SEXUAL MISCONDUCT POLICY

General Statement

As four-year residential liberal arts colleges with full-time undergraduate students, Hobart and William Smith Colleges are committed to creating and maintaining an academic and working environment that respects the different voices and experiences of its members and that nurtures the trust of its academic mission. Open and free discussion of issues of gender, race, class, sexual orientation, religion, age, and other intellectual, social, and political topics are the hallmarks of this institution.

The Colleges have general expectations of Hobart and William Smith students and employees (for purposes of this Policy, employees include faculty, salaried and hourly staff, and volunteers). The Colleges expect that its members will behave responsibly and equitably, that they will respect the personal rights of others, and that they will not infringe on the rights of others. The members of the Colleges are expected to maintain professional relations that underscore the academic mission of the institution.

The integrity of the Colleges rests upon its ability to create and maintain an environment free from intimidation or injury generated by sexual intolerance or harassment. The Colleges act to eliminate such practices from our community and to remedy their effects. All members of the Colleges are entitled to a professional working and learning environment. All members of the Colleges are accountable and responsible for ensuring that a respectful and trusting environment is maintained.

This policy applies to all members of the Colleges community: students and employees. The body charged with enforcing this policy is, therefore, a campus committee — the Sexual Grievance Board — made up of representatives from the student and employee constituencies.

This policy is intended to reflect the interests of the HWS community and, to the extent applicable, federal and state laws. Members of the Hobart and William Smith community who commit the actions prohibited by this policy will be subject to sanctions from the Colleges and/or may be subject to sanctions in the criminal justice system including, but not limited to: probation, required withdrawal, permanent separation, financial restitution, and/or other sanctions as determined as a result of disciplinary procedures; prosecution in the criminal courts (felony or misdemeanor); prosecution in the civil court; and organizational sanctions including probation and rescinding recognition.

The Vice President for Student Affairs, or a designee, may impose conditions on a student’s continued relationship with the Colleges during the conduct process referenced in this policy. The authority of the Vice President for Human Resources to take personnel action during the investigation and hearing of any complaint of conduct falling within the confines of this policy is not altered by this policy.

The process and procedures described in this policy are distinct from the Disciplinary Process established in the Handbook of Community Standards, except where the Disciplinary Process or certain of its provisions are explicitly referenced and/or incorporated. Discretion in interpreting, implementing, and revising this policy is vested solely in the Colleges.

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in education programs or activities by recipients of federal financial assistance. All sexual harassment complaints and grievances made under Title IX will be handled under this policy. All other Title IX grievances will be handled pursuant to the Title IX Non-Discrimination and Grievance Procedure set forth in the Handbook of Community Standards. The Title IX Coordinator is Jessica Ettell (315-781-3911 or ettell@hws.edu).
Jurisdiction

The jurisdiction of the Colleges will generally include conduct which occurs on Colleges’ premises, which occurs off Colleges’ premises at Colleges-sponsored events, or which adversely affects members of the Colleges’ community or the pursuit of the Colleges’ mission.

Definitions and Sanctions

The phrase sexual misconduct, including sexual harassment, describes varying extremes of discrimination and wrongdoing based on one’s gender, sexuality, and/or sexual orientation. Such behavior destroys the trust and respect that are at the core of our academic mission. Such actions are condemned by the Colleges and in many instances may be violations of New York state and federal laws. Members of the Hobart and William Smith community who commit these acts will be subject to sanctions from the Colleges and/or the criminal justice system. Repeated violations will result in more stringent sanctions; however, as more fully described below, permanent separation of a student or termination of employment or volunteer status may result after a first offense.

Sexual misconduct includes sexual harassment (including dating violence, domestic violence, and stalking), non-consensual sexual contact, non-consensual sexual intercourse, and sexual exploitation.

The range of possible sanctions in cases involving sexual misconduct by students include the sanctions discussed below, as well as all sanctions stated and defined in the Disciplinary Process section of the Handbook of Community Standards.

A. SEXUAL HARASSMENT

Sexual harassment is any gender-based course of conduct that could deprive someone of educational and/or employment access, benefits or opportunities. Sexual harassment is an issue of power — power to control or manipulate people or to determine the nature of the work/learning environment. Sexual harassment, whether intentional or not, has the effect of belittling members of the Colleges and is prohibited.

Verbal or physical conduct of a sexual nature constitutes sexual harassment when:

• Submission to such conduct is made explicitly or implicitly a term or condition of employment or academic status
• Submission to or rejection of such conduct is used as a basis for employment or academic decisions
• Such conduct is sufficiently severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual’s work or academic experience or performance
• Such conduct is sufficiently severe or pervasive and objectively offensive that it creates an intimidating, hostile, or offensive working, educational, or living environment

Depending on the situation, examples of sexual harassment may include, but are not limited to, the following:

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1 Bates College, Nondiscrimination and Sexual Harassment Policies and Procedures; Colgate University Sexual Harassment Definition.
Persistent and unwelcome sexually-oriented comments (which could include joking and teasing) about gender-specific traits

Persistent and unnecessary touching, patting, pinching, or brushing against a person’s body or clothing

Persistent and unwelcome sexual flirtation, advances, or propositions

Repeated derogatory and offensive statements that are related to gender and/or sexual orientation

Public displays of material (including but not limited to cartoons, articles, books, images) that are sexually explicit

Unwanted communications (including but not limited to phone calls, emails, or gestures) that are related to gender, sexual behavior, and/or sexual orientation

Unwelcome or welcome conduct between individuals in a third party’s work, classroom, or other setting that is required for work or learning purposes, when such conduct creates a negative work environment and/or educational environment for that third party

Dating violence is violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic violence is any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others or (b) suffer substantial emotional distress.

1. **Academic and Intellectual Freedom**: The freedom of all members of the Colleges to express openly their ideas and opinions must be maintained. Adherence to the principle of freedom of expression and to the principle of academic freedom requires that all thoughts presented as ideas or the advocacy of ideas in an educational setting, if they are germane to the subject matter being addressed, must be protected. This applies to the ideas of employees and students alike. The maintenance of intellectual freedom through the open expression of ideas will sometimes be unavoidably hurtful. Knowing this to be true, the Colleges aspire to create and maintain an environment where it is understood that derogatory or debasing comments play no meaningful role in the free exchange of ideas, and may inhibit that exchange, thereby denying some individuals full participation in the learning experience.

Within this framework, the Colleges believe that all members of the community have a responsibility to foster an environment of tolerance, civility, awareness, and respect. The integrity of the Colleges rests upon its ability to create and maintain an environment free from intimidation or injury generated by intolerance or harassment.

2. **Sanctions for Sexual Harassment**: Students found responsible for sexual harassment face sanctions ranging from (but not limited to) a warning to social probation (including reprimands, educational activity, and revoking of privileges), suspension (required withdrawal) or permanent separation, depending on the nature of a particular violation and/or an individual student’s overall conduct record at the Colleges.

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2 University of Madison-Wisconsin Policy.
Employees found responsible for sexual harassment face sanctions ranging from (but not limited to) a warning with a record in the individual's file to required educational training, work restrictions, suspension without pay, loss or reduction of salary or dismissal, depending on the nature of a particular violation and/or whether or not it is a repeat offense. A first offense can result in immediate termination.

B. **SEXUAL EXPLOITATION**

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostitution, non-consensual video or audio-taping of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom, posting on the Internet a sexually explicit photograph of a former partner), engaging in voyeurism or engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually-transmitted disease (STD) and without informing the other person of such infection.

**Sanctions for Sexual Exploitation:** Students found responsible for sexual exploitation face sanctions ranging from (but not limited to) social probation to required withdrawal, depending on the nature of a particular violation and/or an individual student's overall conduct record at the Colleges.

Employees found responsible for sexual exploitation face sanctions ranging from (but not limited to) salary reduction to suspension without pay or termination, restrictions on role/position or required educational training, depending on the nature of a particular violation and/or the employee's overall record of conduct at the Colleges.

C. **NON-CONSENSUAL SEXUAL CONTACT AND SEXUAL INTERCOURSE**

1. Non-consensual sexual contact and non-consensual sexual intercourse include any form of sexual contact that occurs without effective consent. Non-consensual sexual contact and non-consensual sexual intercourse are serious violations of the Colleges’ efforts to maintain a safe, trusting, and respectful campus environment, and are prohibited. In some instances, these forms of sexual misconduct involve violence or threats of violence. Allegations involving violence or threats of violence are taken very seriously and the Colleges apply the severest sanctions in the code of conduct for these violations. In addition to violating the Colleges’ code of conduct, conduct involving violence or threats of violence may be felony offenses.

   a) **Non-Consensual Sexual Contact** is:
      - any sexual touching (“sexual” referring to breasts, genitals, and buttocks, including disrobing or exposure),
      - however slight,
      - with any object,
      - by a man or woman upon a man or woman,
      - by force, threat of force (this includes the use of force or threat of force, coercion, threat of retaliation, or rendering someone incapable of consent through the administration of drugs without the individual's consent) or without effective consent.

   b) **Non-Consensual Sexual Intercourse** is:
      - any sexual intercourse (anal, oral or vaginal),
      - however slight,
• with any object,
• by a man or woman upon a man or woman,
• by force, threat of force (this includes the use of force or threat of force, coercion, threat of retaliation, or rendering someone incapable of consent through the administration of drugs without the individual's consent) or without effective consent.

2. **Sanctions for Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse:** Students found responsible for non-consensual sexual contact and/or non-consensual sexual intercourse face sanctions ranging from (but not limited to) social probation to required withdrawal, depending on the nature of a particular violation and/or an individual student's overall conduct record at the Colleges.

Employees found responsible for non-consensual sexual contact and/or non-consensual sexual intercourse face sanctions ranging from (but not limited to) salary reduction to suspension without pay or termination, depending on the nature of a particular violation and/or the employee's overall record of conduct at the Colleges.

**D. EFFECTIVE CONSENT**

1. **Under New York state law, persons under the age of 17 are incapable of giving consent.** For those over the age of 17, the Colleges define effective consent as words or actions that indicate a willingness to participate in mutually agreed-upon sexual activity. Effective consent must be informed, freely and actively given, and mutually understood. Consent is not effective if it results from the use of threats, intimidation, or coercion. Mutually understandable consent is a subjective standard. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to do the same thing, in the same way, at the same time, with each other.

Consent requires all of the following conditions:

a) all parties are fully conscious;
b) all parties are equally free to act; and
c) all parties have positively and clearly communicated their intent.

Stated differently, “consent” is defined as a clear expression of permission to a sexual act. Consent will not be implied by silence, mere passivity or from a state of intoxication or unconsciousness. Lack of consent is implied if there is a threat of violence, if violence is in fact used or if the accused has taken advantage of a position of influence that the person has over the victim.

2. **Incapacity:** Persons who have sexual activity with someone whom they know to be — or should know to be — mentally or physically incapacitated (substantially impaired by alcohol or other drug use or unconscious) are in violation of this policy. This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint or from the taking of so-called “date rape” drugs. The initiator of sexual contact will be found in violation of this policy if it is determined that he or she knew or should have known that the other person's judgment was substantially impaired at the time consent was obtained or sexual contact was initiated.

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3 National Center for Higher Education Risk Management.
The consumption of alcohol or drugs severely complicates the question of whether or not a person is “fully conscious.” Drinking oneself to the point of incapacitation or passing out would make one clearly incapable of consent, but if a person has consumed any amount of alcohol, it is still quite possible that he or she is incapable of consent. It would be prudent not to engage in sexual relations with that person. Alcohol or other drug-induced blackouts present an even more difficult problem because a person who has blacked out from over-consumption of alcohol may appear sober, rational, and consenting but in fact is not capable of consent.

In the rare instance when the initiator of sexual contact had no way of knowing that the other party was incapable of consent, this factor may be taken into account in determining whether this policy has been violated and in determining an appropriate sanction.

3. **Age/Status and Consent:** Given the status of administrators, faculty, and supervisors over students and subordinates, or of upper-class students over first-year students, all members of the Colleges should be cognizant of the power and authority relations that exist in an academic setting, and the potential exploitation that may arise from their positions. Differences in age or status create power differentials that may complicate the ability to demonstrate that any sexual relationship is fully consensual.\(^4\)

4. **Consensual Sexual Activity between Employees and Students:** An ethic of professionalism and respect within the Colleges’ community demands that those with authority not abuse the power with which they are entrusted. Consensual sexual relationships between employees and students may not only have negative repercussions for the individuals involved, but may create an uncomfortable or distrustful environment for others in the community. The power differential complicates the ability to demonstrate that any such relationship is fully consensual. Given the complications associated with these types of relationships, it should be noted that professors could be faced with a personal civil or criminal action as a result of engaging in such relationships.

Because of the potential for favoritism or other conflicts of interest, the Colleges affirm and uphold a policy which strongly discourages all consensual sexual activity between students and employees, and which prohibits such activity where any supervisory role exists. Therefore,

- faculty members shall not engage in consensual sexual relationships with students enrolled in their courses; and
- faculty members or other employees of the Colleges shall not engage in consensual sexual relationships with students under their supervision in such matters as evaluating, advising, coaching or directing a student as part of a school program.\(^5\)

Such conduct results in relationships that are fundamentally asymmetrical and contradicts both professional ethics and Colleges’ policy. Where such a relationship develops, it is the obligation of the faculty member to bring this matter to the immediate attention of their supervisor, who will take action as necessary to shift class sections or supervisory roles to eliminate conflicts of interest.

5. **Consensual Sexual Activity between Employees:** Consensual sexual relationships between employees of the Colleges do not pose a problem unless the potential for favoritism or other conflict of interest exists or arises. In such complaints (for example, supervisor/subordinate or chair/untenured faculty), the parties involved should disclose their relationship to a supervisor and/or remove themselves from any decisions that may reward or penalize one another.

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\(^4\) Grinnell College Discrimination and Sexual Harassment Policy.

\(^5\) Washington University at St. Louis.
Reporting and Resources

Any member of the Colleges’ community or any visitor or guest who feels he or she has been subjected to conduct in violation of this policy or who feels he or she has been accused of a violation of this policy should report the incident promptly to any of the following designated members of the community with whom he or she feels comfortable:

- Deans of the Colleges
- Campus Safety
- Title IX Coordinator
- Vice President for Human Resources (who is the Employee Sexual Grievance Officer)
- Associate Dean of Students (who is the Student Sexual Grievance Officer)
- His/her supervisor

In the event these individuals receive complaints or concerns, they will report those complaints or concerns to the Colleges’ Vice President for Human Resources (Employee Sexual Grievance Officer) or the Associate Dean of Students (Student Sexual Grievance Officer). If the complainant’s grievance is against one or more of these individuals (the Vice President for Human Resources or the Associate Dean of Students), the complaint will be filed with the President of the Colleges. The President will then forward the complaint to his or her designee.

The Colleges have the right to take action regarding any conduct prohibited by this policy at the appropriate time determined by the Colleges regardless of whether it violates the law and regardless of any action being pursued by the authorities. This policy addresses the institution’s interests and responsibilities, however, the Colleges may refer violations of federal and state laws to the appropriate authorities. All aggrieved persons are entitled, regardless of the outcome of an internal hearing, to pursue the complaint of conduct with the authorities.

The Colleges provide confidential counseling and other support services in complaints of sexual harassment, sexual misconduct, and sexual assault, including acquaintance or stranger rape. The Colleges will support enforcement of orders of protection, no contact orders, and restraining orders upon presentation of a certified copy of any such order issued by a court. Inquiries may be made at the following offices:

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<th>On Campus</th>
<th>Off Campus</th>
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<tr>
<td>Hubbs Health Center, 315-781-3600</td>
<td>Rape Crisis Service, 315-781-1093</td>
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<tr>
<td>Center for Counseling and Student Wellness, 315-781-3388</td>
<td>24-Hour Hotline, (800) 247-7273</td>
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<td>Chaplain’s Office, 315-781-3671</td>
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<td>Office of Campus Safety, 315-781-3656</td>
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<td>William Smith Dean’s Office, 315-781-3467</td>
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<td>Hobart Dean's Office, 315-781-3300</td>
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<td>Jessica Ettell, Title IX Coordinator, 315-781-3911</td>
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Good Faith Reporting and False Allegations

Because of the nature of discrimination (including allegations of sexual and other forms of harassment), such allegations often cannot be substantiated by direct evidence other than the complainant’s own statement. Lack of corroborating evidence should not discourage individuals from considering the filing of a complaint. No action will be taken against an individual who makes a good faith allegation even if after investigating the allegation is not substantiated. However, a person found to have made an allegation or filed a complaint based on an allegation that he/she knew to be false will be subject to disciplinary action and/or sanctions.
Retaliation Prohibited

Retaliation against a person for making a report under this policy, for filing a complaint, for supporting a party to a complaint or for participating in an investigation of a complaint is strictly prohibited and will not be tolerated. Retaliation is any action taken in consequence or retribution for making a complaint or participating in a complaint. Retaliation is a serious offense that can lead to disciplinary action and/or sanctions independent of the merits of the original misconduct allegation.

Sexual Grievance Board and Hearing Panels

Sexual Grievance Board: There is only one campus board that hears grievances or complaints related to sexual misconduct: the Sexual Grievance Board (SGB). All sexual harassment complaints and grievances made under Title IX will be handled under this policy. All other Title IX grievances will be handled pursuant to the Title IX Non-Discrimination and Grievance Procedure set forth in the Handbook of Community Standards. The Title IX Coordinator is Jessica Ettell (315-781-3911 or ettell@hws.edu).

Sexual Grievance Officers (SGOs): The Vice President for Human Resources is designated as the Employee Sexual Grievance Officer (ESGO) and the Associate Dean of Students will serve as the Student Sexual Grievance Officer (SSGO); both will serve as Chairs of the Sexual Grievance Board. In the absence of the Vice President for Human Resources or the Associate Dean of Students, the President may designate a Deputy SGO. The Chairs keep a summary record of all appeals and decisions of the SGB, its panel, and its members relevant to the Sexual Harassment Policy. The Chairs shall also produce an annual report of the Board's activities, which shall be maintained by the Chairs and shall be used, in part, to determine the effectiveness of the policy and the SGB's activities.

Membership: The SGB has fourteen (14) members: four elected students (two from each of the respective student bodies), four elected faculty members (two male and two female, at least two of whom are tenured), four appointed staff members, and the Sexual Grievance Officers. Two student, staff, and faculty alternates may also be elected at the discretion of their respective bodies. To the extent possible, the membership of this group will be representative of the diversity of our community.

Terms: Student members of the SGB serve for two years and must have completed their first year before being eligible to serve on the SGB. Faculty and staff members of the SGB will typically serve for three-year terms and must have completed at least one year of employment at the Colleges before serving. Typically, at least one-third of the SGB will be elected or re-elected annually.

The SGB is comprised of two panels: the Employee Grievance Panel (EGP) and the Student Grievance Panel (SGP). Proceedings conducted by both panels are confidential. Panel members may not discuss the proceedings with any person not on SGB or not directly involved with the case.

Employee Grievance Panel (EGP)

The EGP hears complaints brought against a member of the faculty and/or staff (staff includes salaried and hourly). The EGP will consist of three (3) SGB members, selected as complaints present themselves: the SSGO/Associate Dean of Students (the Chair of the Panel), one (1) staff member, and one (1) faculty member from the SGB. The ESGO will serve as a non-voting advisor to the Panel and will attend the hearing. The Chair may recess the hearing at any time.

At the discretion of the Vice President for Student Affairs and/or the Vice President for Human Resources, the composition of the EGP may be altered to meet the best interests of the parties involved with a particular complaint. This includes but is not limited to appointing appropriately trained personnel (staff or faculty) to
serve on a panel, altering the composition of a given panel, or altering the number of faculty or staff assigned to a given panel.

**Student Grievance Panel (SGP)**

The SGP hears complaints brought against a Hobart and/or William Smith student. The SGP will consist of five (5) Board members, selected as complaints present themselves: the ESGO/Vice President for Human Resources (the Chair of the Panel), two (2) students (a student from Hobart and a student from William Smith) and two (2) employee members consisting of one faculty member and one staff member. The SSGO will serve as a non-voting advisor to the Panel and will attend the hearing. The Chair may recess the hearing at any time.

At the discretion of the Vice President for Student Affairs and/or the Vice President for Human Resources, the composition of the SGP may be altered to meet the best interests of the parties involved with a particular complaint. This includes but is not limited to appointing appropriately trained personnel (staff or faculty) to serve on a panel, altering the composition of a given panel, or altering the number of students, faculty or staff assigned to a given panel.

**Notification of Hearing Panel Members:** The complainant and the respondent shall be informed of the names of the members of the hearing panel scheduled to hear the complaint at least three (3) business days prior to the hearing. The complainant and/or the respondent may object to the membership of the hearing panel only for reasons of official or personal conflict. Objections shall be submitted in writing to the SGO not less than one business day after receiving the names of the hearing panel members. The relevant SGO shall make the final determination about panel membership.

**Conflicts of Interest:** In every complaint, each SGB member is expected to identify if he or she has a conflict of interest, and in such event will not be appointed to the Panel that hears the complaint. A respondent or complainant may file an objection with the SGO and request a substitution if he or she believes that an appointed member of the Panel has a conflict of interest. In the event the objection is sustained, the SGB will make a substitute appointment. A majority of the SGB shall have sole authority to determine whether a panel member should not be appointed to hear a complaint.

**Resolution of a Complaint**

The Colleges encourage prompt reporting of all incidents of sexual misconduct. All complaints and incident reports will be handled as swiftly as possible given the nature of the complaint and will be treated as confidentially as possible depending upon the nature of the complaint. The Colleges believe that complaints are best adjudicated in a time frame that permits prompt, accurate reporting and investigation of all information.

**Informal Process:** Informal problem-solving approaches are available for the resolution of some sexual misconduct complaints. Informal approaches may include, but are not limited to, discussion of the claim with the alleged offender individually or with the applicable supervisor, or mediation. Mediation may take place with individuals designated by the Colleges. With the approval of the parties involved, the process may include the Chaplain and/or the Vice President for Human Resources. The complainant and respondent do not have to be in the presence of each other during the mediation process. At any time during the process or in the event that informal resolution is not achieved, either the complainant or respondent may request that the complaint proceed to formal resolution.

The designated individual handling the informal process will prepare a summary memorandum to document the process. For staff, a copy of the memorandum will be retained in the Office of Human Resources; for faculty, a copy of the memorandum will be reviewed and retained in the Provost’s Office; for students, a copy of the memorandum will be maintained in the Office(s) of the Dean(s) of the student(s).
involved. While the memorandum will not be part of an employee and faculty personnel file unless the complaint or a subsequent complaint results in a formal process and disposition, in all instances, the memorandum will be available for review and consideration in the event the Vice President for Human Resources, Provost, and/or SGB deem it necessary in a subsequent matter before it. The memorandum will be a part of the file in the Dean’s Office of the student(s) involved and will be available for review and consideration in the event the Dean and/or SGB deem it necessary in a subsequent matter before it.

In most instances, the informal process will not be utilized if physical contact is involved in the complaint. In all instances, mediation will not be utilized to resolve sexual assault complaints.

**Administrative Process (Student Respondent Only):** The administrative process shall include an informational meeting with the SSGO, review of additional information and/or witnesses as deemed appropriate by the SSGO (which may include additional meetings with the complainant and/or respondent), and a meeting at which the findings of responsibility and, if necessary sanction(s), will be explained.

As a component of the administrative process, the SSGO may direct Campus Safety or another Colleges’ representative to conduct an investigation of the incident in question.

In the sole discretion of the SSGO, the administrative process may be terminated at any point and the matter may be referred to adjudication under the formal process described below.

The Vice President for Student Affairs may elect to hear any case as an administrative hearing and impose any sanction from warning to permanent separation. **The Colleges reserve the right to require that any allegation be resolved through the formal complaint process.**

**Administrative process (Employee Respondent Only):** At the discretion of the ESGO, complaints of sexual harassment meeting one or more of the following criteria may be directed to an administrative hearing: 1) there is no dispute over the facts of the complaint and 2) the ESGO concludes that the alleged behavior does not constitute a threat to the well-being and/or safety of members of the Colleges’ community.

The administrative process shall include an informational meeting with the ESGO, review of additional information and/or witnesses as deemed appropriate by the ESGO (which may include additional meetings with the complainant and/or respondent), and a meeting at which the findings of responsibility and, if necessary sanctions(s), will be explained.

As a component of the administrative process, the ESGO may direct Campus Safety to conduct an investigation of the incident in question.

In the sole discretion of the ESGO, the administrative process may be terminated at any point and the matter may be referred to adjudication under the formal process described below. **The Colleges reserve the right to require that any allegation be resolved through the formal complaint process.**

**Formal Process:** The formal complaint procedures require a signed statement of complaint or grievance specifying the nature of the claim. The Colleges reserve the right to require that any complaint be resolved through the formal complaint process even if a written statement of complaint or grievance is not prepared.

Statements of complaint or grievances made by any member of the Colleges’ community (faculty, staff, volunteer or student) against an employee must be submitted to the ESGO/Vice President for Human Resources. Statements of complaint or grievances made by any member of the Colleges’ community (faculty, staff, volunteer or student) against a student must be submitted to the SSGO/Associate Dean of Students. Any complaint involving a grievance against the ESGO/Vice President for Human Resources or the
SSGO/Associate Dean of Students should be filed with the President of the Colleges and will be forwarded to his or her designee.

The appropriate panel — EGP or SGP — shall convene as quickly as possible following the receipt of a formal complaint and shall strive to convene within five (5) calendar days of receipt of a formal complaint. The SSGO or ESGO may alter the schedule to meet the needs of any party involved or depending on the nature or complexity of the complaint.

Upon receipt of the complaint, the ESGO or the SSGO will conduct a fact finding that may include an investigation by Campus Safety (or another designee), which would include interviews and other protocols used by Campus Safety or the assigned investigator.

For complaints involving students, the Panel will meet individually with the complainant, respondent(s), and any individuals the Panel considers likely to have relevant knowledge or information related to the complaint. Before the Panel commences its meetings, the complainant and respondent will also be permitted to provide a list of individuals with whom they believe the Panel should meet. The Panel will consider such requests and meet with such individuals at its discretion. The Panel may not compel any individual to comply with its request to meet.

Legal counsel for students may not be present for any part of the Panel’s meetings with the parties or witnesses. The Colleges will offer both the complainant and the respondent(s) the support of a trained process advisor/support person from the Colleges to explain the policy, procedures, rules and protocols and to assist them in the preparation of their complaints before a hearing is held. This individual shall not address the hearing panel or question witnesses.

At the conclusion of the Panel’s individual meetings with the parties and witnesses, and before its deliberations, the Panel will provide the complainant and respondent(s) an oral summary of the hearing, including a list of the individuals with whom the Panel has met and new or additional information that the Chair, in conjunction with the other panelists, has concluded is relevant to the Panel’s deliberations. At this meeting, the complainant and respondent(s) will have an opportunity to identify any other individuals with whom he or she requests the Panel meet. Again, the Panel retains discretion to determine with whom it will meet to make its determination.

For complaints involving employees, the Panel will follow the established hearing procedures, which are provided to the parties at the beginning of the hearing.

Following the hearing, on the basis of its examination of the evidence and using the preponderance of the evidence standard (whether it is more likely than not that the actions in question are violations of this policy), the Panel will put its findings of fact in writing and will determine the appropriate disciplinary action and/or sanctions. Any disciplinary action or sanctions taken against an employee or a student will be put in writing and will be included in the relevant employee file or maintained in the student’s file in the Office(s) of the Dean(s) of the involved student(s). The Vice President for Student Affairs or the Vice President for Human Resources will impose any sanctions determined by the Panel.

No student shall be subjected to a hearing more than once for the same incident arising from a single complaint, unless an appeal has been granted.

Unless an appeal is granted (as described below), the decision of the EGP or SGP shall be final.
Appeals

The respondent and/or the complainant may appeal the Panel’s disposition of the complaint.

Requests for appeals of decisions of a hearing panel are directed to the appropriate SGO. Requests for appeals shall be made in writing within two (2) business days of the written decision.

In the written appeal, it shall be the responsibility of the student or employee pursuing the appeal to provide the evidence of one or more of the following grounds for appeal:

a. the original hearing was not conducted in conformity with prescribed procedures, and the deviation was material;
b. the decision did not follow from information presented to the Panel; or
c. the existence of new relevant facts, sufficient to alter the decision, not brought out in the original hearing, which could not have been known to or available to the appellant at the time of the original hearing.

Dissatisfaction with the decision is not grounds for an appeal.

After review of the grounds for the appeal in an appeal involving a student respondent, the Vice President for Student Affairs, in his or her sole discretion, may: (1) deny the appeal thereby affirming the decision of the Panel; (2) remand the complaint to the original hearing panel for further consideration; (3) direct the complaint to a new hearing panel; or (4) alter the sanction and/or the finding of responsibility. Decisions made during the appeal process are final.

The Vice President for Human Resources will hear and decide appeals involving an employee. Nothing in this policy shall supersede any grievance procedures in the Faculty Handbook or the Employee Handbook.

Records

In connection with records regarding student matters, the Office(s) of the Dean(s) of the student(s) involved will maintain disciplinary records. Notations of permanent separation and required withdrawal appear on the student’s permanent transcript and, therefore, become a permanent part of that student’s file. Disciplinary files are confidential, however, disciplinary history is provided to the appropriate judicial body if subsequent violations occur. Students may inspect their educational records at reasonable times in accordance with the Colleges’ Educational Records Policy. These records may also be inspected by Colleges’ officials and will be released only in accordance with the Colleges’ Educational Records Policy.

In addition to any investigation documents, student records, and personnel records that the Colleges determine are necessary to maintain, for matters involving employees, summary records of all complaints are kept without identifying characteristics in the Office of the Director of Human Resources. For matters involving students, summary records of all complaints are kept without identifying characteristics in the Office(s) of the Dean(s) of the student(s) involved.

Interpretation and Revision

Any question of interpretation regarding the Sexual Misconduct Policy shall be referred to the SGOs or designee for final interpretation. A review of the Sexual Misconduct Policy shall be coordinated by the SGOs whenever deemed appropriate or necessary by the Colleges.