

**Harassment, Discrimination and Sexual Misconduct Policy and Procedures: Including
Sexual Assault, Intimate Partner Violence and Stalking**

Effective Date

August 1, 2024

This policy applies to alleged violations that occurred on or after August 1, 2024. If the alleged policy violation occurred before August 1, 2024, the former version of this policy, effective July 1, 2021, will apply.

Office of Primary Responsibility

Title IX Office

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The following individual(s) serve as Deputy Title IX/EO Coordinators for purposes of this policy:

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The Title IX Coordinator and Deputy Coordinators are responsible for overseeing reports and complaints brought forward under this policy to assure that the College provides a prompt and effective response, and for identifying and addressing patterns of misconduct and systemic issues. They also serve as resources available to anyone seeking additional information about the processes and procedures under this policy, anyone who wishes to file a complaint regarding an alleged violation of this policy, and anyone seeking other resources that may be available to victims of misconduct covered by this policy.

The Title IX Coordinator and Deputy Coordinators also coordinate the College's compliance efforts regarding harassment and discrimination and carry out the College's responsibilities under this policy and under Title IX of the Education Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964, Title III of the ADA, 504 of the Rehabilitation Act and state non-discrimination laws.

- **Nondiscrimination Policy**

Allegheny College is committed to providing a workplace and educational environment that is free from all forms of harassment, discrimination, and sexual misconduct. The College expressly prohibits discrimination and harassment on the basis of race, color, national origin, ethnicity, sex, sexual orientation, gender, gender identity, gender expression, age, religion, and disability. Allegheny College prohibits sex-based harassment, sexual violence, intimate partner violence, and stalking regardless of the gender, gender identity, gender expression, or sexual orientation of the individuals involved in any education program or activity that it operates, as required by Title IX, including admission and employment.

Allegheny College adheres to all federal, state, and local civil rights laws prohibiting discrimination in employment and education. The College does not discriminate in its admissions practices, in its employment practices, or in its educational programs or activities.

Allegheny College also prohibits retaliation against any person participating in good faith in any discrimination investigation or complaint process internal or external to the institution; for bringing a complaint of discrimination or harassment or for assisting someone with such a complaint.

Allegheny College is required to respond promptly and effectively, utilizing a fair, transparent, and reliable process, when they have knowledge of conduct that reasonably may constitute sex discrimination in its program, and must take steps to prevent the recurrence of discrimination and remedy its effects, the college must communicate their policies and procedures to all students, employees, and other participants in their programs and must monitor and address barriers to reporting instances of sex discrimination.

Allegheny College employees must notify their Title IX Coordinator when they have information that may reasonably rise to the level of sex discrimination, so long as the employee is not a confidential employee, as defined on page 3 of this policy. All employees must be trained upon hiring and annually thereafter on (i) the College's obligation to address sex discrimination, (ii)

the scope of conduct that constitutes sex discrimination under Title IX, including sex-based harassment, and (iii) all duties of employees upon receipt of a report of sex discrimination, including to provide the reporting individual with contact information for the Title IX Coordinator and information about how to report sex discrimination under Title IX.

- **Purpose of Policy**

All members of the Allegheny Community have a right to learn and work in an environment free from unlawful discriminatory, harassing, and violent conduct. To ensure compliance with federal and state civil rights laws and regulations and to affirm the College’s commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the College has developed internal policies and procedures that provide a prompt, fair and impartial process for those involved in allegations of harassment, discrimination, or sexual misconduct.

Promoting a diverse environment free of discrimination, discriminatory harassment, sex-based harassment, and sexual violence while supporting freedom of expression is not to be viewed as mutually exclusive; these values are to be considered in tandem when addressing incidents of alleged discriminatory harassment, sex-based harassment, or sexual violence. As affirmed in the Statement of Community, members of the College community will respectfully confront and proactively seek to prevent all forms of harassment, discrimination, and sexual misconduct, including sexual violence, intimate partner violence and stalking in the Allegheny College community, when it is safe to do so.

In establishing this policy, the College’s purposes include:

1. to establish that no member of our College community should be subject to harassment, discrimination, or violence based on the individual’s race, color, national origin, ethnicity, sex, sexual orientation, gender, gender identity, gender expression, age, religion, or disability.
2. to set forth the processes available for reporting, investigating, and resolving allegations of discrimination, discriminatory harassment and sex-based harassment, sexual violence, intimate partner violence and stalking. The College will respond promptly, equitably, and appropriately to notice or reports of any form of alleged misconduct under this policy occurring in the College community.

- **PART I – DEFINITIONS AND PROHIBITED CONDUCT**

- **Definitions**

- **Admission:** Selection for part-time, full-time, or any other enrollment, membership, or matriculation in an education program or activity operated by the College.
- **Advisor:** A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and, in Title IX Regulatory Grievance cases (Process “A”), to conduct cross-examination

for the party at the hearing, if any. In cases involving sex discrimination, including sex-based harassment, sexual assault, dating or domestic violence or stalking, by law, the advisor of choice may be any one the party chooses to serve in this capacity. If a party does not have an advisor to ask questions on their behalf in a case involving sex discrimination, the College must provide the party with an advisor of the College's choice whom is not a confidential employee, without charge to the party, for the purpose of advisor-conducted questioning. In all other cases, the individual must be a current student or employee of Allegheny College.

- **Community Standards Board:** Refers to those who have decision-making and sanctioning authority.
- **Complainant:** The person who experienced behavior alleged to constitute discrimination, discriminatory harassment, sex-based harassment, or any other form of misconduct based on a protected class and defined in this policy; or retaliation for engaging in a protected activity. Someone who is not a student or an employee can be a complainant if they were participating or attempting to participate in the College's program or activity at the time of the alleged misconduct.
- **Confidential Employee:** An employee of the College (i) whose communications are privileged or confidential under Federal or State Law, (ii) whom the College has designated as providing confidential services related to the conduct and processes covered by this policy, or (iii) who is conducting an Institutional Review Board-approved human subjects study designed to gather information about the conduct covered by this policy. Confidential employees are only confidential when they are acting within the scope of the duties enumerated herein.
- **Confidential Resource:** An employee, or community resource, who provides privileged and confidential support under Federal, State or local law, or by virtue of their profession, such as physicians and clergy, regardless of whether they are employed by the College.
- **Day:** A business day when the College is in normal operation.
- **Education program or activity:** All operations of the College in the United States, including any building owned or controlled by a student organization that is officially recognized by the College. The College has an obligation to address sex-based hostile environment in its education program or activity even when some conduct alleged to be contributing to the hostile environment occurred outside of the College's education program or activity or outside of the United States.
- **Final Determination:** A conclusion by a preponderance of the evidence that the alleged conduct did or did not violate policy, followed by sanctioning if the finding was "responsible" and the period for appeal.
- **Finding:** A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged (as in a "finding of fact"). The burden is on the College to gather evidence that meets the preponderance of the evidence standard of proof, not the complainant or the respondent.
- **Formal Complaint:** An oral or written request to the College that can be understood by a reasonable person as a request for the College to investigate and make a determination about alleged misconduct under this policy. If the request can be objectively understood as a request that the College make a determination about alleged sex discrimination under Title IX, then the College must interpret it as a request to initiate the grievance procedures

outlined below. Generally, a student or employee's general questions about this policy or grievance procedures will not amount to a formal complaint.

- **Gender Identity:** An individual's sense of their gender, which may or may not be different from their sex assigned at birth.
- **Harassment: For purposes of this policy harassment is defined as:** Unwelcome conduct directed toward an individual or group of individuals that is based on that individual's or group's membership (or perceived membership) in a particular demographic group, including race, color, religion, age, gender, gender identity, gender expression, national origin or ethnicity, mental or physical disability, or sexual orientation, that is offensive or disrespectful but does not rise to the level of creating a hostile environment. Reports of harassing conduct will be addressed through the Bias Response Protocol.
- **Hostile Environment Harassment:** Unwelcome conduct directed toward an individual or group of individuals that is based on that individual's or group's membership (or perceived membership) in a particular demographic group, including race, color, religion, age, gender, gender identity, gender expression, national origin or ethnicity, mental or physical disability, pregnancy, parental status, or sexual orientation 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 the College's education program or activity. The standard of objectively offensive is assessed from the perspective of a reasonable person in the complainant's position. Harassment includes online harassment, which can include, but is not limited to, unwelcome conduct on social media platforms such as derogatory name-calling based on a person's membership or perceived membership in a particular demographic group, the nonconsensual distribution of intimate images (including authentic images and images that have been altered or generated by artificial intelligence (AI) technology), cyberstalking, and other discriminatory conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity. The College will evaluate online conduct with the same factors that are used to determine whether in-person conduct creates a hostile environment.
- **Incest:** A type of sexual assault defined as non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Pennsylvania law.
- **Intimate Partner Violence:** Any intentional act, or threat, of physical, sexual, or psychological violence or abuse, including acts of intimidation and coercion, by a current or former partner in an intimate relationship upon the other partner. Intimate Partner Violence may include a pattern of abusive behavior by one partner to consistently maintain power and control over the other partner. This type of violence can occur regardless of the sex, gender, gender identity, gender expression or sexual orientation of the other person.
 - The existence of an intimate relationship will be evaluated considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - Dating and domestic violence are forms of Intimate Partner Violence and all are prohibited by this policy.

- **Investigator:** The person or persons charged by the College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- **Knowledge:** The College is deemed to have knowledge of sex-based discrimination in its education program when any non-confidential employee has information about conduct that reasonably may constitute sex discrimination.
- **Lactation Space:** A space other than a bathroom that is clean, shielded from view, free from intrusion of others and may be used by a student or employee for expressing breast milk or breastfeeding as needed.
- **Mandated Reporter:** For purposes of this policy includes all Allegheny College employees, including student employees in the scope and course of their job, except the professional counselors in the College Counseling and Personal Development Center, professional staff in the Winslow Health Center, College Ombudsperson or any other individual employed by the College with an assigned ministerial role, in performance of that role. Mandated Reporters must promptly report incidents of discriminatory harassment, hostile environment harassment, sex-based discrimination, or other types of misconduct prohibited by this policy to the Title IX Coordinator or one of the Deputy Title IX Coordinators.
- **Notice:** When an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- **Official with Authority (OWA):** An employee of the college explicitly vested with the responsibility to implement corrective measures for harassment, discrimination and/or retaliation on behalf of the college. At Allegheny College this includes members of the Board of Trustees, the President’s Cabinet, the Title IX Team, and the Dean of Students.
- **Parental Status:** The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of physical or mental disability, is: (1) a biological parent, (2) an adoptive parent, (3) a foster parent, (4) a stepparent, (5) a legal custodian or guardian, (6) in loco parentis with respect to such a person, or (7) actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- **Pregnancy or Related Conditions:** Pregnancy, childbirth, termination of pregnancy, or lactation, as well as medical conditions or recovery related to pregnancy, childbirth, termination of pregnancy, or lactation.
- **Preponderance of the Evidence:** The standard of evidence applied in determining a violation of this policy. Generally considered to be “more likely than not” or “the greater weight of the evidence”.
- **Remedies:** Post-finding actions following a determination of a violation of this policy, provided to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College’s educational program.
- **Respondent:** The person whose conduct is alleged to constitute discrimination, discriminatory harassment, sex-based harassment, other forms of misconduct or retaliation described in this policy.
- **Resolution:** The result of an Informal or Formal Grievance Process.

- **Sanction:** A consequence imposed by the college on a Respondent who is found to have violated this policy.
- **Sex-based harassment:** The umbrella category including the offenses of sexual harassment, and harassment based on sex stereotypes, sex characteristics, pregnancy, or related conditions, sexual orientation, or gender identity, sexual assault, stalking, and dating violence and domestic violence as set forth in Title IX regulations (34 CFR §106.20) and identified in detail in this policy.
- **Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without burdening a complainant or respondent, and without fee or charge to the parties to (i) restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all parties or the College's educational environment, and/or deter harassment, discrimination, and/or retaliation, or (ii) provide support during the College's grievance procedures or during informal resolution of the Complaint. The College will not disclose information about supportive measures to persons other than the person to whom they apply unless necessary to provide the supportive measure.
- **Title IX Coordinator:** The official designated by the College to ensure compliance with Title IX and the College's Title IX program. References to the Coordinator throughout this policy may also encompass a designation of the Coordinator for specific tasks. The Title IX Coordinator retains ultimate oversight over the College's responsibilities and compliance with Title IX of the Education Amendments of 1972.
- **Title IX Team:** The Title IX Coordinator, any Deputy Coordinators, and Investigators responsible for overseeing designated elements of Title IX compliance. The Title IX Team also monitors the College's education program for barriers to reporting potential violations of this policy and takes steps reasonably calculated to address such barriers.

- **Prohibited Conduct**

Retaliation:

It is a violation of this policy, and federal law, for anyone (individual or group) to retaliate against anyone who makes a report or brings a complaint under this policy or who cooperates with or otherwise participates in the investigation or resolution of a complaint under this policy. This includes, but is not limited to, bullying and harassment through electronic media as well as in person. Allegheny College will take steps to prevent retaliation and will also take strong responsive action if the College finds that retaliation has occurred.

Retaliation includes intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or agent of the College for the purpose of interfering with any right or privilege protected by this policy because that person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in any proceeding under this policy.

Retaliation includes but is not limited to:

- pressuring the person to drop or not support the complaint or to provide false or misleading information,
- engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment,
- threatening, intimidating, or coercing the person, or otherwise harassing or discriminating against any person for exercising their rights or responsibilities under this policy.

Retaliation under this policy may be found whether or not the complaint is ultimately found to have merit.

Discrimination:

It is a violation of this policy to treat a person or group of people differently or less favorably because of – or because of one's perception of – their race, color, religion, sex, sexual orientation, gender identity, age, disability, marital status, parental status, citizenship, national origin, genetics, pregnancy, or any other characteristic protected by law (together, "protected characteristics"). This includes any decision, act, or failure to act that adversely affects a person or group, when that decision, act, or failure to act is based on a protected characteristic or a perception that the person or group has a protected characteristic.

Hostile Environment Harassment:

The College prohibits Hostile Environment Harassment, which is unwelcome conduct directed toward an individual or group of individuals that is based on that individual's or group's membership (or perceived membership) in a particular demographic group, including race, color, religion, age, gender, gender identity, gender expression, national origin or ethnicity, mental or physical disability, pregnancy, parental status, or sexual orientation 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 the College's education program or activity.

The standard of objectively offensive is assessed from the perspective of a reasonable person in the complainant's position.

The College will consider many factors in assessing whether a hostile environment has been created including:

- the degree to which the conduct affected the complainant's ability to access the College's education program or activity;
- the type, frequency, and duration of the conduct;
- the parties' ages, roles within the College's education program or activity, 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; and
- other harassment in the recipient's education program or activity.

Harassment includes online harassment, which can include, but is not limited to, unwelcome conduct on social media platforms such as derogatory name-calling based on a person's membership or perceived membership in a particular demographic group, cyberstalking, and other discriminatory conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity. The College will evaluate online conduct with the same factors that are used to determine whether in-person conduct creates a hostile environment.

Nondiscrimination in Admissions

No person will be denied admission or be subject to discrimination in admission to Allegheny College based on that individual's or group's membership (or perceived membership) in a particular demographic group, including race, color, religion, age, gender, gender identity, gender expression, national origin or ethnicity, mental or physical disability, pregnancy, parental status, or sexual orientation.

Nondiscrimination Based on Pregnancy or Related Conditions

Allegheny College does not discriminate based on pregnancy or related conditions, including childbirth, termination of pregnancy, lactation, related medical conditions, or recovery.

Allegheny College provides reasonable support measures and accommodations for pregnancy and related conditions, including reasonable break time for lactation and a clean, private lactation space for both students and employees. Lactating students and employees can voluntarily access the lactation space regardless of gender identity or gender expression.

The private lactation space is located in Walker Hall. Access can be granted by contacting the Title IX office at 814-332-3085, or Student Life at 814-332-4356

Additionally, if an applicant, student, employee, or other participant in the College's program notifies a College employee of their pregnancy or related condition, that employee must provide the person with the Title IX Coordinator's contact information and inform the student that the Title IX Coordinator can coordinate specific actions to ensure the student's equal access to educational opportunities (§106.40(b)(2)).

Sex-Based Harassment broadly defined

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Pennsylvania regard sex-based Harassment as an unlawful discriminatory practice.

Allegheny College has adopted the following definition of sex-based harassment in order to address the unique environment of an academic community and in compliance with Title IX regulations (34 CFR §106.20).

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

Sex-based harassment is an umbrella category including the offenses of sexual harassment, and harassment based on sex stereotypes, sex characteristics, pregnancy, or related conditions, sexual orientation, or gender identity, sexual assault, stalking, and dating violence and domestic violence as set forth in Title IX regulations (34 CFR §106.20) and identified in detail in this policy.

Hostile Environment Sex-Based Harassment:

The College prohibits Hostile Environment Harassment, which is unwelcome sex-based conduct 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 the College’s program or activity. The standard of objectively offensive is assessed from the perspective of a reasonable person in the Complainant’s position.

The College will consider many factors in assessing whether a hostile environment has been created including:

- the degree to which the conduct affected the complainant’s ability to access the College’s education program or activity;
- the type, frequency, and duration of the conduct;
- the parties’ ages, roles within the College’s education program or activity, 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; and
- other harassment in the recipient’s education program or activity.

Hostile Environment Sex-Based Harassment includes online harassment, which can include, but is not limited to, unwelcome conduct on social media platforms such as derogatory sex-based name-calling based on a person’s membership or perceived membership in a particular demographic group, the nonconsensual distribution of intimate images (including authentic images and images that have been altered or generated by artificial intelligence (AI) technology), cyberstalking, and other discriminatory conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the College’s education program or activity. The College will evaluate online conduct with the same factors that are used to determine whether in-person conduct creates a hostile environment.

○ ***Quid Pro Quo Sex-Based Harassment:***

- An employee, agent, or other person
- authorized by the College to provide aid, benefit, or service under the College’s education program or activity
- explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct. A threat of detriment falls within

the definition of quid pro quo sex-based harassment, whether or not the threat is actually carried out because a threat to, for example, award a poor grade unless a student participates in unwelcome sexual conduct, is an impermissible condition placed on the provision of the student's education by the College.

○ ***Sexual Assault, (20 U.S.C. 1092(f)(6)(A)(v))***

a) Sex Offenses, Forcible:

- Any sexual act directed against another person
- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent.

Forcible Sexual acts include:

○ ***Forcible Rape:***

- Penetration,
- no matter how slight,
- of the vagina or anus with anybody part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person's will (non-consensually), or
- not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

○ ***Forcible Fondling:***

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

b) Sex Offenses: Non-forcible:

- ***Incest:***
 - Non-forcible sexual intercourse
 - Between persons who are related to each other
 - Within the degrees wherein marriage is prohibited by Pennsylvania law
- ***Statutory Rape:***
 - Non-forcible intercourse
 - With a person who is under the statutory age of consent in Pennsylvania
- ***Dating Violence (34 U.S.C. 12291(a)(10)), 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 Complainant
 - The existence of such a relationship shall be determined 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.
 - Dating violence does not include acts covered under the definition of domestic violence.
- ***Domestic Violence (34 U.S.C. 12291(a)(8)), defined as:***
 - felony or misdemeanor crimes of domestic violence,
 - committed by
 - a current or former spouse or intimate partner of the Complainant,
 - a person with whom the Complainant shares a child in common, or
 - a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Pennsylvania, or
 - by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the state of Pennsylvania or the United States.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship similarly situated to a spouse.

- ***Stalking (34 U.S.C. 12291(a)(30)), defined as:***
 - engaging in a course of conduct,
 - directed at a specific person, 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, 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 Complainant.
 - Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Sexual Exploitation

Based on Allegheny Policy, Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone’s advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:

- invasion of sexual privacy;
- recording or attempting to record nude, partial nude or sexual media without the consent of the person or person depicted in the media;
- streaming, sharing, or distributing nude, partial nude, or sexual media without the consent of the person depicted in the media;
- non-consensual sexual voyeurism;
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity;
- administering sexual assault facilitating drugs including, but not limited to, alcohol, sleeping pills, sedatives, tranquilizers, anesthetics, depressants, and psychotropics without a person’s knowledge and permission;
- going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity);
- exposing one’s genitals in non-consensual circumstance;
- inducing another to expose their genitals;
- prostituting another person;
- knowingly transmitting or exposing another person to a sexually transmitted infection (STI) without the knowledge of the person.

PART II – REPORTING A VIOLATION OF THIS POLICY

- **Reporting**

Options for Reporting

Any student, prospective student, employee, applicant for employment, or campus visitor who believes that they have been subjected to conduct in violation of this policy during their participation in the College's program or activity and any individual who has observed, knows of, or suspects an occurrence of discrimination, discriminatory harassment or sex-based harassment, sexual violence, intimate partner violence, or stalking has the following on-campus reporting options:

1. Report to Allegheny's Title IX Coordinator and/or Deputy Title IX Coordinator(s)
2. Report to Allegheny's on-campus confidential resources

Additionally, an individual may report and seek support from off-campus sources including:

1. Local law enforcement agencies
2. Off-campus community resources

Allegheny College employees are considered Mandatory Reporters and are obligated by this policy to immediately report knowledge of such conduct to the Title IX Coordinator or one of the Deputy Title IX Coordinators.

When the Title IX Team Receives a Report

When the Title IX Coordinator or a Deputy Title IX Coordinator is notified of conduct that reasonably may constitute a violation of this policy, the Title IX Team will take actions to promptly and effectively end the prohibited conduct by notifying the Complainant or, if the Complainant is unknown, the individual who reported the conduct, of the grievance procedures and informal resolution procedures outlined below.

If the Complainant chooses to pursue the procedures outlined below, the Title IX Team will (i) treat the complainant and respondent equitably, (ii) offer and coordinate supportive measures to both parties, and (iii) coordinate the procedures as explained below.

If the Complainant chooses not to pursue the procedures outlined below, the Title IX team will offer Supportive Measures to the Complainant. In limited circumstances where the alleged conduct presents an imminent and serious threat to the health and safety of the complainant or other person or prevents the College from ensuring equal access to its education program, the Title IX Coordinator may initiate the formal process without the Complainant's participation. The Title IX Coordinator will evaluate multiple factors to decide if such a process is required, including:

- the Complainant’s requests for how the Title IX Coordinator should proceed and any reasonable safety concerns the Complainant may face if a process is initiated;
- the risk additional violations of this policy would occur if the Title IX Coordinator does not pursue the procedures outlined below;
- the severity of the alleged policy violation, including whether the violation, if established, would require the removal of the respondent from campus or imposition of another disciplinary sanction to prevent its recurrence;
- the age and relationship of the Complainant and Respondent, including whether the respondent is an employee;
- the scope of the alleged violation, including information suggesting a pattern, ongoing discrimination, or discrimination impacting multiple individuals;
- the availability of evidence; and
- whether the College could end and prevent the alleged policy violation’s recurrence without initiating the procedures outlined below.

If the Title IX Coordinator decides, after weighing this list of factors, to initiate the procedures below without the Complainant’s participation, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant’s safety or the safety of others.

When the Title IX Team receives information about of a potential violation of this policy, the Title IX team will use this information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when the information indicates there may be multiple incidents of sex-based harassment.

Confidential Resources

Behavior which is impermissible under this policy should be reported.

If a person would like to understand the options available under this policy and keep the details of an incident confidential, that person may contact any of the following Confidential Resources:

On Campus:

Winslow Health Center
 Schultz Hall
 whc@allegheny.edu
 814-332-4355

Office of Spiritual and Religious Life
 Student Affairs Suite
 3rd Floor Campus Center
 814- 332-2800

Off-Campus:

Meadville Medical Center

Emergency Department *

751 Liberty Street

814-333-5000

*provide professional staff who specifically handle sexual assaults

Women's Services, Inc.

204 Spring Street

Business line: 814-724-6347

24-hour HOTLINE: 814-333-9766 or 1-888-881-0189

Importance of Prompt Reporting

Although the College does not impose a limitation period for reviewing complaints of alleged violations of this policy, prompt reporting of such incidents makes investigation of the incident more effective and enhances the ability of the College to take appropriate action regarding a complaint or report, including the ability to undertake appropriate supportive measures.

Privacy

The College makes every effort to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of discrimination, harassment or retaliation; any Complainant, any individual who has been reported to be the perpetrator of harassment, discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of the Title IX regulations, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Information will be shared as necessary with Investigators, the Community Standards Board, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

- **Jurisdiction**

This policy applies to the education program and activities of Allegheny College, to address conduct that takes place on the campus or on property owned or controlled by the college at college-sponsored events, or in buildings owned or controlled by the college's recognized student organizations.

The College is responsible for addressing alleged discriminatory conduct over which it exercised disciplinary authority or otherwise has substantial control. Where the respondent has dual status or where there are multiple respondents with varying statuses, College officials have discretion to determine whether to pursue the matter under the Code of Student Conduct or under the process.

This policy also applies if the effects of off-campus misconduct effectively deprive someone of access to Allegheny College's educational programs. The College may also extend jurisdiction to off-campus and/or to online conduct when the College exercises jurisdiction over those contexts pursuant to other College policies or the Title IX Coordinator determines that the conduct affects a substantial college interest.

The Title IX Coordinator will evaluate the totality of the circumstances to determine whether allegations about conduct that occurred outside of the College's program or activity may be contributing to a hostile environment, including (1) the degree to which the conduct affected the complainant's ability to access the recipient's education program or activity; (2) the type, frequency and duration of the conduct; (3) the parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; (4) the location of the conduct and the context in which the conduct occurred; and (5) other sex-based harassment in the recipient's education program or activity.

Regardless of where the conduct occurred, the college will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial College interest includes, but is not limited to:

- a. Any off-campus action that effectively deprives an individual of access to the Allegheny College's educational program.
- b. Any action that constitutes a criminal offense as defined by law that has a direct impact on Allegheny College or members of the Allegheny Community. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- c. Any situation in which it is determined that the Respondent poses a substantial threat to the physical health or safety of any student or other individual.
- d. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- e. Any situation that is detrimental to the educational interests, reputational interest or mission of the college.

If the Respondent is unknown or is not a member of the college community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of the college's community, supportive measures and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, Allegheny College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals that are not students or employees from college property and/or events.

All vendors serving Allegheny College through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences harassment or retaliation in an externship, study abroad program, or other environment external to the college where harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

- **Record Keeping**

The College must maintain records, including records of the actions the College took to prevent the continuation or recurrence of discrimination in its program, training of employees and students regarding the provisions in this policy, supportive measures, investigative reports, hearing outcomes, dismissals of a complaint or allegations therein, hearing media files or transcripts, sanctions, remedies, appeals, and informal resolutions, for a period of seven years.

PART III – ALLEGHENY COLLEGE GRIEVANCE PROCEDURES

Any individual may make a report of a violation of this policy to the Title IX Coordinator. Upon notice by a third party the Title IX Coordinator will engage in outreach to the identified Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The Office of Human Resources will be consulted in circumstances when allegations are made against an employee.

Privacy: The College will take reasonable steps to protect the privacy of the parties and witnesses during the procedures without restricting the ability of the parties to prepare for or participate in the procedures, obtain and present evidence, and consult with family, confidential resources, and/or advisors.

- **Investigation and Resolution Team**

Title IX Coordinator: The official designated by the College to ensure compliance with Title IX and the College’s Title IX program. References to the Coordinator throughout this policy may also encompass a designation of the Coordinator for specific tasks. The Title IX Coordinator retains ultimate oversight over the College’s responsibilities and compliance with Title IX of the Education Amendments of 1972.

Title IX Team: The Title IX Coordinator, any Deputy Coordinators, and Investigators responsible for overseeing designated elements of Title IX compliance. The Title IX Team also monitors the College’s education program for barriers to reporting potential violations of this policy and takes steps reasonably calculated to address such barriers.

Advisor of Choice: The complainant and respondent are permitted and encouraged to have an Advisor of Choice accompany them throughout the process. In cases involving sex discrimination, including sex-based harassment, sexual assault, dating or domestic violence or stalking, by law, the advisor of choice may be anyone the party chooses to serve in this capacity. If a party does not have an advisor to ask questions on their behalf in a case involving sex discrimination, the College must provide the party with an advisor of the College’s choice whom is not a confidential employee, without charge to the party, for the purpose of advisor-conducted questioning. In all other cases, the individual must be a current student or employee of Allegheny College.

Community Standards Board:

- Allegheny College will designate a three-member Community Standards Board. One of the three members will serve as the Chair.
- The Community Standards Board members(s) will not have had any previous involvement with the investigation.
- Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Community Standards Board members or Advisors. Those who are serving as Advisors for any party may not serve as Community Standards Board members in that matter.
- The Title IX Coordinator may not serve as a Community Standards Board member or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a deputy may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

- **Reporting: Initiation of the Formal or Informal Resolution Process**

Following a written or oral Complaint by the Complainant that can be understood by a reasonable person as a request for the College to investigate and make a determination about alleged misconduct under this policy, the Title IX Coordinator, or designee, will initiate either the informal resolution process or the formal resolution process under this policy by notifying the accused party (“respondent”) that a complaint has been filed against them and inform the respondent of the nature of the complaint.

The Title IX Coordinator, or Deputy Coordinator, shall explain to both parties the avenues for informal and formal action, including a description of the process and the relevant avenues of redress, and provide each with a copy of this policy

If the Complainant chooses not to pursue the procedures outlined below, the Title IX team will offer Supportive Measures to the Complainant. In limited circumstances where the alleged conduct presents an imminent and serious threat to the health and safety of the Complainant or other person or prevents the College from ensuring equal access to its education program, the Title IX Coordinator may initiate the formal process without the Complainant's participation. The Title IX Coordinator will evaluate multiple factors to decide if such a process is required, including:

- the Complainant's requests for how the Title IX Coordinator should proceed and any reasonable safety concerns the Complainant may face if a process is initiated;
- the risk additional violations of this policy would occur if the Title IX Coordinator does not pursue the procedures outlined below;
- the severity of the alleged policy violation, including whether the violation, if established, would require the removal of the respondent from campus or imposition of another disciplinary sanction to prevent its recurrence;
- the age and relationship of the Complainant and Respondent, including whether the respondent is an employee;
- the scope of the alleged violation, including information suggesting a pattern, ongoing discrimination, or discrimination impacting multiple individuals;
- the availability of evidence; and
- whether the College could end and prevent the alleged policy violation's recurrence without initiating the procedures outlined below.

If the Title IX Coordinator decides, after weighing this list of factors, to initiate the procedures below without the Complainant's participation, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others.

When the Title IX Team receives information about of a potential violation of this policy, the Title IX team will use this information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when the information indicates there may be multiple incidents of sex-based harassment.

- **Supportive Measures**

Upon notice of alleged harassment, discrimination, and/or retaliation, and during the pendency of an investigation or other proceedings under this policy, the College will offer and implement appropriate and reasonable supportive measures to the parties to ensure equal access to its education programs and activities, to protect the parties, and/ or to safeguard the College community.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all parties or the College's educational environment, and/or deter sex-based harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that the Complainant may file a formal complaint with the College either at that time or in the future, if the Complainant has not done so already.

The Title IX Coordinator works with the Complainant to ensure that the Complainant's wishes are reasonably taken into account with respect to the supportive measures that are planned and implemented. The Title IX Coordinator will offer appropriate supportive measures to the Respondent upon notice of allegations and during the pendency of the grievance procedures, if applicable.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. College will act to ensure as minimal an academic or occupational impact on the parties as possible.

The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- referral to counseling, medical, and/or other healthcare services,
- referral to the Employee Assistance Program,
- referral to community-based service providers,
- student financial aid counseling,
- altering work arrangements for employees or student-employees,
- safety planning,
- providing campus safety escorts,
- implementing contact limitations (no contact orders) between the parties,
- academic support, extensions of deadlines, or other course/program-related adjustments,
- class schedule modifications, withdrawals, or leaves of absence,
- increased security and monitoring of certain areas of the campus, and
- any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

- **Emergency Removal**

The College can act to remove a student Respondent entirely or partially from its education programs or activities on an emergency basis when an individualized safety and risk analysis has determined that a substantial threat to the physical health or safety of any student or other individual justifies removal.

The College will not disclose of personally identifiable information it obtained in the course of assessing the grounds for emergency removal unless (i) the College has written consent from the person with the legal right to consent to the disclosure, (ii) the College must disclose the information to a parent, guardian, or other legal representative with a legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue, (iii) the disclosure is necessary to address the substantial threat, or (iv) Federal or State law requires the disclosure.

This risk analysis is performed by the Title IX Coordinator in conjunction with the Threat Assessment Team using its standard objective violence risk assessment procedures. In all cases in which an emergency removal is imposed, the accused student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal 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 emergency removal is appropriate.

When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived.

This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Threat Assessment Team will conduct the risk analysis of the referred student and will make recommendations to the Title IX Coordinator for appropriate action. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

Allegheny College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative

leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

- **Informal Resolution Process**

The College provides an informal resolution process, following a formal complaint and upon voluntary consent of both parties, when the parties desire to resolve the situation cooperatively. Informal resolution may include inquiries into the facts but does not typically rise to the level of a formal investigation. Informal resolution may not be used to resolve cases involving allegations of an employee harassing students.

Where the parties elect to pursue an informal resolution process, the Title IX Coordinator will take other appropriate prompt and effective steps to ensure that discrimination does not continue or recur within the College's program or activity. The College may decline to allow the parties to pursue an informal resolution process if the College determines that the alleged conduct presents a future risk of harm to others.

The informal process, which is overseen by the Title IX Coordinator, or designee, is designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow, the informal process will be initiated as soon as possible after the filing of the formal complaint, absent any unusual circumstances.

Before the initiation of an informal resolution process, the College will provide the parties a written notice that explains:

1. the allegations;
2. the requirements of the informal resolution process;
3. that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume a formal investigation process;
4. the parties' agreement to a resolution at the conclusion of the informal resolution process precludes the parties from initiating or resuming a formal investigation process arising from the same allegations;
5. the terms that may be requested or offered in an informal resolution process, and notice that the informal resolution is binding only on the parties; and
6. the information the College will maintain from the informal resolution process and whether such information can be used if a formal investigation is initiated or resumed prior to the resolution of an informal resolution process.

Informal resolution may include, but is not limited to, options such as meeting informally with the Complainant and the Respondent with the intent of bringing about resolution; meeting privately with the respondent and acting as intercessor; separation of the parties; restrictions on

contact between the parties; referral of the parties to counseling programs, conducting educational and/or training programs, mediation, restorative justice, or other remedial measures. In cases where groups are involved, the Title IX Coordinator may require that one or two members of the group be authorized in writing to act on behalf of the group in the informal process; all members of the group would be bound by the terms of the informal process.

Where the informal resolution process is undertaken after the initiation of a formal resolution or the informal resolution is abandoned in favor of a formal resolution, the facilitator of the informal resolution process will not be the same person as the investigator or the decision maker in a formal resolution of the same allegations.

Situations that are resolved through the informal process are usually subject to follow-up after a period of time. Steps taken by the Title IX Coordinator or a Deputy Title IX Coordinator to help the parties achieve informal resolution will be documented. Some reports of alleged violations of this policy may not be appropriate for informal resolution but may require a formal investigation at the discretion of the Title IX Coordinator, in consultation with the Dean of Institutional Diversity and/or other appropriate offices. Both the complainant and the respondent have the right to bypass or end the informal complaint process at any time in order to begin the formal complaint process.

- **Formal Grievance Process**

If the alleged violation of this policy has not been resolved as a result of the informal process or is not suited for informal efforts, or if either the complainant or the respondent requests to invoke the formal complaint process, the following process will be initiated. Once a formal process is underway, the parties may still elect to engage in an informal resolution process at any time prior to the final resolution of the formal process.

The Title IX Coordinator will provide simultaneous written notice of the investigation and allegations (the “NOIA”) to the Respondent and Complainant upon commencement of the Formal Grievance Process. This facilitates the parties’ ability to prepare for the interviews and to identify and choose an Advisor to accompany them.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records or emailed to the parties’ College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The NOIA will include:

- A meaningful summary of all of allegations,
- the identity of the involved parties (if known),
- the precise misconduct being alleged,
- the date and location of the alleged incident(s) (if known),

- the specific policies implicated,
- a description of the applicable procedures,
- a statement of the potential sanctions/responsive actions that could result,
- a statement that the College operates with the presumption that the respondent is not responsible for the reported misconduct unless and until the respondent is determined to be responsible for a policy violation by the applicable standard of proof.
- a statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all relevant and permissible evidence obtained during the review and comment period,
- a statement about the College's policy on retaliation,
- information about the privacy of the process,
- information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- a statement informing the parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- detail on how the party may request disability accommodations during the interview process,
- a link to the College's VAWA Brochure,
- the name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- an instruction to preserve any evidence that is directly related to the allegations.

Initial Assessment and Permissive Dismissal:

The Title IX Coordinator will conduct an Initial Assessment following the filing of a formal complaint.

The College may dismiss the formal complaints if:

1. the College is unable to identify the respondent after taking reasonable steps to do so;
2. the respondent is not participating in the College's education program or activity and is not employed by the College;
3. the Complainant voluntarily withdraws any or all of the allegations in the Complaint via written notice of withdrawal and the Title IX Coordinator determines the College will not proceed with initiating a Complaint against the College and, without the allegations that that are withdrawn, the remaining allegations, if proven, would not constitute a violation of this policy; or
4. the College determines after reasonable efforts to clarify the allegations that the conduct alleged, if proven, would not constitute a violation of this policy.

If the College dismisses a Complaint for any of the reasons enumerated above, the College will:

1. provide the parties, simultaneously, with written notice of the dismissal and the basis for the dismissal, unless the dismissal occurs before the respondent has been notified of the

allegations, in which case the College will provide written notice only to the Complainant;

2. offer Supportive Measures to both parties as appropriate; and
3. take prompt and effective steps to ensure that the alleged discrimination does not continue or recur within the College's program or activity.

This dismissal decision is appealable by any party under the procedures for appeal.

In formal complaints of sex-based harassment (as defined by Title IX Regulations, 34 CFR §106.20) the following general principles and procedures will govern this process, to the extent consistent with the College's legal obligations.

III. Investigation Process

The investigation of formal complaints generally includes interviews of (a) the complainant, (b) the respondent, and/or (c) any witnesses as needed, and (d) the review of relevant documents as appropriate. Disclosure of facts to non-party witnesses will be limited to what is reasonably necessary to conduct a fair and thorough investigation.

Both the complainant and respondent will be given an equal opportunity to be heard, to provide a statement, documentation, and other evidence, and to suggest the names of other persons who they believe might have relevant information.

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

The burden is on the College, not the parties to conduct an investigation that gathers sufficient evidence to determine whether a policy violation has occurred.

The College will provide any party whose participation in the investigation is invited or expected written notice of the date, time, location, participants, and purpose of all meetings or proceedings in which the party's participation is invited or expected with sufficient time for the party to prepare to participate. The College will allow for reasonable extension of timeframes in the investigation on a case-by-case basis for good cause with written notice to the parties that includes the reason for the extension.

All parties have an equal, full, and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all relevant and not otherwise impermissible evidence on the record. The College will take reasonable steps to prevent and address, including through disciplinary sanctions if necessary, any unauthorized disclosure of information and evidence obtained through the grievance procedures

All parties have the same opportunities to be accompanied to any meeting or proceeding by an Advisor. Advisors of each party have an equal opportunity to access the evidence that is relevant and not otherwise impermissible that is included in the written investigation report or available upon request of any party. The College may establish restrictions regarding the extent to which advisors of all parties may participate in meetings or written communication during the investigation process.

The College will provide the opportunity to all parties to review the investigative report in advance of the hearing. Prior to the conclusion of the investigation, the College will provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.

The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses. The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.

In cases involving student respondents, the investigator will share the report with the Title IX Coordinator for feedback. The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report. The Title IX Coordinator, or designee, will provide the full final investigative report to the Community Standards Board.

In cases involving employee respondents, the investigation report will be shared with either (i) the appropriate President's Cabinet member(s) for the department or unit where the respondent is located, or (ii) the Provost and Dean of the College in consultation with the Office of Human Resources for a decision regarding a staff or faculty respondent respectively.

Impermissible Evidence:

The College will exclude the following types of evidence and questions seeking these types of evidence as impermissible:

- evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed voluntarily waives the privilege or confidentiality;
- records maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness

unless the recipient of the treatment provides voluntary consent in writing for the use of such records in the College's grievance procedures; and

- evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless it is evidence offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged harassment.
 - The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged harassment or preclude a determination that a policy violation occurred.

The College must redact Impermissible Evidence that is contained within documents or evidence otherwise produced as relevant to the allegations. The College may redact information is not relevant to the allegations in the Complaint but is contained within documents or evidence relevant to the allegations.

Notice of Community Standards Board Hearing For Allegations of Sex-Based Harassment

Where the Complainant or Respondent is a student, the full investigation report will be provided to the Community Standards Board to conduct a hearing.

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair of the Community Standards Board will send notice of the hearing to the parties. Notice will be made in writing and may be delivered by mail, in person, or by email to the parties' College-issued email or designated accounts. Once mailed, received in-person, and/or emailed, notice is presumptively delivered.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the school break.

The hearing notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Community Standards Board and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Community Standards Board member on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.

- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A copy of all the materials provided to the Community Standards Board about the matter unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Community Standards Board will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) business days prior to the hearing.
- Whether parties can or cannot bring mobile phones/devices into the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.

Hearing Procedures Where the Respondent is a Student

Participants at the hearing will include the Chair, any additional board members, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

- The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Community Standards Board and the parties' advisor and then will then be excused.

Each party may propose questions to be asked of the other party or witnesses. A party is prohibited from directly asking the other party questions. The Chair will determine whether a proposed question is relevant and not otherwise impermissible and will, prior to the question being posed, explain any decision to exclude a question as not relevant or otherwise impermissible. The Chair must give the party an opportunity to clarify or revise an unclear question unless the question is not relevant or is otherwise impermissible. If a party proposes questioning credibility of the other party, the Advisor of the party that proposed the questions or the Chair will ask those questions.

- The College does not permit questions that are unclear or harassing of a party or witness.
- The parties may not introduce individuals or information at the hearing that was not previously introduced to or interviewed by the Investigator and assessed for relevance to be included in the Investigation Report and accompanying materials.

The Chair will answer all questions of procedure. Any witness appearing at the hearing to provide information will respond to questions on their own behalf.

At the hearing the Community Standards Board has the authority to hear and make determinations on all alleged policy violations that have occurred. The Board may choose to

place less or no weight upon statements by a party or a witness who refuses to respond to questions deemed relevant and permissible by the Chair. The Community Standards Board will not however draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to questions at the hearing.

After the hearing, the Community Standards Board will deliberate privately and come to an agreement about whether, by a preponderance of the evidence, it is more likely than not that the respondent violated this Policy. Community Standards Board will draft a deliberation statement to share with the Title IX Coordinator that lists the Community Standards Board's decision and rationale.

A determination that a policy violation did not occur is not and cannot be used as proof that a false statement was made by the Complainant or any other witness involved in the formal resolution process.

Recording: Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

Notice of The Outcome

For cases involving student respondents, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome using the Community Standards Board's deliberation statement. The Title IX Coordinator will then share the Notice of Outcome, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within one business day of receiving the Community Standards Board deliberation statement.

- The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official college records, or emailed to the parties' College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the college from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.
- The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the college is permitted to share such information under state or federal law; any sanctions issued which the college is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the college's educational or employment programs or activities, to the extent the college is permitted to share such information under state or federal law (this detail is not

typically shared with the Respondent unless the remedy directly relates to the Respondent).

- The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

For cases involving employee respondents:

- In the case of a staff respondent, the written report of findings, using the preponderance of evidence standard, and the Title IX Coordinator's recommendations shall be submitted to the appropriate President's Cabinet member(s) for the department or unit where the respondent is located. Final decisions in cases where a staff employee is the respondent shall be made by the President's Cabinet member who has oversight responsibility for the department in consultation with the Office of Human Resources.
- In cases where a faculty member or other instructional employee is the respondent, final decisions shall be made by the Provost and Dean of the College in consultation with the Office of Human Resources. If the proposed action by the Provost and Dean of the College includes dismissal of a faculty member, the matter will be referred to the process described in the Faculty Handbook under Termination for Cause.

Sanctions

Sanctions and corrective actions will be determined and implemented on a case-by-case basis for violations of this policy, and they will be appropriate to the circumstances and gravity of the violation and may range from personal coaching/counseling to an official warning, suspension, termination, or expulsion.

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- the nature, severity of, and circumstances surrounding the violation(s),
- the Respondent's disciplinary history,
- previous allegations or allegations involving similar conduct,
- the need for sanctions/responsive actions to bring an end to the sex-based harassment and/or retaliation,
- the need for sanctions/responsive actions to prevent the future recurrence of sex-based harassment and/or retaliation,
- the need to remedy the effects of the sex-based harassment and/or retaliation on the Complainant and the community,
- the impact on the parties, and
- any other information deemed relevant by the Community Standards Board(s).

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. In cases where the

Respondent is a graduating senior the College reserves the right to rescind a degree after graduation upon a finding of violation of the policy.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

Appeals

Both the complainant and the respondent have the right to appeal. An appeal must be submitted in writing to the Title IX Coordinator within 5 calendar days after receiving notification of the outcome of the hearing.

The College will promptly notify the parties upon receipt of any appeal. And each party will have a reasonable and equal opportunity to make a statement in support of or challenging the outcome.

Appeals are limited to the following grounds:

1. Procedural irregularity that affected the outcome of the matter.
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Community Standards Board had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

Failure to appeal within the allotted time will render the original decision final and conclusive.

Appeals will be decided upon the record of the original proceeding and upon written materials submitted by the parties.

For cases involving student respondents, the appeal will be reviewed by a three-member sub-committee of the Community Standards Board. No member of the original hearing board is eligible to serve on the appeal board.

The appeal board reviewing an appeal may:

- Affirm the finding and the sanction imposed by the original board.
- Affirm the finding and modify, but not eliminate, the sanction if it is found to be disproportionate to the offense.
- Assign the case to a new hearing board to resolve procedural errors, or errors in interpretation of College regulations were so substantial as to effectively deny the participant a fair hearing, or if new and significant evidence became available which could not have been discovered by proper diligence before or during the original hearing. The board will be directed not to repeat the specified errors that caused the case to be reheard.

Deference shall be given to the determinations of the hearing board.

For cases involving employee respondents, details for employee appeal processes may be obtained by contacting the Office of Human Resources.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the college is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the college is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' college-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

• PART IV – STANDARDS APPLIED TO GRIEVANCE PROCESSES

• STANDARDS APPLIED TO GRIEVANCE PROCEDURES INVOLVING SEX BASED HARASSMENT

For alleged policy violations fitting within the umbrella category of sex-based harassment, the decisionmakers in the formal grievance process will apply the standards for assessing conduct defined below. Sex-based harassment includes the offenses of sexual harassment, and harassment based on sex stereotypes, sex characteristics, pregnancy, or related conditions, sexual orientation, or gender identity, sexual assault, stalking, and dating violence and domestic violence as set forth in Title IX regulations (34 CFR §106.20) and identified in detail in this policy.

Consent

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each participant to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably prompt time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. 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 incident occurred and any similar, previous patterns that may be evidenced.

Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Incapacitation

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent did not know and should not have known that the Complainant was physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone 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, or how” of their sexual interaction).

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

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 drugs.

Coercion

Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

• STANDARDS APPLIED TO ALL GRIEVANCE PROCEDURES

- All persons concerned are to be treated with respect and impartiality.
- Allegheny College will treat complainants and respondents equitably.
- The College operates with the presumption that the respondent is not responsible for the reported misconduct unless and until the respondent is determined to be responsible for a policy violation by the applicable standard of proof.
- Any person designated as a Title IX Coordinator or deputy, investigator, or decision maker will not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent.
- The College will abide by reasonably prompt timeframes for all major stages of the grievance procedure, with reasonable extensions of time allowed on a case-by-case basis for good cause and with notice to the parties that includes the reason for the extension.
- The College will take reasonable steps to protect the privacy of the parties and witnesses during the procedures without restricting the ability of the parties to prepare for or participate in the procedures, obtain and present evidence, and consult with family, confidential resources, and/or advisors.
- The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):
 - In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
 - Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
 - The Title IX Coordinator will conduct a prompt initial assessment to determine if the allegations indicate a potential policy violation
 - The College will commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list,

evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.

- The College will make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, the College will provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- The College will interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- The College will allow each party the opportunity to suggest witnesses and relevant questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
 - Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- The College will complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Prior to the conclusion of the investigation, the College will provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding.
- The College will provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- The Investigator(s) will gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- At any time during the investigation, the Title IX Coordinator, or designee, may recommend supportive measures be provided by College officials. Failure to comply with the terms of supportive measures may be considered a separate violation of this policy.
- Sanctions and corrective actions or remedies will be determined and implemented on a case-by-case basis for violations of this policy, and they will be appropriate to the circumstances and gravity of the violation and may range from personal coaching/counseling to an official warning, suspension, termination, or expulsion.