

## **POLICY AGAINST DISCRIMINATION AND HARASSMENT**

### **I. NON-DISCRIMINATION NOTICE AND GENERAL POLICY STATEMENT**

Equal employment and equal educational opportunity are fundamental principles at Knox College. The College strictly prohibits Discrimination or Harassment because of actual or perceived sex, pregnancy, gender identity or expression, race, color, creed, national or ethnic origin, religion or religious affiliation, sexual orientation or preference, age, marital or family status, family responsibilities, disability, veteran status, or any other characteristic protected by applicable federal, state, or local laws and ordinances (“Protected Categories”).

The College’s prohibition on Discrimination and Harassment extends to all aspects of its operations, including admissions and employment. The College also prohibits various forms of Retaliation as provided by law. Reports and Complaints of Discrimination, Harassment, and/or Retaliation may be made to the College’s Director of Title IX & Civil Rights Compliance, whose contact information is specified below.

Members of the College Community who commit Discrimination, Harassment, and/or Retaliation are subject to the full range of College discipline including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; demotion; fines; permanent separation from the institution (that is, termination or dismissal); physical restriction from College property; cancellation of contracts; and any combination of the same.

The College will provide persons who have experienced Discrimination and/or Harassment ongoing remedies as reasonably necessary to restore or preserve access to the College’s Education Programs or Activities.

The College also provides certain support and modifications for persons who are experiencing pregnancy or pregnancy related conditions. The College has a separate Pregnancy Modifications Policy that governs the provision of such supports and modifications.

The College has designated the Director of Title IX & Civil Rights Compliance as the College’s Title IX Coordinator to respond to questions about the Policy; to receive Reports and Complaints of Discrimination and Harassment, and to coordinate and oversee the College’s response to Discrimination and Harassment as dictated by the Policy and applicable laws and regulations. The Title IX Coordinator’s name and contact information is:

Jennie Hemingway, PhD  
Director of Title IX & Civil Rights Compliance

#12 Knox Old Jail  
2 East South Street  
Galesburg, IL 61401  
309-341-7751  
cultureofrespect@knox.edu

The Title IX Coordinator may assign one or more designees to carry out some of the College's responsibilities for compliance with applicable federal and state law, but the Title IX Coordinator retains ultimate oversight for those responsibilities.

The College has established this Policy to establish a process for the prompt and effective resolution of concerns. Individuals have the right, however, to contact the U.S. Department of Education's Office for Civil Rights ("OCR"), the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) to file a formal complaint. An IDHR complaint must be filed within 180 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days. In addition, an appeal process is available through the Illinois Human Rights Commission (IHRC) after IDHR has completed its investigation of a complaint. Contact Information:

**U.S. Department of Education Office for Civil Rights (OCR)**

400 Maryland Avenue, SW Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: OCR@ed.gov  
Web: <http://www.ed.gov/ocr> 9Equal

**Employment Opportunity Commission Chicago District Office**

JCK Federal Building 230 S Dearborn Street Chicago, IL 60604  
(312) 872-9744  
Fax: 312-588-1260  
TTY: 1-866-740-3953  
ASL Video Phone: 844-234-5122

**Illinois Department of Human Rights (IDHR)**

Springfield: (217) 785.5100  
Chicago: (312) 814-6200 or 800-662-3942  
Chicago TTY: (866) 740-3953  
Website: <http://www2.illinois.gov/dhr/FilingCharge>

**Illinois Human Rights Commission (IHRC)**

(312) 814-6269  
TTY: (312) 814-4760

## **II. SCOPE**

This Policy applies to Discrimination and Harassment that occurs within the College's Education Programs or Activities and that is committed by a member of the College Community.

This Policy does not apply to Discrimination or Harassment that occurs outside the scope of the College's Education Programs or Activities. Nevertheless, the College will address Hostile Environment Harassment and Sexual Harassment occurring in its Education Programs or Activities even when some conduct alleged to be contributing to the hostile environment occurred outside the Education Programs or Activities or outside of the United States.

The Policy and accompanying investigation and resolution procedures constitute the College's Section 504 grievance procedures, Title IX Sexual Harassment grievance procedures, and the College's Age Discrimination Act grievance procedures.

While this Policy is the exclusive policy governing Discrimination and Harassment that occurs within the College's Education Programs or Activities, Reports and Complaints of Discrimination and Harassment may implicate conduct that violates other College policies and standards. The College retains full discretion to enforce its other policies and standards with respect to applicable conduct, whether prior to, at the same time as, or after allegations of Discrimination and Harassment have been resolved pursuant to this Policy.

## **III. JURISDICTION**

This Policy applies to College's education programs and activities (defined as including locations, events, or circumstances in which College exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where College has disciplinary authority, and to misconduct occurring within any building owned or controlled by a College-recognized student organization.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to College's education program or activities. College may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial College interest.

A substantial College interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.

- Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
- Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- Any situation that substantially interferes with College's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be a College faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of College community, the Title IX Coordinator will offer to assist the Reporting Party/Complainant in identifying appropriate institutional and local resources and support options, and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The College can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Reporting Party/Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Reporting Party/Complainant who experiences discrimination in an internship, study abroad program, or other environment external to College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Reporting Party/Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

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

Although College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to College, it will engage in a variety of means to address and mitigate the effects. These means may include use of the Resolution/Grievance Process to address off-campus conduct whose effects contribute to limiting or denying a person access to College's education program or activity.

## **IV. DEFINITIONS**

Words used in this Policy will have those meanings defined herein and/or in Appendix A and if not defined herein or in Appendix A will be construed according to their plain and ordinary meaning.

## **V. PROHIBITED CONDUCT**

Students and employees are entitled to an educational and employment environment that is free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under College Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of College Policy, though supportive measures will be offered to those impacted.

Violation of any other College policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

All offense definitions below encompass actual and/or attempted offenses.

### **A. Discrimination**

Discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

1. Disparate Treatment Discrimination which is any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that:
  - Excludes a person from participation in;
  - Denies the person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a College program or activity.

2. Disparate Impact Discrimination that occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
  - Excludes an individual from participation in;
  - Denies the individual benefits of; or
  - Otherwise adversely affects a term or condition of an individual's participation in a College program or activity.

## **B. Discriminatory Harassment**

Discriminatory Harassment is unwelcome conduct on the basis of actual or perceived protected characteristic(s), that based on the totality of the circumstances:

- is subjectively and objectively offensive,
- and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from College's education program or activity

## **C. Sexual Harassment**

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Knox College has adopted the following definitions of sexual harassment in order to address the unique environment of an academic community. The definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

1. Title VII/Fair Housing Act Sexual Harassment is defined as unwelcome verbal, written, graphic, and/or physical conduct; that is severe or pervasive and objectively offensive; on the basis of sex/gender, that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This definition may apply to situations where an employee is subjected to workplace sexual harassment or where a situation involves a Reporting Party/Complainant and/or Respondent in College-provided housing.
2. Title IX Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all Formal Complaints that fall within the parameters of the 2020 implementing regulations for Title IX of the Education Amendments of 1972 (see 34 C.F.R. § 106 et seq.) as determined by the Title

IX Coordinator. Sexual Harassment is conduct on the basis of sex, or that is sexual in nature, that satisfies one or more of the following:

- a. Quid Pro Quo: an employee agent, or other person authorized by College, to provide an aid, benefit, or service under College's education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual conduct.
- b. Hostile Environment Harassment: unwelcome conduct directed toward an individual that, based on the totality of the circumstances, a reasonable person would determine to be so severe, and pervasive, and objectively offensive that it limits or denies a person's ability to participate in or benefit from the College's Education Programs or Activities. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of:
  - The degree to which the conduct affected the person's ability to access the College's Education Programs or Activities.
  - The type, frequency, and duration of the conduct.
  - The parties' ages, roles within the College's Education Programs or Activities, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct.
  - The location of the conduct and the context in which the conduct occurred.
  - The existence of other Harassment in the College's Education Programs or Activities.

Conduct that does not meet the definition of Hostile Environment Harassment may still violate other policies or expectations for appropriate/professional conduct set by the College and, accordingly, may result in discipline as determined appropriate by the College

- c. Sexual Assault:
  - i. Rape: Penetration, no matter how slight, of the vagina or anus of the Reporting Party/Complainant, with any body part of the Respondent or by Respondent's use of an object, or oral penetration of the Reporting Party by a sex organ of Respondent, without the consent of the Reporting Party.

- ii. Fondling: The touching of the private body parts of the Reporting Party/Complainant (buttocks, groin, breasts), by the Respondent for the purpose of sexual gratification, without the consent of the Reporting Party/Complainant, including instances where the Reporting Party/Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.
  - iii. Incest: Sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by IL law.
  - iv. Statutory Rape<sup>1</sup>: Sexual intercourse, with a person who is under the statutory age of consent of 17. In Illinois it is illegal for a person 18 or older to commit sexual acts on a person under the age of 18 if they have a position of authority or trust over the victim.
- d. Dating Violence, defined as violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Reporting Party/Complainant.
- The existence of such a relationship shall be determined based on the Reporting Party/Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - For the purposes of this definition—dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- e. Domestic Violence, defined as violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Reporting Party/Complainant; or by a person with whom the Reporting Party/Complainant shares a child in common; or by a person who is cohabitating with, or has cohabitated with, the Reporting Party/Complainant as a spouse or intimate partner; or by a person similarly situated to a spouse of the Reporting Party/Complainant under the domestic or family violence laws of IL; or by any other person against an adult or youth Reporting Party/Complainant who is

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<sup>1</sup> Under Illinois law, a person must be at least 17 years of age in order to give consent;



protected from that person's acts under the domestic or family violence laws of IL.

- f. Stalking, defined as engaging in a course of conduct, on the basis of sex, directed at the Reporting Party/Complainant, that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:
- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
  - Reasonable person means a reasonable person under similar circumstances and with similar identities to the Reporting Party/Complainant.
  - Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

#### **D. Sexual Misconduct**

Sexual Misconduct is sex discrimination, sexual violence, interpersonal violence and/or other behavior on the basis of sex/gender or that is sexual in nature, and does not constitute Title IX Sexual Harassment as defined above and that satisfies one or more of the following:

1. Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, as defined above, that occurs outside of the College's Education Programs or Activities or outside the United States.
2. Inducing Incapacitation for Sexual Purposes means using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as "consent" is defined in this Policy) to sexual contact. This also includes causing or inducing a person, when consent is not present, to touch, fondle, or contact oneself or someone else in a sexual nature.

3. Sexual Exploitation is defined as a person taking non-consensual or abusive sexual advantage of another, that does not constitute Title IX Sexual Harassment as defined above, for their own benefit or for the benefit of anyone other than the person being exploited.

Sexual Exploitation includes technological abuse which is defined as an act or pattern of behavior that is sexual in nature and intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of information technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

Additional examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Prostituting another person
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking

- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

## **E. Other Prohibited Conduct**

1. Retaliation is adverse action, including intimidation, threats, Coercion, or Discrimination against any person by a Student, Employee, person authorized by the College to provide aid, benefit or service under the College's Education Programs or Activities, or the College itself, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in any investigation or proceeding under this Policy, or any other appropriate steps taken by the College in response to conduct prohibited by this Policy. Notwithstanding the foregoing, Retaliation does not include requiring an Employee or person authorized by the College to provide aid, benefit, or service under the College's Education Programs or Activities to participate as a witness in, or otherwise assist with, an investigation or proceeding under this Policy. Retaliation includes initiating disciplinary process against a person for a violation of another College conduct standard that does not involve Discrimination or Harassment but arises out of the same facts and circumstances of a Complaint or information about potential Discrimination or Harassment, if initiating such other disciplinary process is done for the purpose of interfering with the exercise of any right or privilege under applicable federal law. Retaliation can be committed by a peer. Retaliation does not include any conduct that a party has a right to engage in under the U.S. Constitution.
2. Unauthorized Disclosure is distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by College; or publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

3. Failure to Comply/Process Interference including:
- Intentional failure to comply with the reasonable directives of Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order.
  - Intentional failure to comply with emergency removal or interim suspension terms.
  - Intentional failure to comply with sanctions.
  - Intentional failure to adhere to the terms of an Informal Resolution agreement.
  - Intentional failure to comply with mandated reporting duties as defined in this Policy.
  - Intentional interference with the Resolution Process, including but not limited to:
    - Destruction of or concealing of evidence.
    - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence.
    - Intimidating or bribing a witness or party.
4. Bullying, hazing and endangerment may be offenses under this policy when the conduct is on the basis of protected characteristics.
- a. Bullying is any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that reasonably intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression and has or can be reasonably predicted to have the effect of one or more of the following:
- placing the person in reasonable fear of harm to self or property;
  - causing a substantially detrimental effect on the person's or physical or mental health;
  - substantially interfering with a person's academic performance;
  - substantially interfering with the person's ability to participate in or benefit from the services, activities, or privileges provided by the College.
- b. Endangerment is threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, and/or other conduct which threatens or endangers the health or safety of any person or damages

their property

- c. Hazing<sup>2</sup> means any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that—(I) is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and (II) causes or creates a risk, above the reasonable risk encountered in the course of participation in the educational programs and activities of Knox College or the student organization of physical or psychological injury including:
- whipping, beating, striking, electronic shocking, placing of a harmful substance on someone’s body, or similar activity;
  - causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
  - causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
  - causing, coercing, or otherwise inducing another person to perform sexual acts;
  - any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;
  - any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and
  - any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law..

## **VI. REPORTING DISCRIMINATION, HARASSMENT, AND/OR TITLE IX SEXUAL HARASSMENT**

Any person may Report Discrimination, Harassment and/or Title IX Sexual Harassment to the Title IX Coordinator. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s Report. In-person Reports must be made during normal business hours, but Reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours. Reports can be made anonymously via the College’s online system.

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<sup>2</sup> As defined by Public Law 118-173 *Stop Campus Hazing Act*

All College Employees, who are not designated as Confidential Employees or Confidential Advisors, are required to promptly report potential Discrimination, Harassment and/or Title IX Sexual Harassment in the College's Education Programs or Activities to the Title IX Coordinator. An Employee's duty to Report is triggered when: (1) the Employee receives a Report of potential Discrimination, Harassment and/or Title IX Sexual Harassment from another person; (2) the Employee observes potential Discrimination, Harassment and/or Title IX Sexual Harassment; or (3) the Employee learns about potential Discrimination, Harassment and/or Title IX Sexual Harassment through some other means.

## **A. Confidential Reporting**

The College recognizes that individuals who feel they have been victims of Discrimination or Harassment, including Sexual Assault, Dating Violence, Domestic Violence, or Stalking, may require time and support in considering whether or how to participate in any College or law enforcement process. The College also recognizes that individuals who have been accused of Discrimination or Harassment may also require support. There are confidential resources on campus and in the community available to any individual who needs support or assistance.

### **1. On-Campus Confidential Advisors**

Individuals wishing to receive confidential assistance without making a report to the College may speak with the College's Confidential Advisors. This confidential resource is available to assist you and will not report your circumstances to the College without your permission unless otherwise required to do so by law (such as when the victim is a minor). A Confidential Advisor is available to discuss incidents or accusations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking with both Reporting Parties and Responding Parties in confidence, and provide emotional support in a safe and confidential space.

Notwithstanding the foregoing, when necessary, the on-campus Confidential Advisor will make a non-identifying report to the appropriate College personnel so that reported crimes can be included in the College's annual crime statistics disclosure. Disclosures to a Confidential Advisor will not trigger the College's investigation into an incident.

The College's Confidential Advisors receive forty hours (40) of initial training regarding sexual violence and participate in six (6) hours of annual continuing education thereafter. In addition to providing confidential counseling, Confidential Advisors also provide emergency and ongoing support to individuals who have experienced or been accused of Sexual Assault, Dating Violence, Domestic Violence, or Stalking including:

- Providing information regarding the individual's reporting options and possible outcomes, including making a Report or a Complaint under this Policy and notifying local law enforcement;
- Providing information about available resources and services, including but not limited to services available on campus and through community-based resources such as sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services;
- Providing information regarding orders of protection, no contact orders or similar lawful orders issued by the College or a criminal or civil court;
- An explanation of the individual's right to have privileged, confidential communications with the Confidential Advisor consistent with applicable law;
- Upon request and as appropriate, providing assistance in contacting campus officials, community-based sexual assault crisis centers, campus security and/or local law enforcement; and/or
- Upon request, providing assistance with securing Supportive Measures and accommodations.

On-Campus Confidential Advisor:

Jeanine Fox

Assistant Dean of Student Health & Wellness

309-341-7566

[JAFox@knox.edu](mailto:JAFox@knox.edu)

## 2. Confidential Employees

Confidential Employees are not required to report potential Discrimination or Harassment to the Title IX Coordinator. However, if they observe potential Discrimination or Harassment, receive a report about potential Discrimination or Harassment, or learn about potential Discrimination or Harassment through some other means, Confidential Employees must:

- Explain their confidential status to any person who informs the Confidential Employee about potential Discrimination or Harassment, including the circumstances in which the Confidential Employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute Discrimination or Harassment.
- Provide such person with contact information for the Title IX Coordinator.
- Explain how the individual may make a complaint of Discrimination or

Harassment directly to the Title IX Coordinator.

- Explain that the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an alternate resolution process or an investigation under the grievance procedures.

The provisions of this section notwithstanding, a Confidential Employee must comply with any applicable state or local law that requires the Confidential Employee to report certain conduct to a state agency or local law enforcement, such as laws mandating the reporting of sexual abuse of minors, imminent threats of suicide or physical violence, or the abuse of the elderly or persons who are under a conservatorship.

Confidential employees on the Knox campus are Knox Counseling Services, Knox Health Services, and the Director of Spiritual Life

### 3. Research Exemption to Reporting Responsibility of Employees

The College recognizes a narrow exception to the reporting responsibilities described above for specific types of research regarding Title IX Sexual Harassment or Sexual Misconduct as those terms are defined in the Policy. For research regarding Title IX Sexual Harassment, Discrimination or Harassment, the burden of reporting could have a negative impact on the ability for researchers to effectively study these topics. There are some systems in place to protect participants of studies:

- All researchers must conduct their research in accordance with the requirements of the College's Institutional Review Board (IRB), and,
- where applicable, any research sponsor requirements.

College employee and student researchers engaged in IRB-approved research and College employees and students who administer IRB-approved research about campus-based Title IX Sexual Harassment, Discrimination or Harassment will be exempted from their reporting responsibilities, so long as all of the following conditions are satisfied:

- The research must be approved by the College's IRB.
- The exemption applies only when the individual is acting in their role as a researcher and when the information is formally gathered as part of the research project in question.
- The researcher must have IRB-approved, trauma-informed training.
- The consent form must explicitly explain the College's general reporting obligations described above and this research exemption.



- Research participants must be given a copy of the College's Policy and Procedures so that they have information about both confidential and nonconfidential resources available on and off-campus, including contact information for the College's Title IX Coordinator.

This research exemption does not apply to the following:

- Research participants under the age of 18.
- Research participants over 18 who disclose violence involving a minor.
- Instances of suspected or alleged child abuse or neglect that must be reported under the Illinois Abused and Neglected Child Reporting Act (ANCRA).
- Disclosures that reference risk or threat of imminent harm to self or others.

## **B. Reporting to Law Enforcement**

Individuals who feel they have experienced discrimination, harassment, and/or Title IX Sexual Harassment have the option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue a complaint with the College, or to pursue both processes consecutively or concurrently.

For more information regarding the option to pursue a criminal complaint, contact:

- The City of Galesburg Police Department: 911 or 309-343-9151; and/or
- The Knox County State's Attorney Office: 309-345-3880.

The College's Title IX Coordinator and the Knox College Campus Safety Department are available to assist with making contact with appropriate law enforcement authorities. (For more information on the extent of a particular law enforcement agency's reporting obligations to other entities or its ability to protect an individual's privacy or have confidential communications during the criminal complaint process, contact the appropriate law enforcement agency.)

In addition to having the option of pursuing a criminal complaint, individuals also have the right to request that law enforcement issue emergency protective restraining orders or to pursue such orders through the court process. The College can assist parties who wish to do so. Individuals who receive emergency or permanent protective or restraining orders through a criminal or civil process should notify the Title IX Coordinator so that the College can work with the individual and the subject of the restraining order to manage compliance with the order on campus. For more information about such orders see Illinois Attorney General's [website](#).

The Title IX Coordinator and the Knox College Campus Safety Department will assist individuals with transportation to a hospital if they so request, with making contact with appropriate law enforcement authorities upon request, and with accessing all appropriate resources and support, including on- and off-campus confidential victim services and sexual violence crisis support.

Whether or not criminal charges are filed, the College will initiate an investigation as provided in this Policy where appropriate. Any pending criminal investigation or criminal proceeding may have some impact on the timing of the College's investigation, but the College will commence or resume its own investigation as soon as is practicable under the circumstances. The College reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding. The College also may, in some circumstances, be required by law enforcement to defer the fact-finding portion of its investigation for a limited time while law enforcement gathers evidence. In such cases, the Title IX Coordinator shall inform the parties of the need to defer the College's fact-finding, provide regular updates on the status of the investigation and notify the parties when the College's fact-finding resumes. During this time period, the College will take any additional measures necessary to protect and support the parties and the College community. The College's authority to sanction members of the College community applies only to the violation of College rules, policies and procedures.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of discrimination, harassment, and/or Title IX Sexual Harassment under this Policy, criminal investigations or reports are not determinative of whether the prohibited conduct, for purposes of this Policy, has occurred. In other words, conduct may constitute discrimination, harassment, and/or Title IX Sexual Harassment under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute.

## **VII. MANDATORY REPORTING OF CHILD ABUSE, CHILD SEXUAL ABUSE, AND CHILD NEGLECT**

All College employees<sup>3</sup> are mandated reporters under the Illinois Abused and Neglected Children's Reporting Act. Mandated reporters are required to immediately report to the Illinois Department of Children and Family Services (DCFS) suspected child abuse and/or neglect when they have "reasonable cause to believe" that a child known to them in their professional or official capacity may be an abused or neglected child. This is done by

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<sup>3</sup> College volunteers having regular contact with minors are also Mandated Reporters.

calling the DCFS Hotline at 1-800-252-2873 or 1-800-25ABUSE.

- A “child” means any person under the age of 18 years, unless legally emancipated.
- “Abused child” means a child whose parent or immediate family member, any person responsible for the child's welfare, any individual residing in the same home as the child or a paramour of the child's parent:
  - Inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
  - Creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health or loss or impairment of any bodily function;
  - Commits or allows to be committed any sex offense against such child;
  - Commits or allows to be committed an act or acts of torture upon such child;
  - Inflicts excessive corporal punishment;
  - Commits or allows to be committed the offense of female genital mutilation;
  - Causes to be sold, transferred, distributed or given to such child under 18 years of age, a controlled substance, except for controlled substances that are prescribed and dispensed to such child in a manner that substantially complies with the prescription; or
  - Commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor or trafficking in persons.

There is no option for confidentiality in the case of suspected child abuse, child sexual abuse and/or child neglect. In other words, all mandated reporters with reasonable cause to believe that a child known to them in their professional capacities may be abused, sexually abused or neglected are required to contact DCFS. Mandated reporters must also notify the Title IX Coordinator that a DCFS report has been made.

## **VIII. RESOURCES**

Any individual affected by or accused of Discrimination, Harassment, and/or Title IX Sexual Harassment will have equal access to support and counseling services offered through the College. The College encourages any individual who has questions or concerns to seek support of College identified resources.

Campus Safety can be contacted at:

Knox College Department of Campus Safety  
368 South Prairie Street Administrative Services Center 105  
Duty Officer All Hours: 309-341-7979

Email: [campus-safety@knox.edu](mailto:campus-safety@knox.edu)

The City of Galesburg Police Department can be contacted via phone at 309-343-9151 (non-emergency) or 911. The Knox County State's Attorney Office can be contacted at 309-345-3880.

Community Resources include the following organizations:

OSF St. Mary Medical Center, 3333 N. Seminary Street 309-344-3161 (main) or 309-344-9403 (emergency)

WIRC Victims Services  
309-837-5555 CONFIDENTIAL

Safe Harbor Crisis Center  
309-343-SAFE (7233) CONFIDENTIAL

National Sexual Assault Hotline (RAINN) 800-656-HOPE (4673) CONFIDENTIAL

National Domestic Violence Hotline 800-799-SAFE (7233) CONFIDENTIAL

National Suicide Prevention Lifeline 800-273-TALK (8255) CONFIDENTIAL

Medical forensic examinations can be obtained from the following provider: OSF St. Francis Medical Center  
530 NE Glen Oak Avenue Peoria, IL 61637  
309-665-2000

Medical attention can be obtained from the following providers:

Knox Health Services Furrow Hall,  
175 W. Knox Street Galesburg, IL 61401  
309-341-7559

OSF St. Mary Medical Center 3333 N. Seminary Street Galesburg, IL 61401  
309-344-3161 (main switchboard)  
309-344-9403 (emergency)

A list of all College identified resources is located on the Title IX Resource Card, which can be found online at <https://www.knox.edu/title-ix-at-knox/get-help-now>.

## **IX. CONFIDENTIALITY**

The College will keep confidential the identity of any individual who has made a Report or Complaint of Discrimination or Harassment or Retaliation including any Reporting Party/Complainant, the identity of any individual who has been reported to be a perpetrator

of Discrimination or Harassment or Retaliation including any Respondent, and the identity of any witness or other participant in the College's investigation and adjudication processes except:

- When the individual has provided prior written consent to disclose their identity.
- When disclosure is permitted by FERPA or its implementing regulations.
- As otherwise required by applicable federal, state, or local law.
- As required by Federal regulations or the terms and conditions of a Federal award, including a grant award or other funding agreement.
- As necessary to carry out the purposes of federal law and its implementing regulations, including the requirement to take action to address potential Discrimination or Harassment under the College's Education Programs or Activities.

Supportive Measures, notices, investigation materials, adjudication records, and appeal records. Notwithstanding the foregoing, the College may disclose any record if permitted by FERPA or its implementing regulations, as otherwise required by applicable federal, state, or local law, or as necessary to carry out the purposes of Title IX and its implementing regulations, including the requirement to address potential Discrimination or Harassment under the College's Education Programs or Activities.

Further, notwithstanding the College's general obligation to maintain confidentiality as specified herein, the parties to a Complaint will be given access to investigation and resolution materials in the circumstances specified in this Policy and respective Investigation and Resolution Procedures. Investigation and resolution materials, including the investigation report and appended evidence, and the written decision, are for the sole use of the party (and, if the party is entitled to one, an advisor) in the proceedings contemplated by this Policy; such materials may not be disseminated to third parties or otherwise published. If a party violates the confidentiality rules governing investigation and adjudication materials, the party is subject to disciplinary action under the Student Code of Conduct in the case of a student, and other College policies and standards, as applicable, for other persons.

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

Certain types of Discrimination or Harassment are considered crimes for which the College must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including

personally identifying information.

## **X. PRELIMINARY ASSESSMENT**

After receiving a Report of potential Discrimination or Harassment the Title IX Coordinator will conduct a preliminary assessment to determine:

- Whether the conduct, as reported, falls or may fall within the scope of this Policy (see “Scope”); and
- Whether the conduct, as reported, constitutes or may constitute Discrimination or Harassment or Title IX Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported does not and could not fall within the scope of the Policy, and/or does not and could not constitute Discrimination, Harassment, or Title IX Sexual Harassment even if investigated further, the Title IX Coordinator will close the matter and may notify the Reporting Party/Complainant if doing so is consistent with FERPA. The Title IX Coordinator may refer the report to other College offices, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of this Policy, and/or could constitute Discrimination or Harassment or Title IX Sexual Harassment, if investigated further, the Title IX Coordinator will proceed to contact the Reporting Party/Complainant (see “Contacting the Reporting Party/Complainant”).

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Reporting Party/Complainant, if it is not apparent from the Report.

## **XI. CONTACTING THE REPORTING PARTY/COMPLAINANT**

If a Report is not closed as a result of the preliminary assessment (see “Preliminary Assessment”) and the Reporting Party/Complainant’s identity is known, the Title IX Coordinator will promptly contact the Reporting Party/Complainant to discuss the availability of Supportive Measures (see “Supportive Measures”); to discuss and consider the Reporting Party/Complainant’s wishes with respect to Supportive Measures; to inform the Reporting Party/Complainant about the availability of Supportive Measures with or without making a Complaint; to explain the process for making a Complaint/Formal Complaint; and to advise the Reporting Party/Complainant of the investigation and resolution procedures set forth in this Policy. The Reporting Party/Complainant will also be provided options for filing complaints with local law enforcement and information about resources that are available on campus and in the community.

## **XII. SUPPORTIVE MEASURES**

The College will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, retaliation and/or Title IX Sexual Harassment. Supportive measures are non-disciplinary, non-punitive individualized services offered to restore or preserve access to College's education program or activity, including measures designed to protect the safety of all Parties and/or College's educational environment and/or to deter discrimination, harassment, and/or retaliation. The Title IX Coordinator will offer and make available Supportive Measures to the Reporting Party/Complainant regardless of whether the Reporting Party/Complainant elects to make a Complaint/Formal Complaint.

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

For Supportive Measures the College may, as appropriate, modify or terminate such Supportive Measures at the conclusion of the investigation and adjudication process or at the conclusion of any alternate resolution process, or the College may continue them beyond that point.

If a party affected by Supportive Measures qualifies as a person with a disability under applicable law, the Title IX Coordinator may consult, as appropriate, with the individual or office at the College designated to provide support to persons with disabilities to ensure that the College complies with relevant disability law in the implementation of Supportive Measures.

Supportive Measures are confidential and will not be disclosed to persons other than the party to whom the Supportive Measure pertains unless wider disclosure is necessary to provide the Supportive Measure. The College may inform a party of Supportive Measures provided to the other party only if necessary to restore or preserve that party's access to the College's Education Programs or Activities.

## **XIII. INTERIM REMOVAL**

At any time after receiving a report of Discrimination, Harassment, and/or Title IX Sexual Harassment, the Title IX Coordinator may remove a Student Respondent from one or more of the College's Education Programs or Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety

of any Student or other individual arising from the allegations of Discrimination, Harassment, and/or Title IX Sexual Harassment justifies removal. In the case of a Student Respondent, the risk analysis is performed by the College's Behavioral Intervention Team. In the event the Title IX Coordinator imposes an interim removal, the interim removal is subject to appeal pursuant to the appeal procedure described below.

When an interim removal is imposed, wholly or partially, the affected Student Respondent will be notified of the action, which will include a written rationale, and the option to challenge the interim removal within three (3) business days of the notification. Upon receipt of a challenge, an Appeal Officer will meet with the Student Respondent (and their Advisor, as applicable and if desired) as soon as reasonably possible thereafter to allow them to show cause why the interim removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the interim removal is appropriate, should be modified, or lifted. When this meeting is not requested within three (3) business days, objections to the interim removal will be deemed waived. A Student Respondent can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed.

The Student Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Reporting Party/Complainant may provide information to the Title IX Coordinator for review.

An interim removal may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Appeal Officer will communicate the final decision in writing, typically within three (3) business days of the review meeting.

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

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



#### **XIV. CONFLICTS OF INTEREST, BIAS, AND PROCEDURAL COMPLAINTS**

The Title IX Coordinator, investigator, adjudicator, appeals officer, alternate resolution facilitator, and other officials implementing this Policy will be free of any material conflicts of interest or material bias. Any party who believes one or more of these College officials has a material conflict of interest or material bias must raise the concern promptly so that the College may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in "Appeal," or otherwise.

#### **XV. OBJECTIONS GENERALLY**

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

#### **XVI. ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION**

The College values free expression, academic freedom, and the open exchange of ideas; the expression of controversial ideas and differing views is vital to college discourse. The College is equally committed to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community, and firmly believes that these two legitimate interests can coexist. Discrimination, Harassment, and Retaliation against members of the College community are not protected expression or the proper exercise of academic freedom.

This policy is not meant to stifle teaching methods or infringe upon academic freedom or freedom of expression. The protections of academic freedom must be carefully considered in all reports of Discrimination and Harassment involving speech or other expressive conduct. The fact that speech or a particular expression is offensive is not, standing alone, sufficient basis to establish Discrimination or Harassment. When reported speech takes place in the teaching context, it typically also must be persistent, pervasive, and not germane to the subject matter to meet the definition of Harassment under this policy.

The College will construe and apply this Policy consistent with the College's principles of academic freedom and free expression. In no case will a Responding Party be found to have violated this Policy based on conduct that is protected by principles of academic freedom and/or free expression.

#### **XVII. RELATIONSHIP WITH CRIMINAL PROCESS**

This Policy sets forth the College's processes for responding to Reports and Complaints of Discrimination or Harassment. The College's processes are separate, distinct, and

independent of any criminal processes. While the College may temporarily delay its processes under this Policy to avoid interfering with law enforcement efforts if requested by law enforcement, the College will otherwise apply this Policy and its processes without regard to the status or outcome of any criminal process

#### **XVIII. RELATIONSHIP WITH OTHER LEGAL PROCESS**

In some cases, allegations of Discrimination or Harassment under this Policy may be the subject of parallel civil lawsuits, administrative complaints, or regulatory processes under federal, state, or local law. The pendency of such parallel litigation may necessitate a delay or modification of the processes set forth in this Policy, especially where the processes in this Policy might interfere with the authority of a court or regulatory body with jurisdiction over such parallel litigation, violate rules or orders governing such parallel litigation, violate the rights of a party in such parallel litigation, or create a conflict of interest for the College itself. In such instances, the College retains discretion to pause, modify, or terminate proceedings under this Policy.

#### **XIX. RECORDINGS**

Wherever this Policy specifies that an audio or video recording will be made, the recording will be made only by the College and is considered property of the College, subject to any right of access that a party may have under this Policy, FERPA, and other applicable federal, state, or local laws. Only the College is permitted to make audio or video recordings under this Policy. The surreptitious recording of any meeting, interview, or other interaction contemplated under this Policy is strictly prohibited and may result in sanctions.

#### **XX. VOLUNTEERS, VENDORS, CONTRACTORS AND THIRD PARTIES**

The College does business with various volunteers, vendors, contractors, and other third-parties who are not Students or Employees of the College. Notwithstanding any rights that a given volunteer, vendor, contractor, or third-party Responding Party may have under this Policy, the College retains its right to limit any volunteer, vendor, contractor, or third-party's access to campus for any reason. And the College retains all rights it enjoys by contract or law to terminate its relationship with any volunteer, vendor, contractor, or third-party irrespective of any process or outcome under this Policy.

#### **XXI. BAD FAITH COMPLAINTS AND FALSE INFORMATION**

It is a violation of this Policy for any person to submit, or to aid or abet another to submit, a Report or Complaint that the person knows, at the time the Report or Complaint is submitted, to be false or frivolous. It is also a violation of this Policy for any person to knowingly make, or to aid or abet another to make, a materially false statement during an investigation, adjudication, or appeal under this Policy, although a party, witness, or other

person who knowingly makes a materially false statement will not be punished based solely on the College's determination of whether Discrimination or Harassment occurred.

Violations of this section are not subject to the investigation and adjudication processes in this Policy; instead, they will be addressed under the Student Code of Conduct in the case of students and other College policies and standards, as applicable, for other persons.

## **XXII. OTHER VIOLATIONS OF THIS POLICY**

Alleged violations of this Policy, other than violations of the prohibitions on Discrimination or Harassment and Retaliation, will be subject to review and resolution under the Student Code of Conduct for Students, and other College policies and standards, as applicable, for other persons.

## **XXIII. AMNESTY**

The College encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The College recognizes that an individual who has been drinking or using drugs at the time of an incident of Discrimination or Harassment may be hesitant to make a report because of potential disciplinary consequences. To encourage reporting, the College offers amnesty or limited immunity to any student who reports, in good faith, an alleged violation of this Policy to the Title IX Coordinator, an Employee, or to the College's Campus Safety Department. An individual who makes a report of Discrimination or Harassment that was directed at them or another person will not be subject to disciplinary action by the College for violations of the College's Code of Conduct, including but not limited to personal consumption of alcohol or drugs that is related to or revealed in the course of the Discrimination or Harassment report or investigation, unless the College determines that the violation was serious and/or endangered the health or well-being of any other individual. The College may, however, initiate an education discussion or pursue other educational remedies, such as education regarding alcohol or other drugs, for an individual who makes such a good faith report.

## **XXIV. SIGNATURES AND FORM OF CONSENT**

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where this Policy provides that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature will suffice.

## **XXV. DEADLINES, TIME, NOTICES, AND METHOD OF TRANSMITTAL**

Where this Policy specifies a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period.
- Count every business day, excluding intermediate Saturdays, Sundays, and legal holidays recognized by the federal government and/or Knox College.
- Include the last day of the period until 4:30 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government and/or the College, the period continues to run until 4:30 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government and/or the College.

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

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

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

Where this Policy refers to notice being given to parties "simultaneously," notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

Unless otherwise specified in this Policy, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this Policy will be email using College email addresses. If a party does not have a College email address, the party will be required to provide an email address to the Title IX Coordinator at the inception of a matter. A party may not insist or demand that the College communicate only through a party's representative, including an attorney.

A party is deemed to have received notice upon transmittal of an email to their College email address or, if they do not have a College email address, the email address they supply to the Title IX Coordinator at the inception of a matter.

If unforeseen circumstances necessitate notice be provided by U.S. mail, a party will be deemed to have received notice three (3) business days after the notice in question is postmarked.

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

## **XXVI. FACTS AND DETERMINATIONS BINDING**

If a Complaint is dismissed or proceeds to a written decision of adjudication, and after any such dismissal or written decision is final, the facts and determinations made by the College are binding on the parties and may not be relitigated, challenged, or otherwise collaterally attacked by the parties in any other College process or procedure.

Additionally, a Reporting Party may not file successive Complaints under this Policy about the same incident or course of conduct, even if the Reporting Party alleges a new theory of Discrimination or Harassment arising from the same incident or course of conduct that was the subject of a prior written decision. Further, to the extent a complaint of Policy and Practice Discrimination has proceeded to a written decision, such a written decision is binding on different Reporting Parties with respect to the same Policy and Practice Discrimination, unless such different Reporting Party alleges materially different facts that could result in a different outcome.

## **XXVII. OUTSIDE APPOINTMENTS, DUAL APPOINTMENTS, AND DELEGATIONS**

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

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

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

#### **XXVIII. DUAL STATUS PERSONS**

Where an individual is both a Student and an Employee of the College, and to the extent the distinction between Student or Employee status is material for any standard, obligation, right, or process set forth in this Policy, the Title IX Coordinator will determine the individual's status for purposes of this Policy. Such determination shall be made after a fact-specific inquiry that includes consideration of relevant circumstances, including whether the individual's primary relationship to the College is to receive an education or to work, and in what capacity the person was acting (or failing to act) with regard to the events in question.

#### **XXIX. EXERCISE OF RIGHTS**

The rights afforded to Reporting Parties/Complainants and Respondents throughout this Policy are personal to Reporting Parties/Complainants and Respondents and may not be exercised by a third-party unless the third-party has the legal right to act on the party's behalf. As a general rule, parents do not have the right to act on behalf of adult students and are not entitled to participate in the investigation and adjudication processes in this Policy unless they are acting in the role of an advisor as described in "Advisor of Choice and Other Accompanying Persons." If a Complaint alleges Policy and Practice Discrimination against the College itself, such that no individual person is a Respondent, the relevant department or unit whose policy or practice is at issue may appoint an individual to represent the department or unit's interest and to act as a nominal Responding Party in such individual's official capacity on behalf of the department or unit at issue.

#### **XXX. TRAINING**

The College will ensure that all Employees, and College officials acting under this Policy, including but not limited to the Title IX Coordinator, investigators, hearing officers, alternate resolution facilitators, College-provided advisors, and appeals officers receive training in compliance with Title IX and its implementing regulations, the Illinois Preventing Sexual Violence in Higher Education Act, and any other applicable federal, state, or local laws.

#### **XXXI. RECORDKEEPING**

The College will retain those records specified in 34 C.F.R. § 106.8(f) for a period of seven years after which point in time they may be destroyed, or continue to be retained, at the College's sole discretion. Such materials will be made available for inspection and review

only to the extent required by Title IX and its implementing regulations and/or other applicable federal, state, and/or local laws.

### **XXXII. CHANGES IN THE LAW**

In the event a change in controlling law conflicts with some provision of this Policy, necessitates the modification of some provision of this Policy, or mandates the inclusion of new provisions not included, the College may immediately apply the Policy in a manner consistent with such controlling law, after providing written notice to the parties of the change in controlling law, even if the Policy has yet to be formally amended to address the change in controlling law.

### **XXXII. DISCRETION IN APPLICATION**

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

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

The provisions of this Policy are **not contractual in nature** in their own right or as part of any other express or implied contract. Accordingly, the College retains discretion to revise this Policy and Policy revisions to an active case provided that doing so is not clearly unreasonable.

### **POLICY REVIEWED/UPDATED: 1/31/2025**

Some language in this policy and in the Discrimination & Harassment Investigation and Resolution procedures is adapted from the ATIXA One Policy, Two Procedures (1P2P) Model. Version 6.0 ©2024 ATIXA. Used with Permission.

## APPENDIX A: DEFINITIONS

**“Adverse Treatment Discrimination or Harassment”** means material, adverse action taken against a person because of their membership in a Protected Category (or a perception that someone is a member of a Protected Category), except where such action is permitted by law.

**“Business Day”** A business day is when the College is in normal operation. College closure for breaks, holidays, etc. do not constitute a business day. All references to days in the Policy and Investigation and Resolution Procedures refer to business days unless specifically noted.

**“Coercion”** See Appendix 2 for definition and application.

**“College Community”** means all persons who participate in the College’s Education Programs or Activities, including board members, administrators, faculty, staff, other Employees, Students, volunteers, guests, and contractors.

**“Complaint”** means an oral or written request to the College to initiate an investigation and adjudication of alleged Discrimination or Harassment pursuant to the procedures in this Policy.

**“Confidential Advisor”** means a person who is employed or contracted by the College to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in the Illinois Preventing Sexual Violence in Higher Education Act.

**“Confidential Employee”** means an Employee of the College who is not required to report potential Discrimination or Harassment to the Title IX Coordinator because:

- The Employee’s communications are privileged or confidential under federal or state law (e.g., attorneys, doctors and certain other medical providers, psychologists, and counselors). The Employee’s status as confidential is limited to information received about Discrimination or Harassment while the Employee is functioning within the scope of their duties to which the privilege or confidentiality applies.
- The College has designated the Employee as a confidential resource for the purpose of providing services to persons in connection with Discrimination or Harassment—but if the Employee also has a role or duty not associated with providing these services, the Employee’s status as confidential is limited to information received about Discrimination or Harassment in connection with providing these services.
- The Employee is conducting a College approved human subjects research study designed to gather information about Discrimination or Harassment—but the Employee’s confidential status is limited to information received while conducting the study.

**“Consent”** See Appendix B for definition and application.



“**Employee**” means a person who is paid wages to perform services for the College. Volunteers and independent contractors are not Employees.

“**Education Programs or Activities**” refers to:

- Activity occurring under any of the operations of the College in the United States including, but not limited to, in-person and online educational instruction, admissions, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs.
- Activity that occurs on campus or on other property owned or occupied by the College.
- Activity that occurs in a building owned or controlled by a student organization that is officially recognized by the College.
- Activity that is subject to the College’s disciplinary authority.

“**FERPA**” refers to the Family Educational Rights and Privacy Act, which is a federal law governing the confidentiality of a Student’s education records and a Student’s right to access, review, and seek amendment of education records.

“**Family responsibilities**” means an employee’s actual or perceived provision of personal care to a family member.

“**Harassment**” per Illinois law means any unwelcome conduct on the basis of an individual’s actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, citizenship status, or work authorization status, or family responsibilities that has the purpose or effect of substantially interfering with the individual’s work performance or creating an intimidating, hostile, or offensive working environment. For purposes of this definition, the phrase “working environment” is not limited to a physical location an employee is assigned to perform their duties.

“**Incapacitated**” or “**Incapacity**” See Appendix 2 for definition and application

“**Policy**” refers to this Policy against Discrimination and Harassment.

“**Policy or Practice Discrimination**” means a College policy, practice, or condition that has the effect of excluding or limiting a person from participating in the College’s Education Programs or Activities, or that results in inequitable access to the College’s Education Programs or Activities, because of the individual’s membership in a Protected Category (or a perception that someone is a member of a Protected Category), except where such action is permitted by law.

“**Pregnancy or Related Conditions**” means:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy or

lactation;

- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or their related medical conditions.

**“Protected Category”** means actual or perceived sex, pregnancy, gender identity or expression, race, color, creed, national or ethnic origin, religion or religious affiliation, sexual orientation or preference, age, marital or family status, disability, veteran status, or any other characteristic protected by applicable federal, state, or local laws and ordinances

**“Relevant”** means related to the allegations of Discrimination or Harassment that are subject to investigation and adjudication as set forth in this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged Discrimination or Harassment occurred, and evidence is Relevant when it may aid an adjudicator in determining whether the alleged Discrimination or Harassment occurred.

**“Report”** means an oral or written notification of alleged Discrimination or Harassment.

**“Reporting Party/Complainant”** means:

- A Student or Employee who is alleged to have been subjected to conduct that could be prohibited by this Policy; or
- A person other than a Student or Employee who is alleged to have been subjected to conduct that could be prohibited by this Policy and who was participating or attempting to participate in the College’s Education Programs or Activities when the alleged conduct occurred.

**“Respondent”** means a person who is alleged, via this Policy, to have engaged in conduct that could be prohibited by this Policy.

**“Student”** means a person who has gained admission to the College, whether or not they have matriculated.

**“Supportive Measures”** are non-disciplinary, non-punitive individualized measures offered, as appropriate, as reasonably available, without unreasonably burdening a party, and without fee or charge to the Reporting Party or Responding Party to (i) restore or preserve that party’s access to the College’s Education Programs or Activities, including measures that are designed to protect the safety of the parties or the College’s educational environment, or (ii) provide support during the College’s investigation and adjudication process under this Policy, including any alternate resolution process. Examples of Supportive Measures that may be available depending on the facts of a particular matter include: counseling; extensions of deadlines and other academic adjustments; campus escort services; increased security and monitoring for certain areas of campus; restrictions on contact between parties; honoring an order of protection or no contact order entered by a State civil or criminal court; leaves of absence; voluntary and involuntary changes to class, work, housing, dining, or extracurricular or any other activity; and training and education.

## **APPENDIX B: CONSENT, FORCE, AND INCAPACITATION**

As used in this Policy, the following definitions and understandings apply:

### **Consent**

Agreement to engage in sexual activity that is freely given, clear permission by word or action. A person may withdraw consent at any time. A person cannot consent if they are unable to understand the nature of the activity; if they are incapacitated due to alcohol, drugs or cognitive disability; asleep or unconscious; or underage.

- A person's lack of verbal or physical resistance or submission from threat/force does not constitute consent.
- A person's manner of dress does not constitute consent.
- A person's consent to past sexual activity does not constitute consent to future activity.
- A person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Consent is not implied by a current dating relationship or past sexual relations.
- Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions.

Going beyond the boundaries of consent is prohibited, as the behavior then becomes non-consensual. For example, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault

The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

### **Force**

The use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me. I'll do what you want.>").

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want

Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

### **Incapacitation**

A state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

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

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

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

## **APPENDIX C: SPECIAL ADVICE FOR INDIVIDUALS REPORTING TITLE IX SEXUAL HARASSMENT and/or SEXUAL MISCONDUCT**

If you believe you are the victim of Sexual Assault, Domestic Violence, or Dating Violence, the College recommends the following:

- If the incident has just occurred, get to a safe place as soon as possible.
- Contact law enforcement by calling 911.
- Try to preserve all physical evidence related to the incident—avoid bathing, using the toilet, rinsing one’s mouth, or changing clothes to facilitate the efficacy of a forensic examination. If it is necessary, put all clothing that was worn at the time of the incident in a paper bag, not a plastic one.
- Do not launder or discard bedding or otherwise clean the area where the assault occurred – preserve for law enforcement.
- Get medical attention and consider consenting to a forensic examination. Medical forensic examinations are available at no charge. A forensic examination may result in the collection of evidence that will be needed if you decide to make a report to police. Most local hospitals have forensic examination protocols and those that do not can refer you elsewhere. Take a full change of clothing, including shoes, for use after a medical examination.
- Preserve all forms of electronic communication that occurred before, during, or after the assault. Contact a trusted person, such as a friend or family member for support.
- Talk with a professional licensed counselor, chaplain, or health care provider who can help explain options, give information, and provide emotional support.
- Make a report to the Title IX Coordinator.
- Explore potential avenues for investigation and determination under this Policy.

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

Once a report of Sexual Assault, Domestic Violence, Dating Violence, or Stalking is made, the victim has several options such as, but not limited to:

- Obtaining Supportive Measures.
- Contacting parents or a relative.
- Seeking legal advice.
- Seeking personal counseling.
- Pursuing criminal or civil legal action against the perpetrator.

- Submitting a Complaint to the Title IX Coordinator.
- Requesting that no further action be taken.