F. Sexual Misconduct Policy

Randolph College is committed to maintaining a community in which learning and working can be carried out in an environment of human dignity and respect. The College stands opposed to all forms of sexual misconduct and will work to prevent such behavior within the College community. Sexual misconduct is antithetical to the values and standards of the Randolph community, is incompatible with the safe, healthy environment that the community expects and deserves, and will not be tolerated.

Title IX of the Higher Education Amendments of 1972 states that:

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

20 U.S.C. § 1681

As a recipient of federal funds, Randolph College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. (“Title IX”), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, sexual misconduct (as defined below) constitutes sexual discrimination prohibited by Title IX.

Any act of sexual misconduct constitutes a violation of College policy. The College is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct and timely and fair resolution of sexual misconduct cases. Creating a safe environment is the responsibility of all members of the College community. This policy is designed to protect the rights and needs of Complainants and Respondents.

1. Definitions

   a. Sexual misconduct refers to any conduct or act of a sexual nature perpetrated against an individual without consent. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by men or by women, and it can occur between people of the same or different sex. The College encourages reporting of all sexual misconduct.

   Sexual misconduct offenses include, but are not limited to: sexual harassment; non-consensual sexual contact (or attempts to commit same); non-consensual sexual intercourse (or attempts to commit same); sexual exploitation; stalking; intimate partner violence; and retaliation.

   (i) Sexual harassment is unwelcome, gender-based verbal, nonverbal, written, electronic or physical conduct that is sufficiently severe, persistent or pervasive that it substantially and unreasonably interferes with, denies, or limits someone’s ability to participate in or benefit from education or employment at the College and is based on power differentials (quid pro quo), intimidation, the creation of a hostile environment, or retaliation.

   (ii) A hostile environment caused by sexual harassment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive, or objectively offensive that it alters the conditions of employment or limits, interferes with, or denies educational benefits or opportunities.
(iii) Non-Consensual sexual contact is any intentional sexual touching, however slight, with any object, by a man or woman upon a man or woman that is without consent and/or by force.

(iv) Non-Consensual sexual intercourse is any sexual intercourse, however slight, with any object, by a man or woman upon a man or woman that is without consent and/or by force.

(v) Sexual exploitation occurs when an employee takes non-consensual or abusive sexual advantage of another person for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

(vi) Stalking refers to a course of physical or verbal conduct directed at another individual that could be reasonably regarded as likely to alarm, harass, or cause fear of harm or injury to that person or to a third party. A course of conduct consists of at least two acts. The feared harm or injury may be physical, emotional, or psychological. Stalking includes cyber-stalking, in which electronic media are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

(vii) Intimate partner violence is often referred to as dating violence, domestic violence or relationship violence. Intimate partner violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic or other intimate relationship with the Respondent.

(viii) Retaliation refers to acts or attempts to retaliate or seek retribution against the Complainant, Respondent, or any individual or group of individuals involved in the complaint, investigation and/or resolution of an allegation of sexual misconduct. Retaliation can be committed by any individual or group of individuals, not just a Respondent or Complainant. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others.

b. Consent is clear, knowing, and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity and can be withdrawn at any time. Previous relationships or prior consent cannot imply consent to future sexual acts. Coercion, force, or threat of either invalidates consent.

Consent may never be given by:

(i) Minors, even if the other participant did not know the minor’s age.

(ii) Mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled.

(iii) Persons who are incapacitated (whether as a result of drugs, alcohol or otherwise), unconscious, asleep, or otherwise physically helpless or mentally or physically unable to make informed, rational judgments. The use of alcohol or other drugs does not diminish one’s responsibility to obtain consent and does not excuse conduct that constitutes sexual misconduct under this policy. If at any time during a sexual act any confusion or
ambiguity is or should reasonably be apparent on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other’s willingness to continue and capacity to consent. Neither party should make assumptions about the other’s willingness to continue.

c. The Title IX Coordinator has ultimate oversight responsibility for handling Title IX-related complaints and for identifying and addressing any patterns or systemic problems involving sexual misconduct. The Title IX Coordinator will also appoint one Deputy Title IX Coordinator for faculty, one for staff and one for students. They will assist with the handling of Title IX-related complaints with oversight of the Title IX Coordinator. All allegations involving sexual misconduct should be directed to the Title IX Coordinator or Deputy Title IX Coordinators. In this role, they are responsible for monitoring and overseeing the College’s investigation of any complaints of sexual misconduct or related retaliation.

The Title IX Coordinator and Deputy Title IX Coordinators can answer questions regarding the process for reporting, investigating, and adjudicating complaints of gender discrimination, sexual harassment, sexual assault, or other potential Title IX violations. They are available to meet with individuals who are involved with or concerned about issues or College processes, incidents, patterns, or problems related to sexual misconduct on campus or in College programs.

2. Policy

a. Application of Policy. This policy applies to any allegation of sexual misconduct made by or against a student or an employee of the College or a third party, regardless of where the alleged sexual misconduct occurred, if the conduct giving rise to the complaint is related to the College’s academic, educational, athletic, or extracurricular programs or activities. The grievance process will be determined by the constituency of the Respondent. There is no geographical limitation to invoking this policy; however sexual misconduct that is alleged to have occurred at a significant distance from the College and/or outside of College property may be more difficult for the College to investigate. The College’s disciplinary authority may not extend to third parties, but the College will provide a student or employee with support services and, if appropriate, conduct an investigation of the incident.

In the case of allegations of sexual misconduct, this policy supersedes all other procedures and polices set forth in other College documents.

b. Academic Freedom. This policy recognizes the tension that may exist between academic freedom and legal limits of expression. However, no part of this policy is intended to limit free discussion of the merits of any issue relating to gender difference or open inquiry into any material or issue relevant to the academic content of a course.

c. Retaliation against an individual for reporting in good faith a claim of harassment, or cooperating in the investigation of same, will not be tolerated and possible violations will be addressed under this policy. Any person who feels that he or she has been subjected to retaliation should make a report to the Title IX Coordinator or designees. The Title IX Coordinator or designee will consult with the Complainant regarding measures to protect the Complainant’s safety, such as changes to academic or athletic schedules, removing the Complainant’s information from the College directory, or requesting an internal No Contact Order. Randolph College will not retaliate against a current, potential, or former employee, or other community member who, in good faith, makes a complaint or report of sexual misconduct, or participates in the investigation of such.
d. Confidentiality. The College will make every feasible effort to preserve the confidentiality of and prevent the disclosure of the identities of the parties involved in a sexual misconduct matter. However, information regarding alleged sexual misconduct must be handled in accordance with applicable state and federal laws. Individuals should understand, for example, that under conditions of imminent harm to the community, the College may be required by federal law to inform the community of the occurrence of the incident(s) of sexual misconduct. In addition, information regarding alleged sexual misconduct will be shared among College administrators as appropriate and necessary. It is important to note that all College employees (except for Health and Counseling Center staff and the Campus Chaplain) are mandated reporters and are required by Federal regulations to report incidents of sexual misconduct to the College’s Title IX Coordinator, whereupon such information will be used in compliance with this policy, including notification of local police as required by law. Complainants and Respondents may request that the College treat information regarding alleged sexual misconduct as confidential. The College takes such requests seriously. However, the College cannot always control confidentiality violations by students or third parties.

Requests for confidentiality may limit the College’s ability to investigate and take reasonable action in response to a complaint. In such cases, the College will evaluate the request(s) that a complaint remain confidential in the context of the College’s commitment to provide a reasonably safe and non-discriminatory environment.

In order to make such an evaluation, the Title IX Coordinator or designated administrators may conduct a preliminary investigation into the alleged sexual misconduct and may weigh the request(s) against the following factors:

(i) the seriousness of the alleged sexual misconduct;

(ii) the Complainant’s age;

(iii) whether there have been other complaints of sexual misconduct against the Respondent;

(iv) the Respondent’s right to receive information about the allegations if the information is maintained by the College as an "education record" under FERPA; and

(v) the applicability of any laws mandating disclosure.

The Title IX Coordinator will inform the person requesting confidentiality if the College cannot ensure confidentiality.

e. Consensual Relations. As a matter of sound judgment and professional ethics, faculty and staff members are strongly cautioned against entering a romantic or sexual relationship with any student. Not only is such a relationship unethical, but it also places the faculty or staff member as well as the College in a vulnerable position with respect to a potential harassment claim. The potential for a claim of harassment is greater in a relationship between persons of unequal status and power, such as in a relationship between a faculty or staff member and a student with whom she or he has a supervisory relationship. Voluntary consent by a student in such a relationship, even if present, is always suspect given the fundamentally unequal nature of status and power in the relationship. Supervisory relations include grading, advising, coaching, disciplining, or supervising the employment of a student; approving or recommending a petition or application made by a student; or making or enforcing a policy that directly affects a student.
The fact that a student has consented to a romantic or sexual relationship with a faculty or staff member does not protect that faculty or staff member, or the College, from the filing of a harassment complaint by the student. Faculty and staff should note that the College may act as a Complainant for the purpose of fulfilling its duty to maintain appropriate vigilance against sexual misconduct.

Faculty and staff of the College are advised that a romantic or sexual relationship with an employee whom they supervise may be found to present a conflict of interest. The fact that an employee has consented to a romantic or sexual relationship with her or his supervisor does not protect that supervisor, or the College, from the filing of a sexual misconduct complaint by the employee. Faculty and staff are also advised that the College may act as a Complainant for the purpose of fulfilling its duty to maintain appropriate vigilance against sexual misconduct.

Faculty and staff in a romantic or sexual relationship with a student or employee with whom they have a supervisory relationship face the risk under federal law of personal responsibility in terms of both litigation defense and liability exposure.

f. Educational Program. The Title IX Coordinator, the Dean of the College, the Director of Human Resources and the Title IX Deputy Coordinators shall be responsible for developing and implementing an annual plan for educating the College community with regard to sexual misconduct and for completing an evaluation of the education program at the end of each academic year. This plan and the evaluation shall be submitted to the President for approval and review.

g. Policy Review and Updating. As a college-wide committee, the Harassment Policy Advisory Committee will be responsible for reviewing the College’s sexual misconduct policies. The Committee will be chaired by the Title IX Coordinator and will consist of two faculty members (one of whom is the Deputy Title IX Coordinator for faculty), two staff members (the Deputy Title IX Coordinators for staff and for students), and two students. Faculty and staff members shall be appointed for three-year terms, with new members joining the committee as needed. The Harassment Policy Advisory Committee shall conduct a periodic review of this policy and procedures and the College’s educational efforts in conjunction with the Dean of the College, the Dean of Students, the Director of Human Resources, and the Title IX Coordinator. The Committee shall submit an annual report to the President.

3. Procedures

a. Grievance Procedure. Because sexual misconduct may constitute both a violation of College policy and criminal activity, and because the College grievance process is not a substitute for instituting legal action, the College encourages individuals to report alleged sexual misconduct promptly to campus officials and to law enforcement authorities. Individuals may file a complaint at any time, but the College strongly encourages individuals to file complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. The College’s investigation and resolution of a complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the complaint, absent extenuating circumstances. Any party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension. The Title IX Coordinator may modify any deadlines contained in this policy as necessary and for good cause.

Any student may file a complaint against other students or employees of the College. In addition, a College employee may file a complaint against other employees or students of the
Students and employees of the College may also file complaints regarding third parties who are not enrolled at or employed by the College if the conduct giving rise to the complaint is related to the College’s academic, educational, or extracurricular programs or activities. The College may not have jurisdiction to discipline third parties, but it can provide a student or employee with support services and, if appropriate, it will conduct an investigation of the incident to ensure that it does not represent a pattern of sexual misconduct occurring at the College or involving its students or employees. Finally, third parties may file a complaint against students or employees of the College under this policy if the conduct giving rise to the complaint is related to the College’s academic, educational, or extracurricular programs or activities.

Anyone wishing to make a complaint under this policy should contact one of the following individuals or offices:

(i) Title IX Coordinator. Randolph College’s Title IX Coordinator is Matha Thornton, Vice President for Student Affairs and Dean of Students, whose office is located in Main Hall in the Dean of Students Suite. Dean Thornton may be contacted during business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) by phone at 434.947.8119 or by email at mthornton@randolphcollege.edu.

(ii) Randolph College Safety and Security. The Department of Safety and Security is located in Main Hall at the Reception and Information Desk. The Department of Safety and Security is also available by phone at 434.947.8000. Campus Security Officers are available 24 hours a day, seven days a week.

(iii) Dean of Students. The Dean of Students Office is located in Main Hall. The Dean of Students is available during business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) by phone at 434.947.8119.

(iv) Human Resources Office. The Human Resources Office is located in Smith Hall, Room 103. The Human Resources Office is available during business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) by phone at 434.947.8114.

If an employee of the Randolph College Department of Safety and Security, the Dean of Students Office, or the Human Resources Office receives a report of alleged sexual misconduct, that employee must notify the College’s Title IX Coordinator.

Individuals may also file anonymous reports by completing a form online at [http://web.randolphcollege.edu/security/silent_witness.asp](http://web.randolphcollege.edu/security/silent_witness.asp) or by calling Campus Safety and Security. Individuals who choose to file anonymous reports are advised that it may be very difficult for the College to follow up or take action on anonymous reports, where corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes. The Clery Act requires all colleges that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

An individual may report alleged sexual misconduct to a faculty or staff member other than those referenced above. It is important to note that all College employees (except for Health and Counseling Center staff and the College Chaplain) are mandated reporters and are required by Federal regulations to report known or suspected incidents of sexual misconduct to the College’s Title IX Coordinator, whereupon such information will be used in compliance with this policy, including notification of local police as required by law. No employee is authorized to
investigate or resolve complaints without the involvement of the College’s Title IX Coordinator or designee.

Complaints of sexual misconduct may be resolved through the informal process or through a formal hearing procedure, described below. Having attempted resolution through the informal process does not preclude the Complainant’s use of the formal hearing procedure if he or she is not satisfied with the efforts to resolve the complaint through the informal process. In addition, a Complainant may choose to utilize the formal procedure without having attempted resolution through the informal process.

Complaints may be made against an individual by the Complainant, by another College community member, or by the College for the purpose of fulfilling its duty to maintain appropriate vigilance against conduct that constitutes sexual misconduct.

This grievance procedure must not be used to bring malicious or knowingly false complaints. Disciplinary action will be taken against any person who is found to have filed a knowingly false complaint or who knowingly provides false information to College officials. If a claim is not substantiated, the College may, with the agreement of the Respondent, take steps to restore the reputation of the accused individual, including expunging records or notification to persons who participated in the grievance proceeding(s).

The Title IX Coordinator is responsible for determining and documenting whether reasonable grounds exist to believe that the conduct at issue constitutes sexual misconduct under this policy. The Title IX Coordinator will direct that the case will proceed unless it is clear from the complaint and/or the initial meetings with the parties and/or the investigation that no reasonable grounds exist for believing that the conduct at issue constitutes sexual misconduct under this policy.

b. Informal Process. Any member of the College community who believes she or he has been the victim of sexual misconduct and chooses to seek more information about sexual misconduct or an informal remedy to the situation may contact the Title IX Coordinator.

The objective of the informal process is to respond immediately to a complaint with actions designed to eliminate misconduct. The goals of the informal process are to gather information, identify sources of conflict, analyze problems, and offer ways for resolving the complaint. The Title IX Coordinator or designee will discuss with the Complainant the individual’s concerns, clarify the College’s policy and grievance procedure, and when appropriate remind her or him of the availability of counseling services through the Employment Assistance Program. The resolution process shall vary depending on the Complainant’s willingness to have her or his identity disclosed.

(i) If the Complainant is willing to have her or his identity disclosed to the Respondent:

The Title IX Coordinator or designee will attempt to work with the parties involved to resolve the matter informally. The resolution process might involve any number of strategies, including (1) individual meeting(s) between Title IX Coordinator and the Respondent; (2) written communication between the Complainant and the Respondent; and/or (3) mediated meeting(s) between the Complainant and the Respondent, facilitated by the Title IX Coordinator. Mediated meetings are not available in cases of sexual assault.
Based on information gathered from the Complainant and the Respondent, the Title IX Coordinator or designee shall prepare a written resolution agreement she or he believes will fulfill the goals of the informal process and is acceptable to all parties.

If the parties agree to an informal resolution of the complaint, the Title IX Coordinator shall complete the following actions:

- have the resolution agreement signed by both parties, provide each party with a copy of the signed agreement, and maintain the original of the signed agreement in the Title IX Coordinator’s confidential file; and
- file a copy of the resolution agreement and all other correspondence, notes, and documentation related to the informal process with Human Resources, who shall maintain the materials while the Respondent is employed by the College. When the Respondent leaves the employ of the College, the College shall retain the records for seven years.

If a mutually agreeable resolution cannot be reached, the Title IX Coordinator or designee shall:

- send each party written notification of that fact and of the formal procedure for pursuing a sexual misconduct complaint and shall maintain a copy of the written notification in the Title IX Coordinator’s confidential file; and
- file a copy of the written notification and all other correspondence, notes, and documentation related to the informal process with Human Resources, who shall maintain the materials while the Respondent is employed by the College. When the Respondent leaves the employ of the College, the College shall retain the records for seven years.

(ii) If the Complainant is not willing to have her or his identity disclosed to the Respondent:

The Title IX Coordinator can determine that it is in the best interest of the College to pursue the issue. The College may start an investigation even in the absence of a filed complaint if information about sexual misconduct comes to the attention of the College. The Title IX Coordinator shall notify the Complainant that the College will be pursuing the issue. The Title IX Coordinator will notify the Respondent that a confidential complaint has been reported. The Title IX Coordinator will advise the Complainant that she or he may still elect to seek resolution of the complaint in the future.

c. At any time prior to the date of his or her designated hearing, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged sexual misconduct. In such a situation, the Title IX Coordinator or designee will propose sanction(s). If the Complainant and the Respondent agree to such proposed sanction(s), then the complaint will be resolved without a hearing and without any further rights of appeal by any party. If either the Complainant or Respondent objects to such proposed sanction(s), then the Hearing Panel will convene for the exclusive purpose of determining a sanction. The decision of the Hearing Panel regarding sanctions may be subject to appeal pursuant to Section 3.d.(iv)(b) of this policy.

d. The Formal Resolution Process. In the case of formal resolution, a Hearing Panel will conduct a series of hearings in which it will interview and question the Complainant and the Respondent, and any witnesses or other third parties whose testimony the Hearing Panel deems relevant.
(i) The Hearing Panel. The Title IX Coordinator or designee will appoint the members of the Hearing Panel, to include three faculty, with one member serving as the Chair of the Hearing Panel. Members of the Hearing Panel must be trained to hear cases of sexual misconduct. The Title IX Coordinator or designee will share the complaint and the investigative report with the Hearing Panel and, if only a portion of the misconduct alleged in the complaint justifies continuing to the hearing process, the Title IX Coordinator or designee will specify which part(s) of the alleged misconduct will be the subject of the hearings.

(ii) Notice of the Composition of the Hearing Panel. Promptly after appointing the members of the Hearing Panel, the Title IX Coordinator or designee will provide concurrent written notice to the Complainant and the Respondent, setting forth the names of the individuals selected to serve on and chair the Hearing Panel. If only a portion of the alleged misconduct justifies continuing to the hearing process, the Title IX Coordinator or designee will also specify in the notice which part(s) of the alleged misconduct will be the subject of the hearings.

The parties may challenge the participation of any member of the Hearing Panel by submitting a written objection to the Title IX Coordinator or designee within three days of delivery of the notice of the composition of the Hearing Panel. Such objection must state the specific reason(s) for the objection. The Title IX Coordinator or designee will evaluate the objection and determine whether to alter the composition of the Hearing Panel. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Hearing Panel. Any changes in the composition of the Hearing Panel will be provided in writing to both parties prior to the date of the first hearing.

(iii) Hearing Policies and Procedures.

(a) Submission of Written Materials by the Parties. Within five days of delivery of the notice of composition of the Hearing Panel, the Complainant and the Respondent may provide the Title IX Coordinator or designee with (1) a list of witnesses, if any, that they propose that the Hearing Panel call and a brief description of each proposed witness’s connection to and/or knowledge of the issues in dispute, and (2) a written statement of position.

(b) Notice of the Hearings. Not less than five days but not more than ten days after delivery of notice of the composition of the Hearing Panel to the parties, the Title IX Coordinator or designee will provide a separate notice to the Complainant, the Respondent, and any witnesses or other third parties whose testimony the Hearing Panel deems relevant, requesting such individuals to appear before the Hearing Panel. The notice should set forth, as applicable, the date, time, and location of the relevant individual’s hearing. In its notices to the Complainant and the Respondent, the names of the witnesses or other third parties that the Hearing Panel plans to call will be provided.

(c) Failure to Appear. If the Complainant or the Respondent fails to appear before the Hearing Panel if requested to do so, and such party was provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Panel will proceed to determine the resolution of the complaint.
(d) Counsel and Support Persons. Both the Complainant and the Respondent may have a member of the College community present to support and assist them during their respective hearings. The Title IX Coordinator, designee, or Chair of the Hearing Panel may disallow the attendance of such support person if such support person is also a witness or if, in the discretion of the Chair of the Hearing Panel, such support person’s presence would be obstructive to the hearing or otherwise warrant his or her removal from the hearing. A support person may communicate with a party privately, but he or she may not address the Hearing Panel, cross-examine witnesses, or have any other speaking role. A support person may not be an attorney. A support person must maintain confidentiality regarding any and all communications exchanged pursuant to this policy.

Absent accommodation for disability and except as set forth in this Section 3.d.(iii)(d), the parties may not be accompanied by any other individual during the hearing process.

(e) Evidentiary Matters. The Complainant and the Respondent will have an equal opportunity to present evidence during their respective hearings. Formal rules of evidence will not be observed during the hearings.

Evidence of the past sexual histories of the Complainant and the Respondent will not be permitted at the hearings, unless the Complainant has been in the past formally disciplined by the College for falsely filing complaints alleging sexual misconduct; the Respondent has been in the past either convicted in a criminal proceeding or formally disciplined by the College for sexual misconduct; or the past sexual activity of the Respondent may be permitted to show that they have engaged in a pattern of behavior similar to the alleged sexual misconduct at issue before the Hearing Panel, provided the Chair of the Hearing Panel determines in writing that the evidence is reliable and trustworthy and the conduct is sufficiently and substantially similar to the conduct at issue before the Hearing Panel to suggest a pattern of behavior.

(f) Conduct of the Hearings. The hearings will be conducted in an inquisitorial manner, which means that the Hearing Panel will be responsible for asking questions of the parties and the witnesses and developing evidence through testimony. The Chair of the Hearing Panel will resolve any questions concerning procedure or the admission of evidence or testimony (including the relevancy and reliability of the evidence and testimony).

The Respondent may choose not to testify or appear before the Hearing Panel; however, his or her exercise of that option will not preclude the Hearing Panel from making a determination regarding the complaint filed against the Respondent.

In the interests of a fair and equitable hearing, the parties involved in sexual misconduct proceedings may not be required, or allowed, to confront one another directly if it is determined that such direct contact will impair the fairness of the hearing process or the emotional well-being of the Complainant or Respondent. If the parties are separated for any part of the hearing process,
any testimony or evidence will be made available to ensure fairness and support a rebuttal.

(g) The Decision of the Hearing Panel. Following the conclusion of the hearings, the Hearing Panel will confer and by majority vote determine whether the evidence establishes that it is more likely than not that the Respondent is responsible for violating the sexual misconduct policy. In other words, the standard of proof will be the preponderance of the evidence standard.

(1) Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for sexual misconduct, or both. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, or compensation adjustments, deemed appropriate by the Hearing Panel.

The Hearing Panel will determine sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The Hearing Panel will forward its determinations regarding sanctions to the Title IX Coordinator or designee.

(2) Implementation of Sanctions. Sanctions imposed are not effective until the resolution of any timely appeal pursuant to Section 3.d.(iv) below. However, if it is advisable in order to protect the welfare of the victim, Complainant (if not the victim) or the College community, the Hearing Panel (or other decision-making body, if applicable) may recommend and the Title IX Coordinator may determine that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted.

(3) Final Accommodations and Corrective Action. In addition to any sanctions imposed on the Respondent, promptly following the conclusion of the hearings and the Hearing Panel's issuance of a determination of responsibility, the Title IX Coordinator or designee will determine the final accommodations to be provided to the Complainant, if any, and the Title IX Coordinator or designee will communicate such decision to the Complainant and, to the extent that it affects him or her, to the Respondent.

(h) Final Outcome Letter. Within 20 calendar days following the conclusion of the hearings, the Hearing Panel will issue a written decision letter concurrently to the Respondent and the Complainant. The Final Outcome Letter will set forth the name of the Respondent, the violation(s) of this policy for which the Respondent was found responsible, if any, sanctions imposed on the Respondent, if any, and it may set forth names of other individuals, such as a victim or witness, provided that such other individuals provide their written consent to such inclusion. The decision letter will also be shared with Human Resources and/or the Dean of the College.
(i) Confidentiality and Disclosure. In order to comply with FERPA and Title IX, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearings and documents, testimony, or other information introduced at the hearings may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law.

If it is determined, however, that the Respondent is found responsible for violating the sexual misconduct policy, College policy does not prohibit the further disclosure of the final outcome letter by either the Complainant or the Respondent.

(iv) Appeals. The Complainant or the Respondent may appeal the decision of the Hearing Panel and/or the sanction imposed on the Respondent within 14 calendar days from the date of the Final Outcome Letter. The decision of the Hearing Panel and the sanction imposed on the Respondent may, if desired, be appealed simultaneously.

(a) Appeals of the Decision of the Hearing Panel Regarding Responsibility for Sexual Misconduct. The only permissible grounds for an appeal are (a) availability of germane new evidence not available at the time of the hearings that could significantly impact the outcome of the hearings and/or (b) procedural errors during the hearings that significantly impacted the outcome of the hearings.

Appeals of the decision of the Hearing Panel must be made in writing to the Title IX Coordinator if the Respondent is a student, staff member or a non-tenured faculty member and to the President if the Respondent is a tenured faculty member.

Appellants must provide a copy of their written appeal to the Title IX Coordinator who will promptly inform the other party (i.e., the Complainant or the Respondent) of the filing of the appeal.

The Title IX Coordinator or the President, as applicable, will make a determination (i) that the decision of the Hearing Panel should stand; (ii) that the decision of the Hearing Panel should be overturned; or (iii) that additional hearings should occur or evidence should be obtained before making an appellate determination.

In the event that he or she determines that the decision of the Hearing Panel should be overturned or that additional hearings should occur or additional evidence should be obtained, he or she will specify, after consultation with other College administrators, as necessary, the appropriate steps to be taken to come to a final resolution of the complaint (which may or may not include an additional hearing or set of hearings before a different hearing panel). The Title IX Coordinator or President will notify the Complainant and the Respondent concurrently of the decision or action.

(b) Appeals of Sanctions. The sanctions imposed on the Respondent may be appealed on grounds that the severity of the sanction imposed is incommensurate to the gravity of the sexual misconduct for which the Respondent was found responsible. Appeals must be made in writing to the
Title IX Coordinator if the Respondent is a student, staff member, or a non-tenured faculty member and to the College President if the Respondent is a tenured faculty member. Appellants must provide a copy of their written appeal to the Title IX Coordinator who will promptly inform the other party (i.e., the Complainant or the Respondent) of the filing of the appeal.

The Title IX Coordinator or President, as applicable, will make a determination (a) that the decision of the Hearing Panel should stand, (b) that the decision of the Hearing Panel should be overturned, or (c) that additional hearings should occur or evidence should be obtained before making an appellate determination.

In the event that he or she determines that the decision of the Hearing Panel should be overturned or that additional hearings should occur or additional evidence should be obtained, he or she will specify (after consultation with other College administrators, as necessary) either (1) the final sanctions to be imposed on the Respondent, which will not be subject to further appeal or (2) that another hearing will be convened before the Hearing Panel, Title IX Coordinator and/or the President for the sole purpose of considering sanctions, in which case the final sanctions set by the Hearing Panel will not be subject to further appeal. The Title IX Coordinator or President will notify the Complainant and the Respondent concurrently of the decision or action.

When the Respondent is a faculty member with tenure and the sanction imposed by the Hearing Panel is termination of the Respondent's employment, the Respondent may appeal the President's determination with regard to the appeal of that sanction. Such appeals must be made in writing to the Chair of the Board of Trustees (providing a copy of the appeal to the Title IX Coordinator). The Title IX Coordinator will promptly inform the other parties (i.e., the Complainant or the Respondent) of the filing of the appeal.

Members of the Board of Trustees will make a determination (a) that the decision of the President should stand, or (b) that the decision of the President should be overturned. Before making its decision, members of the Board of Trustees may request additional information from the Complainant, Respondent, or other individuals as they see fit. The decision of the members of the Board of Trustees is final.