other violence against the student or others;
- Whether the sexual violence was committed by multiple perpetrators;
- Whether the student's report suggests there is an increased risk of future acts of sexual violence under similar circumstances;
- Whether the sexual violence was perpetrated with a weapon;
- The age of the student subjected to the sexual violence; and
- Whether the College possesses other means to obtain relevant evidence.

If the College elects to proceed with an investigation, it will consult with the Complainant and provide information about their chosen course of action, including any supportive measures that will be taken to protect the Complainant and ensure the safety of other students, .

As soon as practicable after the Complainant files a formal complaint that reports a potential violation of the Sexual Misconduct Policy, the individual accused of violating the Policy (the "Respondent") will be notified in writing that a complaint has been made. This notice will include known details such as the parties alleged to be involved, the specific section of the Policy that was allegedly violated, the conduct allegedly constituting the Policy violation, and the date and location of the alleged incident. This notice may be amended or supplemented as additional information becomes available. The Respondent will also be informed of the options available to him/her, the rights and responsibilities of both parties (including the right to be accompanied during any College grievance proceeding and any related meeting by an advisor of their choice), the process of identifying potential witnesses, the Hearing Panel process, the prohibition against retaliation, the need to preserve any relevant evidence or documentation in the case, and the availability of supportive measures and remedies. A written response may be provided by the Respondent, but a written response is not required. The notice to a Respondent is not a determination of a Policy violation and the Respondent will not be deemed by the College to have violated the Policy unless and until (a) the Respondent accepts responsibility for the alleged Policy violation, or (b) the College's process for determining a Policy violation are followed, and a finding of responsibility has been made in accordance with the Policy.

The Respondent may elect to accept responsibility for all or part of the conduct alleged by the Complainant. In that case, the Title IX Coordinator or designee may continue their investigation in order to provide additional information that may be relevant in determining any appropriate sanctions. If the Respondent does not accept responsibility, the investigation process, as described below, will begin.

All parties will be informed that the College prohibits any retaliation against parties involved in reporting or witnessing allegations of violations of the Policy and that retaliation is grounds for disciplinary action.

SUPPORTIVE MEASURES

Upon receipt of a report or complaint alleging a violation of the Policy, the Title IX Coordinator or their designee will work with all parties involved in an alleged incident to promptly undertake any appropriate supportive measures to protect the safety of the campus community and will seek to provide remedies for the parties that address their safety and well-being while the report is investigated, and if pursued, through the completion of any disciplinary proceedings. Interim measures and remedies may include counseling services, obtaining and enforcing mutually agreed upon campus no contact orders, honoring an order of protection entered by a State court, provision of escorts, housing support, including reasonable residence or other living modifications.. In addition, the College may, at its discretion, impose an interim suspension, an interim ban from the College campus, or interim leave of absence in cases where the College believes that such action is appropriate after assessing all factors in a particular case, such as the risk of harm to others and the risk of disruption or interference with normal College operations. The College will maintain as confidential any supportive measures provided to the parties, to the extent that maintaining confidentiality will not impair the ability to provide the supportive measures. Supportive measures may be requested at any time by a party, and regardless of whether an individual chooses to file a formal complaint of a Policy violation. When issued, however, supportive measures have no bearing on the complaint process and do not suggest a finding of responsibility.

Resources

Any individual affected by or accused of Sexual Misconduct will have equal access to support and counseling services offered through the College. The College encourages any individual who has questions or concerns to seek support from these resources. The Title IX Coordinator is available to provide information about the College's Policy and procedures and to provide assistance. A list of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services and resources available is located at the following link: <https://www.augustana.edu/student-life/TitleIX>

ACCOMMODATIONS

College programs and procedures must be accessible to all students. Students who have a documented disability have the right to reasonable accommodations that are necessary to make college policies accessible, including these investigation and resolution procedures. Students with disabilities may request accommodations by contacting with the Director of Disability Services and filling out the "request for academic accommodations" form on the link provided: <https://www.augustana.edu/student-life/residential-life/accommodations>. The Title IX Coordinator or their designee will work with the Director of Disability Services to provide reasonable accommodations that are necessary to make these policies and procedures accessible. Students who have or think they may have a disability are invited to contact the Director of Disability Services for a confidential discussion. For more information, please contact the Office of Disability Services.

INVESTIGATION

Depending upon the nature of the alleged or suspected Policy violation and any requests by the Complainant for confidentiality or an election not to proceed with a formal complaint, the Title IX Coordinator will initiate and coordinate an investigation of a reported violation of the Policy as soon as practical, appointing one or more campus officials who have been trained to conduct investigations.

The College is committed to undertaking prompt, thorough, impartial and fair investigations and to treating all individuals with respect and with sensitivity. The investigation of any suspected or alleged violation of the Policy will typically be completed and a resolution arrived at within 90 calendar days of the filing of a formal complaint or the date on which the College becomes aware of a suspected or alleged violation of the Policy, unless the College determines that additional time is required. The College will provide both parties with periodic updates regarding the status of the process. Extenuating circumstances often require the process to extend beyond that time frame and the College will determine in its discretion if such circumstances exist. If an extension is required, the College will inform both the Complainant and the Respondent of the delay and the reason for the delay.

The nature and extent of the investigation will vary depending upon the circumstances, including whether the parties are amenable to pursuing an informal resolution. Both parties will have equal procedural rights during the investigation and resolution of a complaint.

To help ensure a prompt and thorough investigation, Complainants are asked to provide as much information as possible, including the following:

- The name, department, and position of the person or persons allegedly causing the prohibited discrimination, harassment, or retaliation.
- A description of any relevant incident(s), including the date(s), location(s), and the presence of any witnesses.
- The alleged effect of the incident(s) on the Complainant's opportunity to participate in or benefit from the College's programs or activities.
- The names of other individuals who might have relevant information about the alleged actions and/or have been subject to the same or similar acts of discrimination, harassment, or retaliation.
- Although it is not required, any steps the Complainant has taken to try to stop the discrimination, harassment, or retaliation.
- Any other information the Complainant believes to be relevant to the alleged discrimination, harassment, or retaliation.

The Respondent is also expected to provide as much information as possible in connection with the investigation.

The prior sexual history of the Complainant or Respondent will never be used as evidence of character or reputation. Evidence related to the prior sexual history of the parties is generally not used in determining whether a violation of this Policy has occurred and will only be considered during an investigation under limited circumstances. For example, where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent asserts that the conduct was consensual, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties, which may inform the determination whether consent was sought and reasonably appeared to have been given during the incident in question. The mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will only be permitted if it is probative of a material fact, for example to explain an injury or physical finding.

Both parties are entitled to bring an advisor of their choice to any meeting or interview in connection with these Procedures, provided that the involvement of the advisor does not result in undue delay of the meeting or proceeding. The role of the advisor of choice is limited to consulting privately with the party he/she accompanies.

Upon conclusion of the investigation, the investigator(s) will produce a written report that summarizes the relevant facts and any supporting documentation (which may include statements by the parties, third-party witnesses, or others with information and any physical, written, or electronic or other evidence) and shall provide such report to the Title IX Coordinator. This investigation report will be shared with the parties and will be used in either an informal or formal resolution procedure, as appropriate and as outlined below. Each party will have an opportunity to respond to the investigation report either in writing or before the Hearing Panel. Written responses must be received by the College within 10 calendar days after either party has received the investigation report. The investigation report is treated as a confidential document, and is intended to be shared only with individuals who have a "need to know" its contents. All individuals are expected to honor the confidential nature of the report. Disciplinary action may be taken in the event the confidential nature of the report is disregarded by a party or individual in the proceeding.

INFORMAL RESOLUTION PROCEDURE

Allegations of sexual misconduct, including allegations of sexual assault or sexual violence, may be resolved informally when overseen by one or more College representatives if (i) the College determines, in its discretion, that informal resolution would be appropriate; and (ii) all parties agree to participate.

If mediation is used to achieve an informal resolution, the parties will not deal directly with one another without the College's involvement and approval, and without the consent of all parties. The Title IX Coordinator and the Complainant may agree to seek an informal resolution of the complaint by meeting with the Respondent, maintaining anonymity if appropriate or possible. The Title IX Coordinator can also arrange for any current member of the College faculty, staff or student community to be asked to assist with the informal process by meeting with both parties separately or together.

In all matters, the College will share the investigative report with both parties if such a report has been completed as of that time. A College official will discuss with the Complainant the outcome of the steps taken through the informal procedures. If the Complainant is satisfied, the informal procedure is completed and the resolution will be documented.

Any party may request that the informal resolution process be terminated at any time, in which case the formal resolution procedure would commence. In addition, any party can pursue formal resolution if he or she is dissatisfied with a proposed informal resolution. Finally, as described above, the College may elect to pursue a formal resolution procedure even if the Complainant does not wish to bring the matter to a Hearing Panel.

Formal Resolution Grievance Panel Procedure

NOTICE OF HEARING

The Title IX Coordinator or their designee will provide any written statements from the Complainant and Respondent along with the Investigation Report to the Chair of the Hearing Panel. Both parties will be informed in writing of the date, time, and location of the hearing and will be informed of the names of persons serving on the Hearing Panel. The parties will be given at least 7 calendar days advance notice of the hearing unless the Title IX Coordinator determines that less time is appropriate or required in a given situation. If the alleged victim of a sexual assault elects not to participate in a hearing, the College reserves the right to take the matter to a hearing.

Either party may request that the hearing be rescheduled at any time and must specify the reasons for the request. The Title IX Coordinator or their designee for the case will determine whether to grant the request, and will base the decision on factors such as the time of the request and the impact the requested change will have on all other parties and witnesses, as well as the Hearing Panel.

Either party may ask that a member of the Hearing Panel, the sanctioning official (the Dean of Students), or the appeal official be removed if the party believes that person has a conflict of interest or cannot be fair and impartial. These requests must describe the reason for the challenge and must be received in writing by the Title IX Coordinator or their designee within 3 calendar days of notification of the Hearing Panel members. The Title IX Coordinator shall determine whether the challenge is valid and to make changes to the Hearing Panel, the sanctioning official, or the appeal official.

COMPOSITION OF THE HEARING PANEL

Hearings to address complaints alleging violations of the Policy by students will be conducted by a Hearing Panel, except that the Dean of Students or their designee may conduct a hearing in extraordinary circumstances if the Hearing Panel cannot reasonably be convened or if the College determines that an alternative process is appropriate under the circumstances. The Hearing Panel shall consist of three persons that are drawn from the College's Committee on Harassment and Discrimination, which consists of faculty members and staff members from the College community who have received proper training. One of these three persons will be designated as the Chair of the Hearing Panel.

PRIOR TO THE HEARING

The Title IX Coordinator or their designee will offer to meet individually with the parties to answer any questions and explain the process as soon as possible after issuing the notice of hearing.

Each party may choose to have an advisor of their choice accompany them to the hearing and any related meeting or proceeding, so long as the advisor does not have a conflict of interest based upon their involvement with the Investigation and Grievance Procedures set forth above. Such an advisor may speak privately to their advisee, but such

an advisor may not present evidence, question witnesses, or otherwise participate directly in the hearing or related meeting. This advisor does not represent a party at the hearing and does not have an active voice during the proceedings, but can provide advice during the hearing or during adjournments and breaks to their advisee only. A confidential advisor may serve as a party's advisor of choice.

WITNESS, IMPACT & CHARACTER STATEMENTS

Each party may submit a list of proposed witnesses to the Title IX Coordinator or their designee within seven (7) days after the College has delivered the investigative report. Character witnesses are not allowed. If a party requests that a witness be heard at the hearing and that individual was not interviewed in the course of the investigation, the party must provide in writing a rationale for including that witness. The Title IX Coordinator or their designee will determine whether that witness may be called, or will ask that the investigator interview the witness as well. If a witness cannot or feels that s/he should not appear during the hearing s/he must submit a short written explanation to the Title IX Coordinator at least 3 calendar days prior to the hearing. The final approved witness list will be shared with the parties at least 2 calendar days prior to the Hearing.

Both parties may prepare and present impact statements and letters attesting as to character in sealed envelopes to the Chair of the Hearing Panel at the outset of the hearing. These statements will be used solely by the Dean of Students for the purposes of determining any appropriate sanctions after the Hearing Panel concludes its deliberations.

GRIEVANCE HEARING

Attendance

Hearings will be closed to anyone who is not directly involved in the case as a party, advisor of the party's choice (as described above), Investigator, Title IX Coordinator, Hearing Panel member, any witness invited by the Hearing Panel. The College recognizes that both parties have the right to engage legal representation at their own expense. Unless present as a party's advisor of choice, attorneys are not permitted to be present during a Hearing Panel proceeding. The College may at its discretion designate its own attorney to be present or otherwise available during proceedings before the Hearing Panel and provide legal counsel to the Chair and the Hearing Panel members. The Chair of the Hearing Panel will determine which witnesses to invite to the hearing in advance of the hearing. Witnesses will be present only during their period of testimony and questioning.

The Complainant or the Respondent may request to participate in the hearing through a method that limits or does not require physical presence in the hearing room, and any such request will be submitted to the Title IX Coordinator or their designee for approval. For instance, a party could participate using technology or they may request the use of partitions in the hearing room. Witnesses may also participate using technology. Such requests must be approved in advance by the Title IX Coordinator or their designee. The Complainant and Respondent will have equal access to information before and during the hearing. The College will arrange for audio-recording the entire Hearing; this recording will be the property of the College and is not distributed to the parties. The Hearing Panel's deliberations will not be recorded.

1. The hearing will begin with the Chair calling the hearing to order and explaining the process.
2. The Chair reminds the parties that the proceedings are confidential and asks each person present to state their name and role for the record.
3. The Chair confirms that both parties have had an opportunity to review the investigation report.
4. The Hearing Panel then questions the Complainant. The Respondent is not permitted to address the Complainant directly, but may present written questions for the Complainant to the Chair, who will determine whether the questions are relevant and appropriate and, if so, read them aloud for the Complainant to respond. The Chair will have the discretion to deny questions that are inflammatory or otherwise inappropriate. The Complainant will have the opportunity to share with the Hearing Panel any questions or comments related to the investigation report. The Hearing Panel will then call and ask questions of each witness for Complainant. Both parties will have the opportunity to ask relevant questions of any witnesses.
5. The Hearing Panel will question the Respondent and witnesses for the Respondent following the same process outlined in (4) above.

6. At the conclusion of the hearing, the Hearing Panel will meet in closed session to make a decision on the matter by majority vote. College counsel may remain in the room but will neither vote nor participate in the deliberations.

7. The Hearing Panel's decision will rest on whether or not the Respondent was found in violation of the Policy, based solely on the evidence presented at the hearing. The Hearing Panel will use a preponderance-of-the-evidence standard (i.e., whether it is more likely than not that the Respondent violated the Policy).

8. The Panel will notify the Dean of Students and Title IX Coordinator of its decision.

9. To the greatest extent possible, the Complainant and Respondent will be notified simultaneously of the outcome of the hearing within 24 hours of the conclusion of the Panel's deliberations.

10. Both during and after a hearing, neither the Respondent or the Complainant (or their advisors or representatives) may contact a member of the Hearing Panel about the hearing or the decision of the Hearing Panel. Any questions or concerns must be directed to a Title IX Coordinator and/or expressed in an appeal, as outlined below.

Sanctions & Corrective Action

Upon reviewing the Hearing Panel's decision and any impact or character statements submitted by the Respondent and/or the Complainant, and/or, upon receiving an election to accept responsibility, the Dean of Students will determine what, if any, sanctions will be imposed and will notify each party simultaneously in writing of any sanctions and when they go into effect, along with a description of the appeal rights of the parties. The Dean of Students will also provide a copy of their decision regarding sanctions to the Title IX Coordinator. The College may designate an alternative individual for sanctioning should it determine that an alternative is required.

The College will take reasonable steps to prevent the recurrence of any violations of the Policy and to correct the discriminatory effects on the Complainant (and others, if appropriate). The potential sanctions that may be imposed for any violation of this Policy includes:

- Verbal warning
- Written warning
- Mandatory discrimination or harassment training or education
- Mandatory counseling
- Disciplinary hold on academic and/or financial records
- College campus access restrictions
- Housing restrictions on campus, class enrollment restrictions, campus restrictions
- Ineligibility to participate in co-curricular activities
- No Contact Directives
- Probation
- Suspension
- Dismissal from the College

Corrective actions taken by the College might also include, but are not limited to: providing and/or requiring appropriate forms of counseling and training, developing educational materials and programming, implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns of violations. Additional corrective actions for a Complainant may include, but are not limited to, support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support.

When a student is found responsible for sexual assault, which is one form of prohibited sexual misconduct under this Policy, the following sanctions that are common in addition to any of the sanctions listed above. In all cases, however, the sanctions assigned to a student found responsible will depend on the full context in which the offense takes place. For instance, repeat offenders can expect to be assigned more severe sanctions than if they did not have prior offenses. Offenders who commit multiple offenses in a single episode can expect to be assigned more severe sanctions than they would have been assigned had they committed fewer offenses. The presence of aggravating factors such as the use of force, the use of a weapon, the involvement of multiple perpetrators, intimidation or intentional incapacitation will also lead to more severe sanctions.

Sexual Assault: Non-consensual Sexual Intercourse

Sanctions for non-consensual sexual intercourse may result in suspension to expulsion from the College.

Sexual Assault: Attempted Sexual Intercourse

Sanctions for attempted sexual intercourse may result in probation up to expulsion.

Sexual Assault: Touching

Sanctions for non-consensual sexual touching may result in probation up to expulsion.

In no event will either party in matters involving an alleged violation of the Policy that involves sex discrimination, sexual harassment, or other sexual misconduct be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome or of the alleged violation. In instances where the College is unable to take disciplinary or other corrective action in response to a reported violation, the College will consider other steps available to limit the effects of the conduct at issue and prevent its recurrence, such as training and education.

The complainant and the respondent will be notified simultaneously in writing of the results of the hearing procedure, including information about appeal rights, within 7 days of a decision.

Appeal Process

Each party has the right to submit a written appeal to a Title IX Coordinator within 10 calendar days (a) of being notified the Hearing Panel's decision or (b) of the Dean of Student's decision regarding sanctions, whichever comes later. Appeals may be filed only on grounds of (1) relevant, substantive and new information not available at the time of the hearing that could affect the outcome of the matter, (2) alleged conflict of interest of the Title IX Coordinator, investigator(s), or decision-maker(s) that affected the outcome of the matter, or (3) material procedural error or irregularity that affected the outcome of the matter or the sanction is disproportionate with the violation. **The appeal must specifically state the grounds upon which it is made.**

The Title IX Coordinator will inform the parties whether the grounds for appeal have been met. The party that did not initiate the appeal will have 7 calendar days to submit a written response, at their choosing. Within 30 calendar days of the deadline for receiving this written response (a) the appeal will be reviewed by a three person panel ("the Appeal Panel") consisting of the appeal officer and two members of the Committee on Harassment and Discrimination who did not participate in the initial hearing; and (b) the Appeal Panel will notify the parties in writing of the outcome of the appeal. Parties will be notified of the appeal decision in writing within 7 days after the conclusion of the review.

The appeal is not a de novo review and will be based on the materials submitted by the parties and the record of the original hearing. If new and substantive evidence has arisen, the appeal can result in a remand of the case to the original hearing panel for reconsideration and a new determination. Both parties will be informed simultaneously in writing of the outcome of any appeal within three calendar days of the conclusion of the appeals review. Appeal decisions by the Appeal Panel are final.

RECORDS MAINTENANCE

For a period of 7 years, the College will maintain documentation and records regarding alleged violations of the Policy and their resolution in a manner that protects the confidentiality of the parties involved, complies with the Family Educational Rights and Privacy Act, and to the extent possible excludes personally identifiable information of victims of domestic violence, dating violence, and stalking.

The hearing audio-recording and evidence presented at the hearing will be maintained by the Title IX Coordinator and will be property of the College. If a student has been found responsible for violating the Policy, this finding remains a part of that student's conduct record. The finding is not referenced on a student's transcript.

Educational Programming

The College will provide the following education programming designed to promote the awareness of sexual assault, domestic violence, dating violence and stalking.

Employees with Responsibility for Receiving Reports of Violations of this Policy; Providing or Referring Services to Victims; and/or Adjudicating Alleged Violations of this Policy

- Training on at least an annual basis on the issues related to sexual assault, sexual violence, dating violence and stalking; and
- Training on at least an annual basis on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

PRIMARY PREVENTION AND AWARENESS PROGRAMS

The College will provide primary prevention and awareness programs for all incoming students and new employees that includes the following:

- a statement that the College prohibits the offenses of discrimination, harassment, sexual assault, domestic violence, dating violence and stalking, and a description of the College's policies that prohibit this conduct;
- the definition of consent and inability to consent, in reference to sexual activity, as defined in this Policy and under Illinois law;
- the definition of discrimination, harassment, including sexual assault, domestic violence, dating violence, and stalking (or similar offenses) in this Policy and under Illinois law;
- safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of discrimination, harassment, sexual assault, domestic violence, dating violence and stalking against a person other than such individual;
- information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- the procedures that a Complainant/victim should follow if discrimination, harassment, sexual assault, domestic violence, dating violence and stalking has occurred, as described in this Policy, including options for a Complainant/victim to report such incidents to a confidential advisor or other confidential resource;
- the possible sanctions and protective measures that the College may impose following a final determination of a violation of College policy regarding discrimination, harassment, sexual assault, domestic violence, dating violence and stalking;
- the procedures for College disciplinary action in cases of alleged discrimination, harassment, sexual assault, domestic violence, dating violence and stalking, as described in this Policy, including the standard of proof that is used;
- information about how the College will protect the confidentiality of Reporting Parties, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the Reporting Party, to the extent permissible by law;
- information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for student and employee accusers and victims both on-campus and in the community; and
- information about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by a Complainant and if such accommodations are reasonably available, regardless of whether the Complainant chooses to report the crime to campus security or local law enforcement.

ONGOING PREVENTION AND AWARENESS CAMPAIGNS

The College will also provide ongoing prevention and awareness campaigns for students and employees that include the information covered in the primary prevention and awareness programs.

CHANGES IN THIS POLICY

The College reserves the right to make adjustments and changes in this policy at any time.

Policy Updated: August 2023

Appendix B - Survivor Rights & Options

Information & Resources Following a Report of Sexual Assault, Dating Violence, Domestic Violence, Stalking or Other Sexual Misconduct at Augustana College

First and foremost, focus on your well-being. Augustana staff want to support you during this time, and the following information is intended to help you understand rights and options available to you. Know that what happened is not your fault. You are not responsible for the actions of others. No one has the right to hurt you or touch you against your will or without consent. No one deserves to be stalked.

Confidential Resources

Contacting the local 24-hour rape crisis hotline at 309-797-1777. Family Resources Survivor Services provides specialized support to Augustana students who are victims of sexual assault and domestic or dating violence, and stalking. The call will put you in touch with a Sexual Assault Advocate who can provide free, **confidential** personal support. This support can be provided on an emergency and on-going basis as a confidential advisor to you, upon your request.

Meeting with one of Augustana College's counselors. All members of our counseling staff, as well as the College's chaplain, are **confidential resources** for you on campus. This means that you may talk with them confidentially at any time and they will not share your conversation with others on campus. The counselors can also help you understand the options available to you. To schedule an appointment, please call 309-794-7357. The College's chaplain may be contacted at 309-794-7478.

Confidential advisors from Family Resources Survivor Services are also available to you, and can provide emergency and ongoing support to you confidentially. Open office hours are held each week for students who would like to meet with a confidential advisor. You can contact the on-campus Confidential Advisor, Cassie Hall, Monday – Friday 8:00 a.m. to 4:30 p.m. at 563-468-2324.

Going to the Hospital

In addition to making sure that you have not been injured, the hospital may suggest a "rape kit", which is a process designed to collect evidence after a sexual assault has occurred. This is available to you free of charge under Illinois law and will not be billed to insurance.

Preserving Evidence

Evidence of sexual assault, dating violence, domestic violence, or stalking should be preserved as soon as possible, even if you are unsure about reporting to the College or filing criminal charges. These may include, but are not limited to, clothing worn during the incident, text messages, social media feeds, or photographs. There is a limited amount of time the video is kept from on campus cameras. Please let a Title IX Coordinator know as soon as possible if you believe video from a campus camera is relevant to your report.

Reporting to Law Enforcement

Making a report to Augustana Police/Public Safety at 309-794-7711. If you feel your safety is at risk, an Augustana Police/Public Safety officer will take steps to minimize the danger. This may be done in conjunction with notifying the Rock Island Police Department.

Reporting the incident to the Rock Island Police Department at 309-732-2677. An Augustana Police/Public Safety officer will assist you in notifying the Rock Island Police if you request this. A detective will speak with you about the incident and collect evidence. This could lead to the filing of criminal charges, but does not have to. The decision of notifying law enforcement authorities is yours.

Contacting the Title IX Team

The Chief Title IX Coordinator/Deputy Coordinators can answer questions, connect you with appropriate resources, and conduct an investigation.

Jennie Hemingway, Chief Title IX Coordinator, 309-794-7313 or jenniehemingway@augustana.edu

Chris Beyer, Director of Residential Life, 309-794-2686, or chrisbeyer@augustana.edu

Laura Schnack, Associate Dean of Students, 309-794-7533 or lauraschnack@augustana.edu

Mindy Zumdom, Director of Human Resources, 309-794-7452, or mindyzumdom@augustana.edu

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by calling 1-800-421-3481 or visiting www2.ed.gov/about/offices/list/ocr/docs/howto.html

Revised 1/17/2023

The Chief/Deputy Title IX Coordinators will also be able to explain and assist with the following:

<p>Confidentiality</p> <p>With the exception of the confidential resources listed, all College employees who receive a report of sexual misconduct are obligated to inform the Title IX Coordinator or Augustana Police/Public Safety. Once a report is received, the College will determine whether a request for confidentiality is able to be granted. The College has an obligation to ensure the safety of all community members, which, in some circumstances, means a request for confidentiality or an incident not to be investigated cannot be granted. The Title IX Coordinator will work closely with the Complainant to ensure they are aware of their opportunity to participate in the investigation to the level they are comfortable with. If the College is able to grant a request for confidentiality, it is doing so with the understanding that an investigation and response may be limited in an effort to protect the identity of the Complainant.</p> <p>The College's requirement to include reported violations in its Annual Security Report and to submit an "incident report" to the campus community regarding the report; care will be taken to protect the identity of those involved.</p>	<p>Supportive Measures</p> <p>Obtaining accommodations to academic requirements such as class attendance, class schedules, as well as changes to residential, dining, working, and transportation situations. Other accommodations such as "no-contact orders" will also be discussed and considered.</p> <ul style="list-style-type: none">▪ These accommodations are available for you to request regardless of your decision to pursue disciplinary action, whether on or off campus.▪ The College will maintain as confidential any accommodations or protective measures provided to the Complainant and Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodations or protective measures.▪ If you are eligible for academic accommodations through Student Success Services, similar accommodations may be requested to allow full participation in the College's formal complaint procedures.
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The College's Policy Against Sexual Misconduct and Title IX Sexual Harassment and accompanying procedures (available at www.augustana.edu/titleix) govern complaints of sex discrimination, sexual harassment, sexual violence (including sexual assault), domestic violence, dating violence, and stalking. These procedures:

- Will provide a prompt, fair, and impartial resolution of the complaint, under the evidentiary standard of preponderance of the evidence, i.e., more likely than not that the alleged conduct occurred.
- Are carried out by College officials who have received training on these issues and how to conduct an investigation and hearing process that promotes safety and accountability.
- Provide you and the Respondent the right to have an advisor of your choice accompany you to all aspects of the investigation and resolution process.
- Ensure that both you and the Respondent will be notified simultaneously in writing of the outcome of all stages of the process, including any appeals.
- Prohibit retaliation by the Respondent or anyone else against you for making a complaint or against anyone else for participating in the investigation

Selecting an Advisor to Assist You

An advisor is an option available to you under the College's policies, and can provide support to you throughout the entire process. Your advisor may be anyone of your choosing, however, they cannot have a conflict of interest based upon their involvement in the alleged incident. This person may accompany you to any related meeting regarding the allegations. Advisors may speak privately with you but may not be directly involved in any meeting or speak on your behalf.