

EQUAL OPPORTUNITY AND
DISCRIMINATORY HARASSMENT POLICY ¹
AND
PROCESS FOR THE INVESTIGATION
AND RESOLUTION OF COMPLAINTS

I. Commitment to Non-Discrimination

The College of the Holy Cross rejects and condemns all forms of harassment, wrongful discrimination, retaliation and disrespect and is committed to sustaining a welcoming environment for everyone and especially those vulnerable to discrimination on the basis of a person's race, religion, color, national origin, age, marital or parental status (including pregnancy and pregnancy related conditions), veteran status, sex, disability, genetic information, sexual orientation, gender identity or any other legally protected status, while reserving its right where permitted by law to take action designed to promote its Jesuit and Catholic mission.

It is the policy of the College to adhere to all applicable state and federal laws prohibiting discrimination and discriminatory harassment. The College does not discriminate unlawfully in admission to, access to, treatment in, or employment, in its programs and activities on the basis of a person's actual or perceived race, religion, color, national origin, age, veteran status, sex (including sex stereotypes, sex characteristics, pregnancy or related conditions), sexual orientation, gender identity or expression and marital or parental status), disability, genetic information, or any other legally protected status, while reserving its right where permitted by law to take action designed to promote its Jesuit and Catholic mission.

Unlawful discrimination, discriminatory harassment, and retaliation are prohibited and will not be tolerated at the College. Such behavior violates this Policy and/or the ~~Base~~ Sex Discrimination and Harassment Policy and may result in disciplinary action, up to and including termination or dismissal from the College.

The Associate Vice President of Title IX and Equal Opportunity (who also serves as the College's Title IX Coordinator and ADA/504 Coordinator) ("AVP of Title IX/EO") has been designated by the College to respond to general inquiries regarding the College's ~~discrimination~~ policies:

¹ This Equal Opportunity and Discriminatory Harassment Policy is effective as of August 1, 2024 and amends the Equal Opportunity and Discriminatory Harassment Policy and Process for the Investigation and Resolution of Complaints. This policy and the procedures set forth in this policy generally apply to complaints made on or after that date, unless the Associate Vice President

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Individuals may report complaints to the AVP of Title IX/EO or at [links](#)

Concerns about this Policy may be raised with the AVP of Title IX/EO. Individuals may also raise concerns about this Policy with the U.S. Department of Education's Office for Civil Rights ("OCR"), 5 Post Office Square, Boston, Massachusetts. The OCR's contact information is (617) 289-0111 or OCR.Boston@ed.gov and the governmental agencies listed in Section VI.D below. Note that contacting a governmental agency will not alter the College's response to allegations of discrimination.

II. How the College Seeks to Address Discrimination, Discriminatory Harassment, and Other Forms of Misconduct³

The College's commitment to non-discrimination includes an assurance that the College will not tolerate discrimination or harassment based on actual or perceived race, religion, color, national origin, age, veteran status, sex (including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity or expression and marital or parental status), disability, genetic information, or other unlawful bases or retaliation. This prohibition includes sexual harassment, sexual assault, dating and domestic violence, and stalking. The College follows through on that commitment through the implementation of two policies:

A. This Equal Opportunity and Discriminatory Harassment Policy ("this Policy")

This Policy defines prohibited conduct and a process by which the College will address such conduct, including, but not limited to:

- Discrimination or harassment based on actual or perceived race, religion, color, national origin, age, veteran status, disability, or genetic information.
- Retaliation.
- Domestic violence, stalking, sexual exploitation, mediated misconduct, inducing incapacitation, aiding and assisting, employee relationships with students, relationships between supervisory employees and others, or retaliation

³ The College reserves the right to address systemic claims under different appropriate College policies. In such cases, the College will provide specific notice of the policy and process to be utilized to address the claim of discrimination.

in connection with a matter under the ~~Sex~~ Based Discrimination and Harassment Policy, in each case are addressed

that they are consistent with these core principles and pursuant to procedures established by the College, including, but not limited to review of best practices and current professional standards. This Policy shall be made available in writing to any applicant, student or employee of the College upon request.

IV. Responsibilities of the AVP of Title IX/EO

The AVP of Title IX/EO (who also serves as the College Title IX Coordinator and ADA/504 Coordinator) is charged with coordinating the College's program to comply with Title IX and other civil rights laws. This includes leading the College's efforts to respond to reports of conduct that could trigger this Policy. The AVP of Title IX/EO is available to meet with any individual to provide information about the implementation of this Policy or the Bias-Based Discrimination and Harassment Policy (including the availability of supportive measures and the informal resolution process, the investigation, and the formal resolution/sanction process), as well as discussing other resources within the College community and beyond. The AVP of Title IX/EO, and/or other qualified members of the College community, will assist, as necessary, with these efforts.

Where the AVP of Title IX/EO is listed as the designated point of contact for any role in this Policy, they may designate another appropriate member of the College community to assume the role at issue, as necessary. Further, as described below, all College employees, other than

informal resolution process or initiate an investigation under the grievance procedures; explain how the legal process is carried out through local law enforcement agencies; and inform the complainant of their rights and the College's responsibilities in obtaining a criminal protection order, a College no contact directive, and/or a College no trespass order. The PCRP will explain their confidential role, including that they may not disclose confidential information concerning sex discrimination and sexual misconduct without written consent unless otherwise required by state or federal law. The PCRP has no duty to report sex discrimination or sexual misconduct to the College or to the AVP of Title IX/EO. In addition, Massachusetts law states that a confidential communication with respect to sexual misconduct shall not be subject to discovery and shall be inadmissible in a criminal or civil proceeding without the prior written consent of the party who shared the information.

B. Other Confidential Employees Available, Including On Campus Medical, Counseling and Pastoral Employees

In addition to the PCRP, some other College employees serve in professional roles in which communications are provided privileged status under Massachusetts law (e.g., licensed mental health care providers, licensed medical providers, and ordained ministers). College employees serve as sexual discrimination and sexual misconduct resources and are provided confidential status as a matter of Title IX/EO and a College policy (e.g., ombudspersons). All confidential employees may not report identifying information about behavior that may constitute sex discrimination or sexual misconduct which may implicate this Policy or Sex-Based Discrimination and Harassment Policy without a voluntary written waiver by the individual who supplied the information in question or otherwise in compliance with law.⁶ These confidential employees are instructed to inform individuals of their right to file a complaint under this Policy, the Sex-Based Discrimination and Harassment Policy and/or with the police and may assist in that process. They must also: provide information about how to contact the AVP of Title IX/EO and how to make a complaint; explain that the AVP of Title IX/EO may be able to offer and coordinate supportive measures, initiate an informal resolution process or initiate an investigation under the grievance procedures; and explain their confidential role, including that they may not disclose confidential information without written consent unless otherwise required by state or federal law. Confidential employees must also provide information described further at this [link](#) to a student, or a person who has a legal right to act on behalf of a student, when such person informs the confidential employee of the student's pregnancy or related conditions.

⁶ Confidential resources generally e6ifact <</At(nfin)2 (th).1 ()-1 r8 (llo-2.8 ('Foo (a)5 ()-2.2 (y)17.3ll)-12.2 (.7 (l r)-5.4 (e)-5

Please note that any employee who receives a report about discrimination when not functioning in their privileged, licensed, or confidential capacity is required to report discrimination or possible discrimination. If there is a question about reporting, confidential employees may, consistent with their legal obligations and ethical requirements, provide limited information to discuss this with the AVP of Title IX/EO and other appropriate individuals on campus. AVP of Title IX/EO, in coordination with other appropriate College staff, will make the final decision regarding any conflict concerning a confidential communication. Confidential employees may also be asked to provide

(including, but not limited to sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity or expression, marital status, sex based harassment, sexual assault, dating or domestic violence, and stalking), disability, genetic information, and/or retaliation toward any member of the College community. These employees are known as “Responsible Employees.”

Responsible Employees must also provide the contact information of the AVP of Title IX/EO and information about how to make a complaint of discrimination to any person who provides them with information about conduct that reasonably may constitute discrimination or harassment. Finally, when a student, or a person who has a legal right to act on behalf of the student, informs any Responsible Employee of the student’s pregnancy or related conditions, unless the Responsible Employee reasonably believes that the AVP of Title IX/EO has been notified, the Responsible Employee must promptly provide that person with the AVP of Title IX/EO’s contact information and inform that person that the AVP of Title IX/EO can coordinate specific actions to prevent sex discrimination and ensure the student’s equal access to the recipient’s education program or activity.

Except for the confidential employees listed above, all full and part-time faculty and all other employees (including those with administration and advising roles) are considered Responsible Employees and are mandated reporters. With respect to student employees and other student roles, the College will determine which student employee roles and other student roles require mandated reporting. Currently, dining carts and residence assistants (as a result of their status as a Clery Act Campus Security Authority) are considered mandated reporters. The mandatory reporting obligations do not apply to employees, student employees or other student roles, when they are an individual that has personally been subject to the reportable conduct.

B. Anonymous Reporting

The College maintains an anonymous reporting form for those individuals who desire to report a complaint anonymously. Anonymous reports are permitted and will be reviewed and routed to the Office of Title IX and Equal Opportunity. Do not submit any personally identifiable information on the report form if you desire to remain anonymous. The anonymous reporting tool is available at [link](#) and from the College’s Sexual Respect and Title IX website at <https://www.holycross.edu/sexualrespectandtitle-ix>. The anonymous reporting form may not be used to satisfy a Responsible Employee’s reporting obligation. The College may be required in accordance with state and federal law to: (i) investigate or address the alleged discrimination, including when the alleged act was reported anonymously; (ii) assess whether a report triggers the need for a timely warning or emergency notification under law or College policy, the obligations of which may, in limited circumstances, result in the release of the reporting party’s identity if provided; and (iii) disclose the identity of a reporting party (if known) to another employee or a third party. In addition, the extent of the College’s response may depend on the level of detail shared in the report.

C. Reporting to Law Enforcement

Individuals who believe that they may have been victims of a crime are encouraged to file a criminal complaint with the Department of Public Safety (508-2222) and/or the state or local police department (911) where the incident occurred. An individual may also file a complaint under this Policy or the Sex-Based Discrimination and Harassment Policy, regardless of whether they file a criminal complaint. While the College encourages individuals to report potentially criminal incidents to law enforcement so appropriate measures can be taken to help individuals and prevent future crimes, individuals who experience misconduct are never required to report that incident to law enforcement. The contact information for the Department of Public Safety, as well as other local law enforcement resources, includes:

- ” Holy Cross Department of Public Safety, One College Street, Worcester, MA 01610, 508-793-2222. If you wish to file a report on campus, an officer in the Department of Public Safety is available to meet with you to receive your report.
- ” Worcester Police Department, 19 Lincoln Square, 508-99-8606.
- ” West Boylston Police Department, 39 Worcester Street, 508-858-2333.
- ” District Attorney’s Office, Child Abuse and Sexual Assault Unit, 255 Main Street, Worcester, MA, 508-92-0214.
- ” The Worcester County State Police, Detective Unit, 508-9124.

If you would like assistance in filing a report with the state or local police department, the Department of Public Safety will help. If you wish to file a report with campus authorities, you may choose to go directly to the local police department. The College will provide transportation for you to go to the police department to file a report with no questions asked unless your health or safety is at risk. You also may choose to have officers from the state or local police department come to campus. The College can arrange for a discreet and private place to meet for this purpose. These resources will provide information with respect to how to obtain a court-issued protective order. If an individual obtains a protective order under state or federal law with respect to a College community member, or one is issued pursuant to a criminal case, the individual should notify the Associate Vice President of the Department of Public Safety and provide a copy of the order and, following receipt and review thereof, the Associate Vice President of the Department of Public Safety and AVP of Title IX/EO will meet with the individual with respect to the enforcement of the protective order. In addition, or alternatively, you may seek a College issued contact order through the AVP of Title IX/EO.

D. Other Government Reporting Options

Other state and federal agencies may also be available resources if an individual has been

subjected to discriminatory conduct that violates state or federal law. Individuals may file a formal complaint with the government agencies set forth below. The College's grievance procedures does not prohibit individuals from filing a complaint with these agencies.

These include:

- ” U.S. Department of Education, Office of Civil Rights
5 Post Office Square,th Floor
Boston, MA 02109
617-289-0111

- ” U.S. Equal Employment Opportunity Commission
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
617-565-3200/800-669-4000

- ” Massachusetts Commission Against Discrimination
 - Worcester: 18 Chestnut St., Suite 520, Worcester, MA 01608, 508-853-6300
 - Boston: 1 Ashburton Place, Boston, MA 02108, 617-6000
 - Springfield: 436 Dwight Street, Springfield, MA 01103, 413-2145
 - New Bedford: 800 Purchase Street, New Bedford, MA 02740, 508-390-3900

Additional resources for both those who experience or are accused of sexual misconduct are included in the FAQ document at [this link](#)

VII. Duty to Report Discrimination, Harassment, Retaliation and Other Misconduct⁷

Other than the confidential employees described above in Section V, ~~all~~ full and parttime faculty and all other employees (including those with administration and advising roles) are considered Responsible Employees who are mandated to report. This means that they are obligated by the College to promptly disclose to the AVP of Title IX/EO reports and information

⁷ The College recognizes the importance of public awareness events such as “Take Back the Night,” candlelight vigils, “survivor speak outs” and other public forums to raise awareness and to allow community members to support each other and speak out. Holy Cross will not consider information conveyed from such events as a formal report, though information learned at such public events may be considered as it relates to broader sexual harassment, and it may take action if the Title IX Coordinator indicates there is an imminent and serious threat to the health or safety of any community member. This response can include the Title IX Co9 (I)-5.8nnfh pentnv1.157 Td

shared with them that reasonably may constitute discrimination or harassment based on actual or perceived race, religion, color, national origin, age, veteran status, sex (including but not limited to discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity or expression, marital or parental status, ~~sexual harassment~~, sexual assault, dating and domestic violence and stalking) disability, or genetic information or retaliation toward any member of the College community. These employees must also provide the contact information of the AVP of Title IX/EO and information about how to make a complaint of discrimination or harassment to any person who provides them with information about conduct that reasonably may constitute discrimination or harassment. In addition, College employees who are designated as campus secu

Retaliation constitutes a very serious violation of this Policy and should be reported immediately to the AVP of Title IX/EO. Please see the definition of retaliation in Section IX below.

C. Recording the Proceedings

Parties, advisors, and witnesses are not permitted to make video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under this Policy. The AVP of Title IX/EO may make exceptions to this prohibition in limited circumstances if such person concludes, in their sole discretion, that a recording is warranted, and upon written request of the Party seeking the recording that explains the need for the recording.

IX. Prohibited Conduct and Other Important Definitions

The definitions in this section apply to all College community members. All members of the College community are responsible for being familiar with and abiding by them. This section includes not only the definition of Prohibited Conduct, but other important concepts like consent and incapacitation, of conduct that is prohibited under this Policy, together with certain other definitions used in the Policy. If you have any questions about a definition or application of any of these terms or the Policy in general, please contact the AVP of Title IX/EO.

A. Discrimination Based on Race, Religion, Color, National Origin, Age, Veteran Status, Disability, Genetic Information or Other Legally Protected Status

An intentional or unintentional act that adversely affects employment and/or educational opportunities because of a person's race, religion, color, national origin, age, veteran status, disability, genetic information, or any other legally protected status.

*Important Note: Discrimination and harassment based upon sex (including on the basis of sex stereotypes, sex characteristics, sexual orientation, gender identity or expression, marital or parental status, pregnancy or related conditions) is addressed pursuant to the Sex Based Discrimination and Harassment Policy but may be addressed pursuant to this Policy if not required to be addressed under the Sex Based Discrimination and Harassment Policy as determined in the sole discretion of the AVP of Title IX/EO.

Discrimination may be classified as either disparate impact (facially neutral practices that fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than that of others based upon discriminatory reasons unless based upon legitimate lawful exceptions (such as bona fide occupational qualifications or the ability to maintain separate sports teams)). In addition, discrimination is also prohibited against individuals who associate with members of a protected class and thereby experience discriminatory treatment based

Examples:

- ” Refusing to hire or promote a person because of their age (any age over 40);
- ” Treating persons differently from others because of assumptions about, or stereotypes regarding, the aptitude, intellectual ability or interest of a group based upon race, religion, color, national origin, age, veteran status, disability, or genetic information;
- ” Unlawful disparity in the terms, conditions and privileges of employment based upon race, religion, color, national origin, age, veteran status, disability, or genetic information;
- ” Difference in treatment in educational programs based upon race, religion, color, national origin, age, veteran status, disability, or genetic information; and
- ” Terminating an employee’s employment on the basis of the employee’s relationship or association with an individual with a disability or a particular race.

B. Discriminatory Harassment Based on Race, Religion, Color, National Origin, Age, Veteran Status, Disability, Genetic Information or Other Legally Protected Status

Unwelcome conduct that is based on or motivated by an individual’s actual or perceived race, religion, color, national origin, age, veteran status, disability, genetic information, or any other legally protected status that is severe or pervasive and creates an intimidating, hostile or offensive living, working or educational environment, or has the purpose or effect of unreasonably interfering with an individual’s employment, academic performance, education, or participation in extracurricular programs or activities.

Discriminatory harassment may take many forms, including physical, verbal, and nonverbal acts and written statements in any manner or media. Discriminatory harassment does not have to include intent to harm or be directed at a specific target. Isolated comments, unless extremely serious, will generally not rise to the level of discriminatory harassment under this Policy. Determinations are made based upon the totality of the circumstances involved including, but not limited to, the relationship of the Parties and the frequency of the conduct. Reasonable directives by supervisors, educators, or otherwise authorized College personnel regarding the methods employed to carry out employment or educational assignments are not considered harassing under this Policy.

Examples of conduct contributing to discriminatory harassment include:

- ” Unwelcome conduct or material that denigrates or shows hostility or aversion to an individual because of their race, religion, color, national origin, age, veteran status, sex, disability, genetic information;

- ” Threatening, intimidating, or hostile acts that relate to race, religion, color, national origin, age veteran status, disability, genetic information

C. Retaliation

Intentionally engaging in conduct to:

- ” Adversely affect a person’s educational, living, or work environment because of their good faith participation in the reporting, investigation, and/or resolution of a report of a violation of this Policy. “Adversely affect” for this purpose means any action that is reasonably likely to deter a person from such participation and does not include petty slights or trivial annoyances.
- ” Discourage a reasonable person from making a report or participating (in any capacity) in an investigation under this Policy, the ~~Sex~~ ^{Sex}-Based Discrimination and Harassment Policy or any other College policy, or any other local, state, or federal complaint process e.g., filing a complaint with an entity like the U.S. Department of Education.

Retaliation includes, but is not limited to, acts or words that constitute intimidation, threats, or coercion intended to pressure any individual to participate, not participate, or provide false or misleading information during any proceeding under this Policy. Retaliation may include abuse or violence, other forms of harassment, and/or making false statements about another person in any manner or media with intent to harm their reputation.

Retaliation can be committed by any individual or t

frequency of the interaction between the parties involved in the relationship. This is not an exhaustive list of considerations to determine the nature of a relationship.

E. Stalking

Stalking is a course of conduct (i.e., more than one instance) involving unwanted attention, harassment, physical or verbal contact directed at an individual that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress. Stalking can occur in person or using technology (stalking), and the duration, frequency, and intensity of the conduct will be considered. Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. Cyberstalking is a particular form of stalking in which electronic media such as the internet, social networks, blogs, texts or other similar forms of contact are used to pursue, harass, or make unwelcome contact with another person.

College also reserves the right to adjudicate reducing Incapacitation under this Policy if the College, in its sole discretion, is satisfied that the behavior does not constitute the level of constituting sex-based discrimination or sex-based harassment as defined in the Sex Discrimination and Harassment Policy.

H. Media-Based Misconduct

Photographing or recording someone (via audio, video or otherwise) involved in sexual activity, or in a state of undress, without their knowledge or consent. Even if a person consented to sexual activity, photographing or recording someone without their knowledge and agreement goes beyond the boundaries of that consent. Dissemination of photographs or video/audio of someone involved in sexual activity, or in a state of undress, without their knowledge or consent constitutes a separate additional act of misconduct. This may differ from Sexual Exploitation based on individual facts and circumstances, including the

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O. Additional Prohibited Conduct Definitions.

1. Sex-Based Discrimination and Harassment Policy Definitions The definitions of the following terms are the same as the definitions set forth in the Sex-Based Discrimination and Harassment Policy.

- Sex-Based Discrimination
- Sex-Based Harassment
- Sexual Harassment, Quid Pro Quo Harassment, Hostile Environment Harassment
- Sexual Assault
- Consent, Coercion, Incapacitation

P. Miscellaneous

The inappropriate behaviors listed above are not an exhaustive list. The College may consider any other conduct that has a legally protected class connotation under this Policy.

Q. Additional Definitions

- ” Complainant. A student or employee, or an individual who was participating in, or attempting to participate in, the College programs or activities, ~~where~~ ⁱⁿ that they experienced a form of Prohibited Conduct that may have violated the policy. The College may bring a complaint with respect to a Respondent without a Complainant.
- ” Respondent The individual who is alleged to have violated the policy.
- ” Parties/Party. The Complainant and the Respondent collectively are referred to as the “Parties” and each individually as a “Party.”
- ” Teaching Faculty Member. An employee who is designated as a teaching faculty member pursuant to the Statutes of the Faculty

X. Procedure for Investigation and Resolution of Complaints (the “Procedure”)

⁹ There may be instances where another person, who has not experienced but is aware of the occurrence of prohibited conduct, may report such matter pursuant to this policy. In those limited circumstances, the AVP of Title IX/EO will determine which of the protections provided to the complainant under the policy are also applicable to the reporting party. However, reporting individuals are not Complainants for the purpose of the policy.

This section describes how the College will respond when it receives information about conduct by an individual or group of individuals that reasonably may constitute discrimination, harassment or other prohibited conduct in violation of this Policy, and determine what, if any, safety measures, supportive measures and/or disciplinary sanctions or remedies are appropriate. The AVP of Title IX and Equal Opportunity will ~~ca~~ to promptly and effectively end any discrimination in the College's education program or activity, prevent its recurrence, and remedy its effects.

A. Initial Steps

After receiving a report of conduct that could fall under this Policy, the AVP of Title IX/EO¹⁰, in consultation with other College personnel as the AVP of Title IX/EO determines is appropriate, will take several initial steps. These initial steps are not an

applicable, reasonably available and appropriate supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available, and without fee or charge to either the Complainant or the Respondent.

Supportive measures are designed to restore or preserve equal access to the College's educational programs or activities, to protect the safety of the Parties or the College's educational environment, and to provide support during the grievance procedures or the Informal Resolution Process. They may be continued after the end of the grievance procedures, or an informal resolution is reached.

Supportive measures may include but are not limited to: counseling; academic accommodations, such as extensions of deadlines or other course-related adjustments; course changes or drops; modifications of work or class schedules; campus escort services; restrictions on contact applied to one or more of the Parties; residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the campus; training and education programs related to discrimination or harassment; immigration arrangements, changes to dining or transportation arrangements, and no trespass notices, among others.

The AVP of Title IX/EO will assess and implement supportive measures in consultation with other College employees as appropriate and others who are needed in order to implement any such measures. The AVP of Title IX/EO may consult with the Office of Student Accessibility Services to assess disability accommodations. Where the Respondent is an employee, the College may place the employee on paid administrative leave, either as a supportive measure or as an interim non-punitive administrative leave.

3. Presumption of Non-Responsibility Individuals who are reported to have engaged in Prohibited Conduct under this Policy are presumed to be not responsible for violating this Policy and will not be issued any disciplinary sanction unless it is determined, through College procedures, by a preponderance of the evidence, that they have violated this Policy or other College policy.
4. Interim Removal and/or Restriction The AVP of Title IX/EO will assess reported conduct to determine whether the circumstances warrant interim removal from any of the College's education programs and activities or other interim protections, including, but not limited to, temporarily removing an individual from a leadership,

and the remaining allegations, if proven, would not constitute a Policy violation: or

- ” The College determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven.

If the complaint is dismissed, the College will advise the Complainant in writing. If the dismissal occurs after the Respondent has been notified, then the College will simultaneously notify the Respondent of the same information. Note that the College also retains the right to dismiss a matter at any point if the Complainant

3.

are entitled to an advisor as applicable with respect to their Weingarten rights. Once an advisor has been selected by a Party, the Party must provide the name of the advisor to the AVP of Title IX/EO. Changes to the advisor selected by a Party may be made for good cause with the prior approval of the AVP of Title IX/EO, as determined in their sole discretion. Advisors may not participate actively (including, but not limited to, acting as a speaking advocate or posing questions or making comments) while present at any disciplinary proceeding and may not speak, write, or otherwise communicate on the part of the Party that the advisor is advising at any time. However, the advisor may ask to suspend any meeting, interview, or hearing briefly to provide private consultation related to the disciplinary proceeding in progress. An advisor is subject to the same expectations regarding participation applicable to others in attendance. Accommodations, including scheduling of interviews or reviews or changes to location, generally will not be made for any advisor if they significantly delay or impact the process. The advisor is not permitted to attend a meeting or proceeding without the Party they are advising being present without the prior approval of the AVP of Title IX/EO, as determined in their sole discretion. Individuals managing the proceeding in question (e.g., investigators or other Office of Title IX and Equal Opportunity staff) may delay or terminate meetings, remove or dismiss advisors, and/or proceed with the investigation if an advisor is disruptive, disrespectful or otherwise refuses to comply with the requirements of this Policy. The College reserves the right to take additional appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation or communication as determined in the sole discretion of the AVP of Title IX/EO. A union-represented employee who is a Respondent may choose as an advisor a person who is not a union representative, if the Respondent does not desire to have the union representative participate in the proceeding.

- (b) Support Person. In cases alleging (i) sexual assault, dating or domestic violence or stalking, or (ii) discrimination or harassment in which both the Complainant(s) and Respondent(s) are either student(s) or current employee(s), each Party may have a single support person of such Party's choice (including, but not limited to, a Primary Confidential Resource Provider (as defined in the Sex-Based Discrimination and Harassment Policy, if applicable) present during any College grievance proceeding. This support person may only provide emotional support to such Party and may not assume the same role(s) as the advisor. Once the support person has been selected by a Party, the Party must provide the name of the support person to the AVP of Title IX/EO. Individuals managing the proceeding in question (e.g., investigators, Title IX and Equal Opportunity staff) may delay or terminate meetings, remove or dismiss support persons, and/or proceed with the investigation if a support person is disruptive, disrespectful or otherwise refuses to comply with the requirements of this Policy. The support person is not permitted to attend a meeting or proceeding without the Party they are supporting being present. The College reserves

right to take appropriate action regarding any support person who disrupts the process, or who does not abide by the restrictions on their participation. Support persons are not entitled to review evidence or any Investigation Report and are not entitled to speak during any proceeding or communicate in any manner on behalf of a Party. The AVP of Title IX/EO retains sole discretion to limit the support person role if it is being used unfairly by a Party or is in violation of any restriction. For example, if a Party chooses an attorney as their advisor, the Party cannot choose a second attorney to assist the advisor to circumvent the rule for a single advisor. The College reserves the right to take appropriate action regarding any support person who disrupts the process or who does not abide by the rules for participation. Meetings and proceedings will not be scheduled or delayed for support person attendance.

3. Designation of Investigator(s) and Determination Official(s) The AVP of Title IX/EO will designate at least one investigator¹¹(the "Investigator(s)") to conduct a prompt, effective, and impartial investigation of the reported conduct and prepare a report of investigative findings (the "Investigation Report"). The AVP of Title IX/EO will provide the Parties with the names of the person(s) to act as the Investigator(s) and a list of potential persons who may act as the Determination Official(s) (as defined below) from a pool of employees trained to decide cases with respect to this Policy who may be an Investigator in the matter or an employee in the Office of Title IX and Equal Opportunity. As soon as possible, but no later than three (3) business days¹² after delivery of the identity of the Investigator(s) and potential Determination Official(s), the Parties must inform the AVP of Title IX/EO in writing of any conflicts of interest and/or alleged bias regarding the named individuals. The AVP of Title IX/EO will consider the nature of the conflict and/or bias and determine if different individuals should be assigned. The AVP of Title IX/EO may consult with other College personnel to discuss any conflicts of interest¹³ and/or alleged bias. The AVP of Title IX/EO's decision regarding any conflicts or alleged bias is final. Following the conflict review and completion of the Investigation Report, the AVP of Title IX/EO will appoint one or more Determination Officials (the "Determination Official(s)") to make the determination with respect to alleged violation(s) pursuant to this Policy, as determined in their sole discretion. In the event of a claim against a Teaching Faculty Member, the Determination Official(s) will include at least one employee who is a Teaching Faculty Member.

4. Nature of the Investigation The investigation will include separate interviews by

¹¹ At the College's discretion, the investigator may be an internal or an external investigator and an ~~internal or external~~ investigator may be assigned. All investigators internal or external will be selected from a group of qualified and trained individuals employed by the College or engaged by the College for the purpose of conducting investigations under this policy.

¹² Business days, for the purpose of this Policy, excludes only Saturday, Sunday and traditional and floating holidays as published on the College's holiday calendar available [at this](#)

¹³ The AVP of Title IX/EO will consult with the chair of the Committee of Faculty Affairs with respect to any conflict of interest raised by a Teaching Faculty Member.

1. Review and Determination by Determination Official(s) The Determination Official(s) will review the Investigation Report and attachments and will make a determination as to whether or not the Respondent is responsible for violating the policy by having engaged in some or all of the reported conduct. The Determination Official(s) has the authority to accept the Investigation Report without seeking additional investigation or questioning, or to ask the Investigator(s) to conduct additional investigation or questioning on specific points. The Determination Official(s) has discretion to speak with or solicit input directly from both Parties, the Investigators, or any persons identified in the Investigation Report who have questions. The Determination Official(s), as the ultimate decision maker in the matter, is provided broad discretion. In appropriate circumstances, the AVP of Title IX/EO may give special instructions to the Determination Official(s). Where there are more than one Determination Officials, they are encouraged to seek unanimity in result, though they may make determinations based on a majority.

Committee of the Board will determine the appropriate sanction.

” Non-Exempt Employees and Third Parties. Sanctions regarding non-exempt employees, as defined by the College, including vendors, independent contractors and other third parties will be determined by the Vice President of Human Resources (or their designee), who may consult with other College officials, as appropriate.

2. Types of Sanctions The following are a non-exhaustive list of sanctions that may be considered in individualized situations and a full list of sanctions with respect to findings of sexual assault, dating violence, domestic violence, and stalking. Note that sanctions may be combined and applied to the behavior for which the Respondent is found responsible.

factors that may lead to a fair and appropriate outcome under the circumstances and may consult with other College officials. Such factors may include, but are not limited to:

- ” The nature and circumstances of the misconduct, including whether it involved violence, the threat of violence, or coercion; how severe or pervasive it was; whether it occurred once, more than once, or repeatedly; and whether or to what extent the Party found responsible intended or reasonably should have expected that the conduct would harm the Complainant or others.
- ” The impact of the misconduct on the Complainant, including whether or to what extent the misconduct has interfered or may interfere with the Complainant’s education, employment, or other opportunities at the College, whether or to what extent the misconduct has resulted or may result in physical, emotional, or other harm. The Sanctioning Official may, but is not required to, request an impact statement from the Complainant.¹³
- ” The impact of the misconduct on the College community, including whether or to what extent the misconduct has interfered or may interfere with an educational, employment, or other aspect of the College environment.
- ” The disciplinary history of the Party deemed responsible.
- ” The range of sanctions imposed in cases involving similar or analogous circumstances.

section.

4. Additional Remedies The Sanctioning Official may also identify additional remedies to address the effects of the conduct on the impacted Party. Remedies may include extending or making permanent any interim supportive measures, class and registration adjustments (including retroactive withdrawals); permanent changes to housing, employment or dining; and referrals to counseling or health services. If a Complainant or Respondent declined or did not take advantage of a specific service or resource previously offered, the College may offer the service as applicable or necessary. The AVP of Title IX/EO also may consider broad remedial action for the College community, such as increased supervision or monitoring, targeted or increased education and prevention efforts, and review of policies and procedures. In addition, the AVP of Title IX/EO may refer any matter raised, but not addressed hereunder, that may potentially violate any other College policy, rule, or procedure to the appropriate College officials to address such matters, irrespective of the finding under this Policy.

G. Notification of Outcome

Within seven (7) business days (which period may be extended for good cause and such extension communicated to the Parties) of the completion of the adjudication and sanction, if applicable, the AVP of Title IX/EO will notify the Parties simultaneously and in writing of (i) the outcome of the grievance proceeding; and (ii) the procedures for either Party to appeal the result of the grievance proceeding.

The AVP of Title IX/EO will also inform other College officials with a legitimate educational interest¹⁵ or employment interest about the outcome of the grievance proceeding. Sanctions of all types (including, but not limited to, any form of suspension, dismissal, or separation from the College) can be imposed, in full or in part, while an appeal is pending at the sole discretion of the College.

If the alleged victim is deceased as a result of a crime involving sexual assault, other nonconsensual sexual contact, stalking, domestic/dating violence or hate crime, the next of kin of such alleged victim will be provided the notice of outcome upon written request to the AVP of Title IX/EO.

H. Appeals

1. All Appeals (Other Than Appeals Involving a Respondent Who Is a Teaching

Those situations are addressed under Section X.H.2 below.

(a) Submission of Appeal and Grounds for Appeal

Within seven (7) business days of the delivery of the notice of the outcome, either Party may appeal the decision by submitting to the AVP of Title IX/EO a letter describing the basis of their appeal and the specific facts that support their appeal. Appeals may be filed on the following grounds:

- ” Procedural Error. The Investigator(s), Determination Official(s), the AVP of Title IX/EO, or the Sanctioning Official failed to follow the Procedure in a manner that would change the outcome. An appeal on this basis shall be filed on or before the date of the appeal.

An appeal submitted by one Party will be shared by the AVP of Title IX/EO

will provide a copy of the appeal submitted by the Teaching Faculty Respondent to the Complainant. The Complainant may submit materials that they wish to have considered in the appeal process within seven (7) business days of receipt of the appeal. The page limit process described above will apply.

(c) Appointment of Appeal Panel

In the instance a Teaching Faculty Respondent appeals under this Section, the chair of the Committee on Faculty Affairs in consultation with the AVP of Title IX/EO will convene a three-member Appeal Panel (the "Appeal Panel") consisting of tenured members of the Committee on Faculty Affairs (or other tenured faculty members from a previously established pool in the event there are not enough members of the Committee on Faculty Affairs to so serve) who have received training on cases under this Policy and appeals. The AVP of Title IX/EO will provide the Parties with the names of the persons assigned to the Appeal Panel for their case. As soon as possible, but no later than three (3) business days after delivery of the identity of the assigned Appeal Panel members, the Parties must inform the AVP of Title IX/EO (in writing) of any conflicts of interest or bias regarding the individuals proposed to be assigned to the Appeal Panel. The AVP of Title IX/EO will consider the nature of the conflict and determine if different individuals should be assigned to the Appeal Panel. The AVP of Title IX/EO shall consult with the chair of the Committee on Faculty Affairs to assess any conflicts of interest. The AVP of Title IX/EO's decision regarding any conflicts is final.

(d) Final Review

Any Appeal Panel decision that involves procedural error or (2) newly discovered information is final. Any Appeal Panel decision regarding a sanction of recommended dismissal will be referred to the President and the Executive Committee of the Board of Trustees for review, as described below.

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The College cannot promise the definitive timeframe of this process, but will endeavor to complete its investigation and grievance process in a prompt, effective, equitable and impartial manner. The length of investigations may vary with the complexity and unique factors in each case. Examples of such factors include, without limitation, circumstances in which critical witnesses are unavailable; if a Party is hospitalized for any medical or psychological emergencies (at which point treatment providers may be asked for a diagn

have an equal opportunity to participate in its programs and activities. If any person requires a disability-related accommodation to access any part of this process, students may make that request to the Office of Accessibility Services by telephone 703-308-3693 and employees or others to the Office of Human Resources 703-389-1000. Any accommodations will be provided in consultation with the AVP of Title IX/EO or to ensure they do not impact the rights or protections of any Party or witness.

6. Amnesty in Certain Circumstances

The College encourages reporting under this Policy and seeks to remove barriers to reporting. Students may be hesitant to report sexual misconduct out of a concern that they, or witnesses, might be charged with a violation of the College's drug and alcohol policies or Community Standards. While the College does not condone such behavior, the College places a priority on the need to address sexual misconduct. The College generally will not hold a student who in good faith reports or is a witness during an investigation of sexual misconduct under this Policy accountable for disciplinary violations of the College's Community Standards that do not place the health and safety of any other person at risk or create a danger to the College community. The College retains the right to require students to attend counseling or drug/alcohol related courses even in circumstances in which disciplinary conduct will not be pursued under this part.

7. Academic Freedom and Educational Setting

In educational settings, latitude and deference shall generally be given to a faculty member's professional judgment in determining the appropriate content and presentation of academic material. Academic curriculum and pedagogical goals that serve legitimate and reasonable educational purposes do not, in and of themselves, constitute unlawful harassment or discrimination. Those participating in an educational setting as educators, however, bear a responsibility to balance their professional responsibilities and academic freedoms with a consideration of the reasonable sensitivities of other participants in accordance with applicable College policies. Nothing contained in this Policy shall be construed to limit the legitimate and reasonable academic responsibilities and academic freedom of the College's professional educators, or the College's educational mission.

8. Training

Actions called for in this Policy will be executed by individuals who are appropriately trained on issues relating to harassment, discrimination, and other misconduct addressed by this Policy, investigatory procedures, and other grievance procedures (as applicable to the role) to protect the safety and right of members of the College community and promote accountability. Such individuals will also be unbiased and committed to discharging their responsibilities in accordance with the Policy.

There shall be no right of individual appeal of any member of the student group, organization or team to a group sanction. Sanctions for groups, organizations and teams may include suspension, revocation or denial of registration or recognition, probation, reprimand, warning, restitution, education, and restriction, among other possible sanctions.

XI. Availability of Reasonable Accommodations

The College is committed to making its facilities, programs, and services accessible to all individuals in compliance with applicable law. Consistent with federal and state law, reasonable accommodations will be provided to individuals with disabilities.

- ” Students Students and applicants for admission to the College who desire to request reasonable accommodations should contact the Office of Accessibility Services to discuss the availability of reasonable accommodations or to obtain documentation guidelines. Please see <https://www.holycross.edu/healthandaccess/officeaccessibility>

complaint with the Department of Public Safety (508-2222) and/or the local police department (911) where the incident occurred. An individual may make both a criminal complaint and a complaint to the College under this Policy (or pursuant to the Sex Based Discrimination and Harassment Policy for any violation of that policy).

The Clery Act requires the College to maintain statistics regarding certain hate crimes occurring on campus, on College controlled property, and on public property immediately adjacent to campus. Those statistics may be found in the College's Annual Campus Crime Report available on the Department of Public Safety website at <http://www.holycross.edu/campus-life/public-safety/safetysecurityfire-report>.

B. Bias Incidents -Reporting, Investigation and Resolution

Discriminatory or harassing acts motivated by bias or a consideration (real or perceived) of a person's race, religion, color, national origin, age, veteran status, sex ((including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity or expression and marital or parental status), disability, genetic information, sexual orientation, gender identity or other unlawful status may constitute violations of the College's discrimination and harassment policies. Individuals who believe that they have been subject to discrimination, discriminatory harassment or retaliation (as defined above in this Policy) may make a complaint pursuant to this Policy, or a report pursuant to the Sex Based Discrimination and Harassment Policy for violations of that policy.

C. Hate and Bias: Affirming a Campus Culture of Mutual Respect and Civility

Pregnancy and Pregnancy Related Conditions

The College is committed to providing an educational and employment environment that is free from discrimination on the basis of sex, which includes discrimination based on current, potential, or past pregnancy or related conditions. The College does not discriminate in its education program or activity against an individual based on the individual's current, potential, or past pregnancy or related conditions.

The College will promptly and effectively prevent sex discrimination and ensure equal access to the College's education program or activity once a student notifies the Title IX Coordinator of the student's pregnancy or related conditions. The Title IX Coordinator must coordinate these actions.

Pregnancy or related conditions means:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

The College's Title IX Coordinator is appointed to coordinate specific actions to prevent sex discrimination and ensure equal access to the College's education program and activities.

Derek DeBobes
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The Title IX Coordinator will provide reasonable modifications based on a student's individualized needs after consultation with the student in connection with pregnancy and related conditions. Please note that a modification is not a reasonable modification if the College can demonstrate would fundamentally alter the nature of its education program or activity.

Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

The College must ensure that students can access lactation spaces. The College designated lactation spaces available. It will review requests if there is a need for an additional lactation space. Designated lactation spaces must be clean, not a bathroom, and safe and functional for use as a lactation space. They must also be free from view and intrusion which usually means equipped with window coverings and a door that locks.

In addition, the College does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided the recipient ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.ereg

