



POLICY STATEMENT 55

Prevention and Resolution of Acts of Harassment, Discrimination, and Sexual Misconduct (Approved by Board of Trustees October 16, 2015)

PURPOSE:

To establish guidelines governing the prohibition of those acts of discrimination, harassment (including bullying), sexual harassment, relationship violence, sexual assault, and stalking at Hood College, hereinafter collectively referred to as “discrimination, harassment, and sexual misconduct,” and to provide for prompt and equitable resolution of complaints by members of the Hood College community alleging any of these offenses carried out by employees, students or other third parties, in accordance with Section 504 of the *Rehabilitation Act of 1973* (Section 504), 20 U.S.C. § 794, and Title IX of the *Education Amendments of 1972* (Title IX), 20 U.S.C. § 1681, in accordance with their implementing regulations, at 34 C.F.R. §§ 104.7(b) and 106.8(b). Additional statutory authorities include: Title VI 42 U.S.C. § 2000d; Title VII of the *Civil Rights Act of 1964*, as amended, 42 U.S.C. § 2000e; *Age Discrimination in Employment Act of 1967* 29 U.S.C. § 623; *Campus Sexual Violence Elimination Act* (SaVE Act) as part of the *Violence Against Women Reauthorization Act* (VAWA) 2013; *Maryland Code*; *Frederick County Code*, Sec. 1-2-93.

DEFINITIONS:

Academic Freedom: The professional judgment extended to faculty in determining the appropriate content and presentation of academic material.

*Hood College is committed to the principles of free inquiry and free expression. The College's policy against discrimination, harassment, and sexual misconduct, and retaliation is not intended to stifle this freedom, nor will it be permitted to do so. However, **prohibited discrimination, harassment, sexual misconduct, and retaliation are neither legally protected expression nor the proper exercise of academic freedom, and such conduct is incompatible with the values of Hood College.***

Bullying: A form of harassment that is a reckless or intentional attempt, whether by a single individual or a group, to demean, intimidate, or abuse another individual, or to create a hostile or offensive environment. Bullying is behavior which may include verbal, physical, or written conduct or intentional electronic communication, and may involve threats, assault, stalking, malicious destruction of, or tampering with, the personal property of the victim, or other methods of coercion. It may occur repeatedly over time, and is often characterized by an imbalance of power between the aggressor and the victim. Bullying creates a hostile environment by unreasonably interfering with an individual's opportunities, performance, or physical or psychological well-being. It is motivated by an actual or perceived personal characteristic (such as race, national origin, marital status, sex, sexual orientation, gender identity or gender expression, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability), and can substantially disrupt the orderly functioning of an institution of higher education.

Complainant: Any person (or persons) from the Hood community (including others such as contractors, vendors, and volunteers) who believes they may have been the victim of discrimination, harassment or sexual misconduct, or who believes they may have witnessed such behavior, and who has opted to bring a complaint regarding the behavior to College officials. Complainants are encouraged to preserve any and all evidence, to the extent possible, of the alleged acts of discrimination, harassment, or sexual misconduct.

Consent: A knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. Consent can only be given by a person with the ability and capacity to exercise free will and to make a rational, reasonable judgment. Consent may be expressed by either words or clear, unambiguous actions. Words or actions constituting consent create a mutually understandable permission regarding the conditions of sexual activity. It is the responsibility of the persons who want to engage in or initiate sexual activity to ensure that they have the consent of the other(s) to engage in the activity.

- a) Lack of protest or resistance is not consent. Nor may silence, in and of itself, be interpreted as consent.
- b) Previous relationships, including past sexual relationships, do not imply consent to future sexual acts.
- c) Consent to one form of sexual activity cannot automatically imply consent to other forms of sexual activity.
- d) To give consent, a person must be of legal age.
- e) Consent must be present throughout the sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.
- f) Consent cannot be obtained by the use of physical force, threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity, whether verbal, (such as threatening to disclose an individual's sexual orientation, gender identity or expression, or other sensitive personal information; threatening self-harm if the individual does not engage in sexual activity; or making sexual activity a condition of employment or academic benefit) or threatened or actual physical force (such as showing a weapon; or incapacitating an individual). Coercive behavior differs from seductive behavior based on the type of pressure used. When it is made clear that an individual does not want sex, that the individual wants to stop, that the individual does not want to do certain things, or that the individual does not want to go beyond a certain point, continued pressure can be coercive.
- g) Consent cannot be obtained from an incapacitated individual. A person who engages in sexual activity with another whom the person knows, or should know, is incapacitated, has not obtained consent and is in violation of this policy. The relevant standard is whether a sober, reasonable person in the same position should have known that the other party was incapacitated and therefore was unable to give consent. Incapacitated, for the purposes of this policy, means that the person's decision making ability is impaired such that the person lacks the ability to understand the "who, what, where, why, or how" of their sexual interaction. Incapacitation may result from:
 - Sleep or unconsciousness.
 - Temporary or permanent mental or physical disability.

- Involuntary physical restraint.
- The influence of alcohol, drugs, or medication (including, but not limited to, substances such as Rohypnol, Ketamine, GHB, Burundanga, and similar substances).

Discrimination: Treating one individual differently from another individual with respect to the terms and conditions of employment or student status because of that individual's sex, race, color, sexual orientation, gender identity or gender expression, religion, age, disability, national origin or any classification currently protected under federal, state or local anti-discrimination statutes.

Harassment: An attempt to demean, intimidate, or abuse another individual, or to create a hostile or offensive environment on the basis of another's sex, race, color, sexual orientation, gender identity or gender expression, religion, age, disability, national origin, or any classification currently protected under federal, state or local anti-discrimination statutes.

The Parties: The Complainant and the Respondent in a complaint of possible discrimination, harassment, or sexual misconduct that has been brought to the attention of Hood College officials.

Preponderance of the Evidence: All evidence is examined in its totality and weighed according to its probable truth and accuracy. In other words, the standard of proof is met when *it is deemed more likely than not* that the situation occurred based on the evidence collected. The standard of proof for all matters reviewed under this policy is preponderance of the evidence.

Relationship Violence (includes dating violence and domestic violence): Acts, threats or patterns of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other partner. Relationship violence can occur between current or former romantic/intimate partners who have dated, lived together, currently reside together (on or off campus), who are, or have been, married, or who are otherwise connected through a past or existing relationship. It can occur in opposite-sex and same-sex relationships and can be perpetrated by a spouse, ex-spouse, a current or former boyfriend or girlfriend or a current or former dating partner. Relationship violence is sometimes referred to as intimate partner violence, domestic violence, or dating violence.

Respondent: Any person from the Hood community (including others such as contractors, vendors, and volunteers) who is named by a complainant as the alleged perpetrator of possible instances of discrimination, harassment or sexual misconduct that have been brought to the attention of Hood College officials.

Responsible College Official: Any Hood College official who is charged with receiving, investigating, and/or referring to others, complaints of possible discrimination, harassment or sexual misconduct. These include the Vice Presidents (excluding the Provost), the Executive Director for Human Resources, the Title IX Coordinator, and the Ombudsperson.

Retaliation: Any action or attempt by an individual or group which has the intention and/or effect of preventing another individual or group from filing, pursuing, or exploring a report, grievance, and/or remedy as provided for in this policy, or any retributive act perpetrated against an individual because

that individual filed, pursued, or explored reporting, lodging a grievance, or seeking a remedy for acts of discrimination, harassment, or sexual misconduct.

Sexual Assault: An offense of a forcible or non-forcible sex act which may include, but is not limited to, the following: rape, sodomy, incest, or any forcible or non-forcible sexual penetration or intercourse (anal, oral or vaginal), however slight, with any object, or sexual intercourse by a person upon another person without effective consent. It may also include unwanted sexually obscene communications (in person, by phone, texting, email or social networking).

Sexual Harassment: Behavior of a sexual or gender-based nature, including, but not limited to, unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, or physical conduct of a sexual nature that takes place under any of the following circumstances:

- a) When submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or participation in an education program;
- b) When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personnel or educational decisions affecting the individual subject to sexual advances; or
- c) When such conduct has the purpose or effect of unreasonably interfering with the individual's work and/or academic performance or creating an intimidating, hostile, or offensive work or educational environment, or that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the College's programs, based on sex.

The following are **examples of sexual harassment**:

- Unwelcome sexual advances. This includes patting, pinching, brushing up against, hugging, kissing, fondling, or any other similar physical contact considered unwelcome by another individual;
- Requests or demands for sexual favors. This includes subtle or blatant pressures or requests for sexual favors accompanied by an implied or stated promise of preferential treatment or negative consequence concerning one's employment status, or educational evaluation or record;
- Verbal abuse that is sexually oriented and considered unwelcome by another individual. This includes commenting about an individual's body or appearance where such comments are beyond mere courtesy; telling "dirty jokes" that are clearly unwelcome and considered offensive by others or any other tasteless, sexually oriented comments, innuendos, or actions that offend others;
- Engaging in sexually oriented conduct that would unreasonably interfere with another's academic or work performance. This includes the extension of unwanted sexual attention to someone that reduces personal productivity or time available to work at assigned tasks; or
- Creating a work or learning environment that is intimidating, hostile or offensive because of unwelcome sexually oriented conversations, suggestions, requests, demands, or physical contact.

Sexual Misconduct: A broad term that encompasses sexual violence, nonconsensual sexual contact, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, and relationship violence.

- a) Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate sexual relationship. Sexual misconduct can be committed by persons of any sex, gender identification or expression, and can occur between people of the same or different sex or gender identification or expression.
- b) Sexual misconduct may be forcible or non-forcible. When an act constituting sexual misconduct is committed either by force, threat, intimidation, or through the use of the victim's mental or physical helplessness (of which the accused was aware or should have been aware) the act is considered forcible.
- c) Sexual misconduct may be a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the *Education Amendments of 1972* and Title VII of the *Civil Rights Act*.

Sexual Violence: Physical sexual acts perpetrated against a person's will, or where a person is incapable of giving consent, due to the victim's physical incapacity, mental disability, or use of drugs and/or alcohol. Sexual violence, often referred to as sexual assault or rape, will be subject to College sanctions, and is punishable by both civil and criminal legal penalties.

Stalking: 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 and/or suffer substantial emotional distress. Stalking includes repeated (more than once) implicit or explicit harassing or threatening behaviors. Examples may include (but are not limited to) following a person; appearing or leaving messages or objects at a person's home, place of business, classroom, or other places a person is known to frequent; making harassing phone calls; sending messages by mail or electronic means, including emails, social media messages, or texts; vandalizing personal property; surveillance, whether directly or by electronic means; gaining unauthorized access to personal, medical, financial, or any other identifying or personal information without explicit permission; and accessing email, phone, social media, or other forms of personal communication in order to follow or monitor another's activity.

GENERAL POLICY:

Hood College affirms the principle that its faculty, staff, and students have the right to be free from discrimination, harassment and sexual misconduct by any member of the Hood College community, or by others who conduct business with the College or in any other way interact with it in an educational, extra-curricular, or business context, either on or off campus. The College is committed to the creation and maintenance of an academic and work environment in which all persons who participate in College programs and activities can do so in an atmosphere free from all forms of discrimination, harassment, and sexual misconduct on the basis of the characteristics described and defined above.

There will be no adverse action or retaliation against any individual for reporting an incident of discrimination, harassment or sexual misconduct, or for participating in, or cooperating with, an investigation into the circumstances of an alleged incident.

Any person or persons who believe that they have been subject to discrimination, harassment or sexual misconduct, or who have witnessed what they believe to be discrimination, harassment or sexual misconduct, should report such conduct promptly, using the complaint procedures outlined

below. All complaints of discrimination, harassment and sexual misconduct will be investigated as appropriate. Confidentiality will be preserved consistent with applicable laws and the College's responsibility to investigate and address such complaints. In this policy, the College provides for adequate, reliable, and impartial investigation of complaints (including protection against conflicts of interest), with the opportunity to present witnesses and other evidence. In cases of physical threats, discrimination, and sexual misconduct, the College will take appropriate and immediate steps to end the offensive or threatening behavior and to provide a safe environment that does not interfere with the complainant's right to pursue an education or employment at Hood College.

The College will take whatever action may be needed to prevent, correct, and, if necessary, discipline, behavior which violates this policy. Any individual, who is determined to have committed acts of discrimination, harassment, sexual misconduct or retaliation, will be subject to appropriate disciplinary action, as described below. The Provost, the Executive Director of Human Resources, and the Title IX Coordinator will monitor the process and outcomes, as necessary, and will see that action is taken to prevent discriminatory or retaliatory effects on the complainant and others, as necessary and appropriate.

The College recognizes and will uphold its responsibility to inform its constituencies, including students, faculty and staff, about this policy and will provide appropriate information and/or training in recognizing and addressing harassment, discrimination and sexual misconduct to all members of the College community on a regular basis. Such information and/or training will be included in, but will not necessarily be limited to, orientations for employees and students, a semi-annual informational letter, College web pages, and periodic or one-time training programs, as appropriate.

Complaints of discrimination, harassment and sexual misconduct are treated as very serious matters by Hood College. Accordingly, anyone who files a complaint which is knowingly false is subject to discipline. This provision is not intended to discourage, in any way, the reporting of complaints by individuals who believe they are the victims of discrimination, harassment or sexual misconduct.

Complainants and respondents will receive formal written notice, simultaneously, of the outcome of any investigation into the circumstances and/or finding, and of any action to be taken.

MANDATORY REPORTING UNDER THE CLEARY ACT, TITLE VII, AND TITLE IX:

Many Hood College employees are designated as mandatory reporters. Please refer to Policy 317 Mandatory Reporting Process.

It is the responsibility of all Mandatory Reporters to recognize acts of harassment, discrimination and sexual misconduct and to take necessary action to ensure that such instances are addressed swiftly, fairly and effectively, including reporting such incidents to the appropriate College officials designated under this policy. Failure to comply with these requirements will be treated as a failure to fulfill a responsibility fundamental to the terms of employment and may result in counseling and/or discipline as appropriate.

REPORTING GUIDELINES:

When any employee becomes aware of an alleged act of sexual harassment, discrimination or sexual assault, the employee must promptly contact the Title IX Coordinator or the Executive Director for Human Resources. The Title IX Coordinator or the Executive Director for Human Resources will promptly inform the Department of Campus Security about the report.

Rather than speaking to a complainant about potentially confidential information, the employee should offer to refer or accompany the complainant to the Counseling Service or the Health Center. The complainant can also be referred to the Heartly House crisis hotline, which is available 24 hours a day, seven days a week, for crisis calls (301-662-8800, TTY: 301-662-1565). Additionally, the Heartly House crisis hotline is available to faculty and staff at any time to provide guidance on how to handle a situation.

APPLICATION OF POLICY:

The College has considered the rights and concerns of both the complainant and respondent in establishing the following procedures for applying this policy.

- I. Faculty:** This policy applies to all discrimination, harassment and sexual misconduct incidents involving College faculty, as defined in the *Faculty Code* (tenured, probationary tenure track and special appointments), against other faculty, staff, students or others. If, following an investigation, the responsible College official determines that a grievance board hearing involving a faculty member as the respondent is warranted, the Faculty Board of Review or appropriate subcommittee of the Faculty Board of Review, as provided in the *Faculty Code*, will hear the case. If the Faculty Board of Review determines that the faculty member has committed discrimination, harassment or sexual misconduct, the Provost, or the Provost's designee in consultation with the Faculty Personnel Committee (which recommends sanctions), will proceed with appropriate discipline, as provided in the *Faculty Code* under sections 4.5 "Dismissal for Cause," and 4.6.1 "Sanctions for Cause." The respondent may appeal the decision to the President. Adjunct faculty are provided the same protections as College staff.
- II. Staff:** This policy applies to all discrimination, harassment and sexual misconduct incidents involving College staff employees, including adjunct faculty, against other staff, faculty, students or others. Depending upon the severity of the offense, any College staff employee who violates this policy will be subject to appropriate disciplinary action, as outlined in this document, including, but not limited to, oral or written reprimand, reassignment, demotion, denial of performance salary increase, suspension with or without pay, and/or termination.
- III. Students:** This policy applies to all discrimination, harassment, and sexual misconduct incidents involving College students against other students, faculty, staff or others. Depending upon the severity of the offense, any student who violates this policy will be subject to appropriate disciplinary action, as outlined in this document, including, but not limited to, a conference to discuss the offending behavior and its consequences, a letter placed in the student's file, denial of student privileges, disciplinary or Dean's probation, suspension, and/or expulsion from the College.
- IV. Others:** This policy applies to all discrimination, harassment and sexual misconduct incidents involving others (including, but not limited to, contractors, vendors and volunteers) against faculty, staff, students, or others. In accordance with the operating procedures described below

and dependent upon the level of control that the College has over the respondent, the College will take appropriate action against others in or outside of the College community who engage in acts of discrimination, harassment or sexual misconduct, whether on or off campus. The appropriate administrative officer and/or the Executive Director of Human Resources will work with the respondent's employer, or, in the case of a volunteer, the individual her/himself, to effect a resolution.

OPERATING BODIES:

- I. Title IX Coordinator:** The President of Hood College will appoint an employee to the position of Title IX Coordinator, and this position will be clearly identified to the College community. The Title IX Coordinator will receive such training in, and education about, policies and practices designed to eliminate harassment, discrimination and sexual misconduct as is necessary to be well prepared for these responsibilities. Accordingly, the Title IX Coordinator will be positioned to assist the parties in navigating the grievance process. The Title IX Coordinator will be the chair of the Title IX Compliance Committee and will report Title IX trends to the committee members for the purpose of developing strategies to address Title IX issues and to uphold the spirit and letter of Title IX legislation. The Title IX Coordinator will disseminate information to the College community regarding this harassment, discrimination and sexual misconduct policy, what constitutes harassment, discrimination and/or sexual misconduct, what the individual can do to address questions or concerns, and where to go for help. Further, the Title IX Coordinator will organize and implement, with the Ombudsperson, educational programs and campaigns on such topics for the College at large. The Title IX Coordinator will report annually to the President regarding campus harassment, discrimination and sexual misconduct complaint trends and the Title IX Committee recommendations for addressing compliance issues at Hood College.

- II. Ombudsperson:** The President of Hood College will appoint an employee to the position of Ombudsperson, and this position will be clearly identified to the College community. The Ombudsperson will receive such training in, and education about, policies and practices designed to eliminate harassment, discrimination and sexual misconduct as is necessary to be well prepared for these responsibilities. The Ombudsperson will disseminate information to the College community regarding this harassment, discrimination and sexual misconduct policy, what constitutes discrimination, harassment or sexual misconduct, what the individual can do to address questions or concerns, and where to go for help, and will organize and implement, with the Title IX Coordinator, educational programs on such topics for the College at large. The Ombudsperson will report annually to the President regarding campus discrimination, harassment, or sexual misconduct complaint trends.
 - a) Any member of the College community may ask general questions about procedures or seek advice from the Ombudsperson.
 - b) Any person who speaks with the Ombudsperson regarding questions of harassment, discrimination and sexual misconduct will be apprised of the role of the Ombudsperson:
 - The Ombudsperson can consult with any individual or group in an informational capacity, providing general education as to the laws and College policy in this area.

- The Ombudsperson can offer the following services to any individual or individuals who feel that they have been subject to discrimination, harassment or sexual misconduct:
 - i. The Ombudsperson provides general information regarding the College's harassment, discrimination and sexual misconduct policies.
 - ii. The Ombudsperson initially discusses what actions a complainant is seeking in response to the alleged discrimination, harassment or sexual misconduct.
 - iii. The Ombudsperson explains the avenues for informal and formal action, including a description of the complaint procedure detailed below.
 - iv. The Ombudsperson should advise the complainant that the College has a responsibility to investigate the circumstances of harassment, discrimination and sexual misconduct complaints and to take steps to correct the situation, and that, accordingly, any information provided by the complainant may be referred to the responsible College official to initiate an investigation into the circumstances, thereby potentially compromising the confidentiality of information provided by the complainant. Every effort will be made to preserve confidentiality if the complainant requests it, but the complainant should understand that some breach may be necessary in order to help to insure the safety, not only of the complainant, but of others in the Hood community. The Ombudsperson will immediately refer complaints of sexual misconduct to the Executive Director of Human Resources or the Title IX Coordinator, or their designees, as they cannot be resolved through mediation or through use of the informal resolution process.
 - v. The Ombudsperson advises the complainant that confidentiality will be preserved consistent with applicable laws and the College's responsibility to investigate and to address such complaints. In all instances, however, the Ombudsperson will inform the Executive Director of Human Resources or designee of the complaint; the Executive Director of Human Resources or designee reserves the right to conduct an inquiry or investigation into the circumstances, as appropriate.

III. The Executive Director of Human Resources may receive complaints of discrimination, or harassment, and may refer them to the Ombudsperson in the event that the complainant opts for an informal resolution procedure (cases of sexual misconduct are not subject to resolution by mediation, or through use of the informal resolution process); the Executive Director of Human Resources is responsible for coordinating the Administrative Response phase; the Executive Director of Human Resources, or the Title IX Coordinator, or their designees, will coordinate, in instances of a formal complaint procedure, the Internal Investigation Phase, and, as necessary, will refer formal complaints to the appropriate grievance board, all as set out in this policy, below.

IV. Other College resource persons, including, but not limited to, supervisors, employees of the Residence Life Professional Staff, and Resident Assistants, who receive complaints of possible discrimination or harassment, **will refer** such complaints to the Ombudsperson or the Executive Director of Human Resources. Cases of possible sexual misconduct should be referred directly to the Executive Director for Human Resources or the Title IX Coordinator, or their designees, as they cannot be resolved through mediation or through the use of the informal resolution process.

V. Grievance Boards: The Vice President for Finance will appoint employees from the staff, the Vice President for Student Life will appoint students, and the faculty will elect faculty members, to a standing College Grievance Board to receive complaints by faculty, staff, students and others, of harassment, discrimination, and sexual misconduct. Students will not sit on any grievance board dealing with alleged sexual misconduct, but will only hear cases of possible harassment or discrimination. Faculty will elect faculty members to a standing Faculty Board of Review, which will receive complaints of harassment, discrimination and sexual misconduct against faculty members. All members of the College community are expected to cooperate fully with both grievance boards and with College officials.

a) College Grievance Board:

- The College Grievance Board will be composed of six (6) voting members: two faculty members elected by the faculty, two staff members appointed by the Vice President for Finance, and two students appointed by the Vice President for Student Life. In addition, two alternates will be elected or appointed from each of the above-named constituencies, as appropriate. Both the faculty's selections and the Vice Presidents' appointments will be guided by considerations of continuity, experience, sensitivity to the concerns of faculty, staff and students, and respect for the diversity of the College community. Recommendations for College Grievance Board membership may be made by any member of the Hood community; in addition, the Vice President for Finance and the Vice President for Student Life may solicit recommendations from appropriate representative groups.
- The Vice President for Finance and the Vice President for Student Life may seek the advice of the existing College Grievance Board on new appointments. All members will serve at least one two-year term. Normally, service will be limited to two consecutive (2) two-year terms.
- The Vice President for Finance will appoint the chairperson of the College Grievance Board. The chairperson will act as convener of the College Grievance Board and will facilitate administrative operations and equitably assign to College Grievance Board members responsibilities for Board activity.
- The primary responsibility of the College Grievance Board is to promptly review complaints and to examine any evidence of harassment, discrimination and sexual misconduct filed against staff, students and others, and to report its finding to the Provost or the Provost's designee. The College Grievance Board generally will be available to consult with the College community on issues of discrimination, harassment and sexual misconduct. In addition, the College Grievance Board will function as a source of consultation and support to the Ombudsperson and the Title IX Coordinator.

b) Faculty Board of Review (FBR) and the Faculty Personnel Committee (FPC):

- The Faculty Board of Review will be composed of six (6) voting faculty members, elected by the faculty. It will review complaints in accordance with the procedures outlined in this policy. In implementing this policy, a primary responsibility of the Faculty Board of Review is to promptly consider and adjudicate complaints of harassment, discrimination, and sexual misconduct filed against faculty members, and to determine recommended findings. They will refer their recommended findings to the Provost.

- The members of the Faculty Board of Review will elect the chairperson of the Faculty Board of Review. The chairperson will act as convener of the Faculty Board of Review and will facilitate administrative operations and equitably assign responsibilities for Board activity to Faculty Board of Review members.
 - The Faculty Personnel Committee will determine and recommend appropriate discipline or sanctions in cases where faculty members are the respondents and the FBR's findings are that harassment, discrimination and/or sexual misconduct have taken place. They will consult with the Provost and make their recommendations as an appropriate resolution is developed.
 - The Faculty Board of Review generally will be available to consult with the College community on issues of discrimination, harassment, and sexual misconduct. In addition, the Faculty Board of Review will function as a source of consultation and support to the Ombudsperson and the Title IX Coordinator.
- c) Grievance Board for Allegations of Sexual Misconduct:**
- The College Grievance Board will be convened solely with faculty and staff members, i.e., without student members, in cases of sexual misconduct. In order to promote confidentiality to the greatest extent possible and to assure appropriate reporting, students will be not permitted to serve on cases involving allegations of sexual assault or other sexual misconduct. One faculty alternate and one staff alternate will be called to complete the complement of Grievance Board Members.
 - The Faculty Board of Review will handle allegations of sexual misconduct involving faculty as accusers or as victims per the procedures described above.

RIGHTS OF THE PARTIES:

- I. At each step of the process, whether an informal or formal procedure is chosen, and regardless of the nature of the allegation, both the complainant and the respondent have the right to have an advocate or counsel present at any proceedings regardless of the type of resolution procedure chosen. However, the advocate or counsel may not participate in the proceedings or examine witnesses.
- II. The complainant has the right to file a grievance, to present supporting evidence, and to reply to the respondent's information at each step of the process.
- III. The respondent has the right to be informed of all charges and of any evidence against her/him used to evaluate those charges, to bring evidence, and to reply to the complainant's information at each step of the process.
- IV. The parties have the right to be protected against conflict of interest by decision makers at all steps of the process as set forth below. A conflict of interest exists when a decision maker in a grievance procedure has a personal or professional relationship with any of the parties that could in any way compromise the process or present the appearance of conflict of interest.
 - a) Either the complainant or the respondent, when made aware of the composition of the grievance board, may request that a member or members of the board recuse themselves if it appears that there may be a conflict of interest.

- b) It is incumbent upon grievance board members, when they learn the identities of the complainant and the respondent, to recuse themselves if they feel that there may be a conflict of interest.
 - c) Any grievance board member or members who have recused themselves are obligated to maintain confidentiality regarding all aspects of the complaint.
- V. The parties have the right to a prompt and impartial internal investigation into the circumstances and prompt resolution procedures, regardless of the nature of the allegation.
- a) Complainants who are victims of alleged sexual assault will be advised of their rights to file internal formal complaints, criminal complaints, or both. Support persons for both complainant and respondent will be offered by the College.
 - b) Complainants who are victims of alleged sexual assault, relationship violence and/or stalking will be provided with appropriate options to provide for their individual safety.
 - c) Both parties have the right, and are encouraged, to contact law enforcement or legal counsel for assistance and/or to legal protections and remedies.
 - d) Both parties have the right to use College resources to help navigate the grievance process. The College will conduct affirmative outreach to both parties and make appropriate resources available.
 - e) The College affirms its right to use legal counsel or other appropriate resources at any point during the investigative, adjudication, disciplinary and appeals process.
- VI. Both parties will be notified simultaneously and in writing of the outcome of the proceedings, the appeals process, any change to the results before it becomes final, and when the results become final.
- VII. Both parties have the right to seek internal and external judicial no-contact orders, restraining orders and protective orders.

OPERATING PROCEDURES:

I. Intake or Complaint Phase:

- a) **Harassment or Discrimination:** Complaints of harassment and discrimination *should be brought to the College as soon as possible after the most recent instance of possible discrimination or harassment*, but might not be heard if brought more than 180 days afterward, unless there are immediate and compelling reasons to do so. Any member of the College community who believes that they have been a victim of discrimination or harassment, or who believes that they have witnessed such behavior, should report this belief to College resource persons as outlined above, who will then make appropriate referrals; or, to the Ombudsperson, who will receive the complaint and assist in the resolution processes described below; or, to a responsible College official, who, as appropriate, may also make referrals to the Ombudsperson.
- b) **Sexual Misconduct:** Complaints of sexual misconduct *should be brought to the College as soon as possible after the most recent instance of possible sexual misconduct*, but might not be heard if brought more than 365 days afterward, unless there are immediate and compelling reasons to do so. Any member of the College community who believes that they have been a victim of sexual misconduct, or who believes they have witnessed such behavior, should report this belief to College resource persons as outlined above, who will then make appropriate referrals; or, to the Title IX Coordinator or the Executive Director

for Human Resources, who will receive the complaint and assist in the resolution processes described below; or, to a responsible College official, who, as appropriate, may also make referrals to the Title IX Coordinator or the Executive Director for Human Resources. In cases of recent alleged sexual assault the complainant should be informed of the importance of preserving evidence, even if it is intended that a complaint will not be filed at that time. The “**responsible College official**” is designated as follows:

- **For students:** the Executive Director of Human Resources, the Title IX Coordinator, or the Vice President for Student Life and Dean of Students.
 - **For staff:** the Executive Director of Human Resources, Title IX Coordinator, or the Vice President for Finance.
 - **For faculty:** the Executive Director of Human Resources, Title IX Coordinator, or the faculty member’s Department Chair.
 - **For others:** the Executive Director of Human Resources, Title IX Coordinator, or the Vice President for Finance.
- d) **Who may bring a complaint:** Any member or members of the College community who believe that they have been a victim of discrimination, harassment, or sexual misconduct by a student, staff member, faculty member, or other individual doing business with the College or engaging in College-sponsored activities, or any members of either group who believe they have witnessed such proscribed behavior, may bring the matter to the person designated by the College to handle such complaints, either the Ombudsperson, or the Title IX Coordinator, or a responsible College official, as defined above. Complaints received by other College officials will be referred to one of these persons. All responsible College officials will make reports to the Title IX Coordinator.
- e) **Anonymous complaints:** If information about an alleged case of discrimination, harassment, or sexual misconduct is received from an anonymous third party (such as from a witness to an incident or in an anonymous letter), the responsible College official will take appropriate action considering the source and nature of the information, the seriousness of the alleged incident, the specificity of the information, the objectivity and credibility of the source of the report, whether any individuals can be identified who were subjected to the alleged conduct, and, if so, whether those individuals want to pursue the matter. Victims who wish to make anonymous complaints will be advised that confidentiality will be preserved consistent with applicable laws and the College’s responsibility to investigate and address such complaints.
- f) **Policy: Exemption from Alcohol/Drug Use Policy:** Any student who reports an incident of sexual assault to the College or a law enforcement officer, and/or who participates in good faith in an investigation of a sexual assault as a witness of such an assault will not be subject to the College alcohol or drug use policy if the College determines that the violation occurred during or near the time of the alleged sexual assault; and if the College determines that the violation was not an act that would likely have placed the health or safety of another individual or individuals at risk.
- g) **Responsibility to notify the Executive Director of Human Resources or Title IX Coordinator:** In each instance of a complaint of harassment, discrimination, or sexual misconduct, regardless of whether the complaint will be handled through the formal or informal process, the responsible College official must inform the Executive Director of Human Resources or designee (unless the Executive Director of Human Resources is acting also as the responsible College official) and the Title IX Coordinator or designee of

the complaint. The Executive Director of Human Resources or designee reserves the right to conduct an investigation into the circumstances, as appropriate.

- h) Confidentiality:** If a complainant requests that their name not be disclosed, the responsible College official should inform the complainant that the request may limit the College's ability to respond. If the complainant continues to ask that their name not be revealed, the responsible official should take all reasonable steps to effectuate an investigation into the circumstances and a response to the complaint consistent with that request, as long as doing so does not preclude the College from responding effectively to the behavior and preventing further such behavior toward others. In accordance with various laws and regulations, the College will provide information to regulatory agencies and others and protect the identity of the victim to the extent permissible by law.

Confidentiality does not apply to minors (persons under the age of 18). State mandatory reporting laws require responsible College officials to report child neglect and/or abuse that is suspected, observed, or that may be learned of through a third party, to the local department of social services or to a local law enforcement agency.

- i) Determination of the procedure to be employed in resolving complaints:** The Ombudsperson, the Title IX Coordinator, or the responsible College official, in the initial interview with the complainant, will discuss what actions the complainant is seeking in response to the alleged harassment, discrimination, or sexual misconduct. The interviewer explains the avenues for informal and formal action, and will outline the complaint procedures described below. Based upon that information, the complainant may opt for either procedure unless the complaint involves alleged sexual misconduct, which cannot be resolved through the informal process. At this point, any necessary referrals (such as, to the Ombudsperson from the Vice President for Student Life) are made, and the chosen procedure will begin, as outlined below. The complainant may opt, at any time during the informal process, to begin the formal procedure.
- **Written statement of the complaint:** After an initial meeting with the responsible College official, the complainant is strongly advised to submit a written statement to that official, though a written statement is not required. The written statement should contain the following information: date(s), specifics of incident(s), and names of witnesses, to be used in the Investigation Phase, in the event that the formal procedure is chosen. The responsible College official will inform the respondent of the allegation and of the identity of the complainant. The responsible official will give a written statement of the complaint to both parties. In the event that the complainant does not provide a written statement, the responsible official may proceed in accordance with the procedure below, after summarizing in writing, the information provided by the complainant, including the date(s), specifics of incident(s), and names of witnesses. This summary must be signed by the complainant as a way to certify the authenticity of the statement.
 - **The written statement or summary of the complaint** will be provided to the respondent. Every effort will be made to protect the complainant from adverse acts committed in retaliation for having made the complaint.

II. Administrative Response Phase: If the complaint involves what may be harassment, a physical threat, sexual misconduct, or the violation of a criminal statute, the person receiving the

complaint will, *with proper regard for the need for timeliness given the nature of the complaint, promptly refer the matter* to the responsible College official and/or external authorities (which may include law enforcement or other bodies external to the College) and other College officials, as necessary, to see that prompt and reasonable steps are taken, including, as appropriate, interim steps, to address threats, to respond to possible violations of criminal statutes, and, in cases of sexual misconduct or illegal harassment, to address any ongoing sexual misconduct, harassment, or possible hostile environment, pending further review as provided in this policy and as appropriate, regardless of whether the victim does or does not object to the harassment, sexual misconduct, or bullying, or asks the College to act.

Potential remedies and interim measures may include, but are not limited to, the alteration of course schedules (including transfer to another section), permission to withdraw from and/or retake a class, permission to attend a class via alternative means (e.g., through independent study), the extension of assignment deadlines, voluntary leaves of absence, changes in work schedules, job assignments, and work locations, prohibited contact, and providing academic support services. When taking such action, the College will seek to minimize the burden on the complainant.

III. Determination of Complaint Resolution Process:

- a) Informal Complaint Resolution Process: The complainant, in consultation with the Ombudsperson, will determine an appropriate approach to resolving the complaint. In accordance with federal guidelines, allegations of sexual misconduct cannot be mediated, nor can the informal resolution process be applied, and so will be immediately referred to the Title IX Coordinator. *Normally, an informal resolution strategy should be determined and implemented within sixty (60) business days of receipt of the complaint.* In all cases, the College will work to insure an adequate, reliable, and impartial investigation into the circumstances and resolution of complaint. Informal approaches may include, but are not limited to:
 - **Direct communication between the complainant and the respondent.** The complainant should make it clear to the respondent that the behavior in question is considered to be offensive. The complainant may take this step with or without the assistance of the Ombudsperson;
 - **Mediation by the Ombudsperson,** through interviewing the parties individually or jointly, to resolve the situation on an informal basis. (It should be noted that since this is an informal proceeding, the Ombudsperson's responsibility does not include determination of truth or blame in a situation, but emphasizes education, the resolution of misunderstanding between the parties, and relief from the discrimination, or harassment, which is the subject of the complaint). After three months, or other appropriate period as determined by the mediator, the mediator will follow up with the parties to determine the success of the agreed-upon resolution.
 - **In cases of sexual misconduct, direct communication with the respondent and mediation are not available** as options for resolution of the complaint, that is, the formal procedure is the only option for resolution available in such cases, and such cases should be referred to the Title IX Coordinator or the Executive Director of Human Resources.
 - **Other procedural responsibilities of the Ombudsperson** in the informal resolution procedure include:

- i. The Ombudsperson will advise the complainant that the College has a responsibility to investigate the circumstances of complaints and to take steps to correct the situation, and that accordingly, any information provided by the complainant may be referred to the responsible College official to initiate the investigation, thereby potentially compromising the confidentiality of information provided by the complainant;
- ii. The Ombudsperson will advise the complainant that confidentiality will be preserved consistent with applicable laws and the College's responsibility to investigate and address such complaints. In all instances, however, they will inform the Executive Director of Human Resources or designee of the complaint; the Executive Director of Human Resources or designee reserves the right to conduct an investigation, as appropriate;
- iii. The Ombudsperson should initiate any steps deemed appropriate to effect an informal resolution of the complaint that will be acceptable to both parties. The complainant has the right to end the informal process at any time and to begin the formal resolution process before the responsible College official;
- iv. The Ombudsperson should maintain a written record of all contacts, activities, and outcomes, using the *Documenting Discrimination, Harassment and Sexual Misconduct Complaint/Resolutions Form*, and will notify the parties of outcomes and resolutions simultaneously and in writing, as appropriate.
- v. In the interest of maintaining confidentiality, the Ombudsperson will maintain records in such a way as to keep the identities of the parties separate from the descriptions of the proceedings.
- vi. The Ombudsperson does not have the authority to apply any direct sanctions or disciplinary action for violation of this policy. If the Ombudsperson feels such actions may be warranted, the matter should be referred to the Executive Director of Human Resources or the Vice President for Finance for formal investigation and possible disciplinary or other action.

Should a satisfactory resolution using the informal procedure be reached, the matter will be considered closed. All informal resolutions will be appropriately documented. If no investigation is warranted, the identity of the respondent will not be recorded.

- **If informal mediation, as mentioned above, is not successful**, a formal complaint may be made to the appropriate responsible College official or the Title IX Coordinator or the Executive Director of Human Resources by the complainant, the respondent, or the Ombudsperson.
- b) **Formal Complaint Resolution Process:** In all formal resolution proceedings, the College will work to insure an adequate, reliable, and impartial investigation into the circumstances and the evidence to resolve complaints, through the use of appropriate training for responsible College officials and grievance board members, the multi-level review structure, the pre-appointment of grievance boards, the application of the "preponderance of evidence" standard, and, as appropriate, the appeal process. The formal process will be documented at each step in accordance with the *Documenting Discrimination, Harassment and Sexual Misconduct Complaint/Resolutions Form*.

IV. Notification to the appropriate Grievance Board: Regardless of whether the complainant has initiated or participated in the informal procedure, the complainant may initiate the formal resolution procedure at any time within the time frame for filing complaints. *Promptly after the complainant opts for the formal complaint resolution procedure*, the responsible College official will notify the chairperson of the appropriate grievance board (the Faculty Board of Review in cases where a tenured, probationary tenure track, or special appointment faculty member is named as the respondent, and the College Grievance Board in cases where a staff member, student, or other person is named as the respondent) of the complaint and will transmit to the chairperson of the appropriate grievance board the written statement (or, in cases where no written statement was provided by the complainant, the written summary) and any other materials provided by the complainant and/or discovered in a College investigation of the complaint.

IV. Investigation Phase: In the event that the case is not resolved at the Administrative Response Phase, the responsible College official, as outlined in **Definitions**, above, may, *normally, within ten (10) business days of receipt of the complaint*, conduct (or direct) an investigation, as appropriate, into the particular circumstances. At this point the parties will be provided the opportunity to submit relevant evidence and supporting documentation. The responsible College official may also refer the complaint to the Executive Director of Human Resources who may then involve Campus Safety as necessary in making a determination as to whether there is evidence suggesting that harassment, discrimination or sexual misconduct has occurred and, thus, whether it is suitable for the appropriate grievance board to conduct a hearing. If so, the Executive Director of Human Resources or designee will refer the matter to the grievance board for a finding, as set out below.

VI. Hearing and Findings Phase: *Normally within thirty (30) business days of receipt of the complaint, it will be heard by the appropriate grievance board.* The procedures below apply to both the College Grievance Board and the Faculty Board of Review.

- a) If the Executive Director of Human Resources or the Title IX Coordinator concludes that the complaint merits consideration by a grievance board, the parties involved will be identified to the appropriate grievance board. That grievance board will determine if, in their estimation, the facts of the case support the need for a hearing. If so, they will, via such a hearing, and using the “preponderance of the evidence” standard, determine whether a) discrimination, harassment, or sexual misconduct likely did occur, or b) whether discrimination, harassment or sexual misconduct likely did not occur, and will notify the parties (in writing and simultaneously), and appropriate responsible College officials of their finding.
- b) A grievance board member who identifies a potential conflict of interest will be required to withdraw from consideration of the complaint. In the event of a recusal, the appropriate alternate will serve instead.
- c) Grievance board members will maintain confidentiality to the extent possible during the hearing, and will not discuss the complaint before or after the hearing, nor will they discuss it among themselves except during grievance board proceedings; they may discuss the complaint with the responsible College official(s) on a need-to-know basis, but will maintain confidentiality to the extent possible.
- d) The grievance board may conduct its inquiry into, and review of, the evidence developed in the Investigation Phase in the manner it deems appropriate, within the guidelines set out

in this policy. Absent extraordinary circumstances, the inquiry should, at the least, include interviews of the complainant and respondent, which should be conducted as soon as possible. Each party will be given the opportunity to present witnesses and other evidence. Additionally, each of the parties may be accompanied by an advocate or counsel at their individual discretion; however, the advocates or counsels may only act in a consultative capacity and may not speak for the parties they are assisting. The College also has the right to have legal counsel present to assist the grievance board.

- e) The purpose of these interviews is to clarify what incidents occurred and what views each interviewee holds. The respondent will be informed of the name of the complainant as well as the substance of the complaint. The grievance board may use these interviews to identify additional witnesses. It is strongly advised that all six members of the grievance board be present, but no fewer than four members should be in attendance. The members of the grievance board who are present at the interviews will report on the substance of the interviews to the full grievance board.
- f) It may be necessary for members of the grievance board to interview persons other than the complainant and the respondent. These interviews should be conducted by at least two grievance board members. The interviews must be coordinated in advance with the chair of the grievance board. When the appropriate information and views are collected, the members of the grievance board who conducted the interviews will report to the full grievance board.
- g) It may be necessary for the grievance board to request that the Provost grant it additional time in which to complete its process. In all cases, the grievance board must make a good faith effort to make its inquiry, to review the evidence, and to render a finding in a timely fashion, but should it find, for example, that a witness is unavailable for a short time or that additional evidence has been identified that must be considered, the Provost may opt to grant an extension. The chair of the grievance board will notify the parties in that event.
- h) Before the grievance board makes its final recommendation, the complainant and the respondent will each be given a written summary of the evidence that will be used by the grievance board in making its finding, and they also will be given the opportunity to make final statements in response to that summary. The evidence will be kept on file in the Human Resources Department **for three years** and can be viewed by the parties upon request. Identifying information should be kept separately from descriptions of incidents and other actions or proceedings in order to maintain confidentiality.
 - The full circumstances of the situation will be considered in the review of the evidence and inquiry into cases of possible discrimination, harassment, or sexual misconduct.
 - In determining whether the alleged conduct constitutes discrimination, harassment, sexual misconduct, or otherwise inappropriate conduct, the grievance board will consider the record of the incident as a whole and the totality of the circumstances, including the context in which the alleged incidents occurred.
- i) After reviewing the information, and reaching a determination based upon the preponderance of the evidence, the grievance board will report its finding. The finding will be either that:
 - The preponderance of evidence *does not* indicate that discrimination, harassment, sexual misconduct, or other inappropriate conduct took place, or,
 - The preponderance of evidence *does* indicate that discrimination, harassment, sexual misconduct, or other inappropriate conduct took place.

- j) The College Grievance Board’s finding will be determined by a majority vote of the board members. If the grievance board is evenly split and is unable to reach a decision as to whether or not discrimination, harassment, or other inappropriate conduct likely took place, the chair of the grievance board will call upon an unseated grievance board alternate from the constituency of the respondent to cast a deciding vote. In cases of sexual misconduct, the chair of the grievance board will break the tie. In the case of the Faculty Board of Review, an alternate will be selected from the faculty at large to review the notes of the proceedings and any other evidence, and to cast the deciding vote.
- k) Based upon the finding of the College Grievance Board, the Provost, or designee, will determine the resolution, including any sanctions or discipline. However, the Provost has the option to reject the finding of the College Grievance Board based upon a review of the evidence, and then to determine a suitable resolution. The Provost or designee, as appropriate, may consult with other College officials, in considering this decision.
- l) In cases where the respondent is a tenured, probationary tenure track, or special appointment member of the faculty:
 - The Faculty Board of Review will send its finding of whether or not harassment, discrimination, or sexual misconduct likely occurred to the Provost, who will determine the resolution of the complaint, and who will consult with the Faculty Personnel Committee (FPC) to determine any discipline or sanctions, as appropriate. If termination for cause is the recommended sanction, the Provost will notify the President.
 - The Provost may reject the determination of the Faculty Board of Review, and must state the reasons for doing so in writing to the faculty member/respondent and the FBR, and also must provide an opportunity for responses from them before implementing the resolution. In cases where the resolution results from a finding that harassment, discrimination and/or sexual misconduct likely did occur, the Provost will proceed in consulting with the FPC to determine discipline or sanctions.
 - In a case of the sanction of termination for cause, the President will be notified of such by the Provost. If the President is in concurrence with that recommendation, the recommendation will be sent to the Board of Trustees, who will render the final decision regarding the sanction.
 - The Provost and President, as appropriate, may consult with each other or other College officials, in considering their decisions.

VII. Notice to Parties Phase: *Normally within ten (10) business days after the completion of the Hearing and Findings Phase, the Provost, or designee, will inform the grievance board and the parties of the final resolution of complaints referred to her/him/them. The parties will be notified simultaneously and in writing.*

VIII. Actions Phase:

- a) **Discipline:** *Normally within ten (10) business days of the completion of the Notice Phase, if a finding of harassment, discrimination, or sexual misconduct is reported by the grievance board to the Provost, the Provost or designee, will proceed with appropriate discipline and/or corrective action. The Provost’s decision regarding discipline for staff, students or faculty may be appealed to the President or the President’s designee, and any appeal will be considered in accordance with the standards outlined below. The Provost will be authorized to take actions deemed appropriate against persons who are not College*

students, staff, or faculty, and for whom there is no opportunity for review. The Provost will inform both parties of the action(s) to be taken to equitably resolve the complaint and of any actions to be taken to prevent recurrence.

IX. Appeal Phase:

- a) Appeal:** *Normally within ten (10) business days of the completion of the Actions Phase*, in the event that either of the parties disagrees with the finding of the grievance board and/or the Provost's determination (or the Provost's determination in consultation with the Faculty Personnel Committee, for faculty respondents) of appropriate resolution and/or discipline and sanctions, that party or those parties may appeal the decision to the President of the College, providing the appeal meets at least one of the standards outlined below.
- **Standard for appeal:** Either party, *normally within ten (10) business days of notification of the finding, resolution, and/or discipline and sanctions*, may present a written request for a review of the finding, resolution, and/or discipline and sanctions, based upon one or more of the standards outlined below. The appellant party or parties should include in the appeal any information that substantiates their belief that the appeal is justified according to the standards.
- i. One or more procedural errors occurred. Examples:
 - A grievance board member should have recused her/himself but did not.
 - Witnesses were inappropriately disallowed.
 - The finding is clearly at odds with the evidence presented.
 - ii. New information that was not previously available or known has come to light, which might include additional witnesses or additional evidence.
 - iii. The appellant has reason to believe that the sanction or discipline is inappropriate.
- b) Hearing of appeal by the President of the College:**
- If, upon reviewing the written appeal, the President determines that the information provided therein indicates that the appeal is warranted according to one or more of the standards, and, thus, that there is a compelling reason to reverse or modify a grievance board finding, or the Provost's resolution, and/or disciplinary action and sanctions, the President will consult with the Provost or other College officials and/or other parties as appropriate (such as legal counsel) to resolve the appeal issue. The complainant and the respondent, as well as the chair of the reporting grievance board, will be notified, simultaneously and in writing, of any changes to the finding, resolution, disciplinary actions or sanctions, resulting from the appeal.
- If, upon reviewing the written appeal, the President determines that the information provided therein indicates that the appeal is not warranted according to one or more of the standards, the President will notify both parties, simultaneously and in writing, as well as the chair of the reporting grievance board, that the original finding, resolution, and/or disciplinary action and sanctions will stand.
- Notwithstanding the absence of an appeal, the President may, at her/his discretion and at her/his own initiative, review the procedures and evidence in accordance with the standards for appeal set out above, and modify or reverse the findings, resolution and/or discipline and sanctions.

- When a written appeal is received by the President, *both parties are to be notified of the President's decision, in writing and simultaneously, within 10 business days of receipt of the appeal.*
- c) **Request for Review by the Board of Trustees, where the respondent is a member of the Faculty (tenured, probationary tenure track, special appointments):** As provided in the *Faculty Code*, 4.6.5, in the case of the sanction of termination for cause, the faculty respondent may request that the Board of Trustees review the record of the case concomitant with its responsibility to consider a Presidential recommendation of termination. The Board of Trustees may consult with legal counsel to assist in the final review of the sanction.

X. Variations in Processing of Complaints: The steps outlined above may be modified on a case-by-case basis as appropriate, including when the complainant asks not to be identified until a later date (for example, until the end of a course, or after an examination, or after annual contracts are issued). In all cases, the complainant will not be subject to retaliation by the respondent, however, as much information as possible will be shared with the respondent to enable her/him to answer the complaint.

- a) In general, a request to delay personal identification and action upon such a complaint may be honored, and the complaint may be held until the specific date requested by the complainant, where such a request is deemed not inconsistent with the College's obligation to investigate and take corrective action as appropriate and with regard for due process.
- b) It is recommended that action be taken within 180 days following receipt of a formal complaint by the responsible official, except in cases of alleged sexual misconduct, where one year is allowed. Complainants should be advised that a long time lapse before beginning the investigation into the circumstances could limit the College's ability to respond and could impair the investigation of the complaint, and that complaints lodged more than 180 days (or one year in sexual misconduct cases) after the incident may not be heard unless there are immediate and compelling reasons to do so.

XI. Prohibition against Retaliation: There will be no adverse action against any individual for reporting an incident of discrimination, harassment, or sexual misconduct, or for participating in or cooperating with an investigation into an alleged incident. This may include, but is not limited to the following: threatening of witnesses, denial of rights to participate in College-sponsored programs, character assassination, intimidation by supervisors or faculty members, and other forms of unprofessional, inappropriate or inequitable behavior toward the complainant, the respondent, or witnesses and bystanders. Any violation of this prohibition against retaliation will be treated as a separate incident under these procedures, although it may be addressed in the same investigation.

XII. Additional Information: The President will, from time to time, consult with the Ombudsperson, the Title IX Coordinator and/or responsible College officials on general policy and procedural issues related to harassment, discrimination, and sexual misconduct, and may receive from the Ombudsperson, the Title IX Coordinator and/or responsible officials, recommendations on such issues, including the prevention of such incidents of discrimination, harassment and sexual

misconduct. Grievances and grievance outcomes will be used to inform administrators of the need for operational changes.