



Policy Prohibiting Sex Discrimination and Grievance Procedures

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SEX DISCRIMINATION AND SEX-BASED HARASSMENT POLICY

Policy Statement

Spelman College (the “College”) is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from sex discrimination, sex-based harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Spelman College has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation related to such claims. Spelman College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the Complaint Resolution process during what is often a difficult time for all those involved.

The core purpose of this policy is the prohibition of all forms of sex discrimination and sex-based harassment, including sexual harassment, sexual assault, dating violence, domestic violence, and stalking. Spelman College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including employment. One area of discrimination involves exclusion from admissions¹. When an alleged violation of this policy is reported, the allegations are subject to resolution using one of the College’s Complaint Resolution Procedures², as determined by the Director of Title IX and Compliance. The Complaint Resolution Procedures may be applied to incidents, patterns, and /or to campus climate, all of which may be addressed and investigated in accordance with this policy.

NOTICE OF NON-DISCRIMINATION

Spelman College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission⁴ and employment.

Inquiries about Title IX may be referred to the Spelman College Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights³, or both. Spelman College’s Title IX Coordinator is Dr. Jaray Mazique, Milligan 2305, (404) 270- 4005, jaraymazique@spelman.edu.

Spelman College’s nondiscrimination policy and grievance procedures can be located at <https://www.spelman.edu/title-ix/policies-and-procedures>. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to <https://www.spelman.edu/title-ix/help-and-support/report-an-incident>.

¹ Spelman College is a women’s college that admits only candidates who self-identify and live as women.

² Allegations subject to resolution using 106.45 are those allegations that involve sex discrimination and 106.46 for allegations of sex-based harassment involving student complainants or student respondents at postsecondary institutions. as detailed in United States Department of Education regulations. *See* Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89, Fed. Reg. 33474-33896 (April 29, 2024).

³ Contact information for OCR is available here: <https://ocrcas.ed.gov/contact-ocr>

Scope of the Policy and Jurisdictional Statement

This policy applies to all students; student organizations; College employees and contractors, including staff, faculty, and administrators; and all other persons that participate in the College's educational programs and activities, including third-party visitors while on campus (the "College Community"). This policy prohibits this conduct regardless of whether the Complainant and Respondent are members of the same or opposite sex or gender.

The College may investigate any alleged violation of this policy that occurs in the context of a College program, or activity (including academic, educational, extracurricular, study abroad and internships, and other College programs), or that otherwise creates a sex-based hostile environment or affects the College's working, living or learning environments, regardless of whether that conduct occurred on or off campus.

Additionally, the College will review all complaints to determine whether the College otherwise has a substantial interest in the allegations. A substantial College interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. 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
- d. Any situation that is detrimental to the educational interests or mission of the College.
- e. If the Respondent is unknown or is not otherwise subject to sanctions imposed by the College, the Director of Title IX and Compliance (or designee) will offer the Complainant supportive measures, remedies, and resources, such as, 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. Although, the College may not, in certain instances, be in a position to conduct an investigation, it may provide appropriate resources or support to impacted individuals and where appropriate, the broader College Community.

Spelman College Consortium Statement

Spelman College, Clark Atlanta University, Morehouse College, and Morehouse School of Medicine collectively form the Atlanta University Center Consortium (AUCC). Spelman College students and employees, when studying at, visiting, or attending a college-related event of another AUCC institution, using the Woodruff Library or its shuttle, will be subject to Spelman College policies as well as the policies of the other campus institution or library.

As appropriate, the Spelman College Director of Title IX and Compliance will coordinate with another institution in support of any persons affected by reported policy violations.

As a member of the Atlanta University Center Consortium (AUC), Spelman has a reciprocal agreement with the other member institutions regarding student behavior and discipline. When a Spelman student is accused of misconduct on an AUC campus, Spelman will address the behaviors and conduct violation. Likewise, non-Spelman student conduct violations on the Spelman College campus will be addressed by

the student's home institution. There are instances, however, where Spelman may choose to address non-Spelman student conduct violations if Spelman determines it is in the best interest of the Spelman community and its students to address the allegations. The determination of whether Spelman will address allegations of non-Spelman student conduct violations is in the sole discretion of the Director of Title IX and Compliance. Even if Spelman determines it will address allegations of student conduct violations committed by a non-Spelman student, a Respondent's home institution may still choose to conduct a parallel proceeding. The outcome of a proceeding at a Respondent's home institution will not influence or impact any Spelman proceeding, and vice versa.

The names and contact information for the current Title IX Coordinators throughout the AUCC are available on the Spelman College Title IX and Compliance website and listed below:

Clark Atlanta University

Ramona Roman
rroman@cau.edu

Morehouse College

Keith Cobbs
keithcobbs@morehouse.edu

Morehouse School of Medicine

Claudette Bazile, Esq.
mthompson@msm.edu

Spelman College

Dr. Jaray Mazique
jaraymazique@spelman.edu

When the Complainant is a member of the Spelman community, a Resolution process may be available regardless of the status of the Respondent, who may or may not be a member of the Spelman community, if the reported conduct occurred within the scope of Spelman's educational program and/or if the College determines there are available sanctions (i.e., Spelman can ban the Respondent from future access to the campus or the College's educational programs). The College may, in its discretion, dismiss a formal complaint if the Respondent is not subject to the disciplinary control, or otherwise sanctionable, by the College. In such instances, the College will provide supportive measures to the Complainant. Spelman's Title IX & Compliance Office will assist any student who wishes to bring allegations against a non-Spelman member of an AUCC institution at the Respondent's home institution.

Similarly, the Director of Title IX & Compliance may be able to assist a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sex-based harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

This College community includes, but is not limited to, students, student organizations, faculty, administrators, staff, contractors, and third parties such as guests and visitors. The Complaint Resolution Procedures may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

Title IX Coordinators and Clery Act Coordinator

The College has designated the Director of Title IX and Compliance, as the College's Title IX Coordinator with assistance of the Deputy Title IX Coordinators, to coordinate compliance with Title IX and to respond to reports of violations. The College's Director of Title IX and Compliance oversees compliance with all aspects of this policy. The Director is directly supervised by the Chief of Staff and Secretary of the College. The College has directed the Deputy Chief of Police, Toni Shavers, to coordinate the College's compliance with obligations related to the Clery Act.

If you have any questions about this policy, you may contact the College's Director of Title IX and Compliance, by phone at (404) 270-4005 or titleixteam@spelman.edu. For more information about Title IX and VAWA, please go to the [College Title IX Website](#).

The Director of Title IX & Compliance acts with independence and authority free from bias and conflicts of interest. The Director of Title IX & Compliance oversees all resolutions under this policy and related complaint resolution procedures. The members of the Title IX Team are vetted and trained to ensure that the College's complaint resolution procedures, or the provision of supportive measures, are acted on without bias for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

Director of Title IX & Compliance/Title IX Coordinator

Dr. Jaray Mazique, Director of Title IX and Compliance
Office of the President, Milligan Building, Rm. 2305
(404) 270- 4005
Email: jaraymazique@spelman.edu

Deputy Title IX Coordinators

Kristin Couch, Associate Director of Title IX and Compliance
Office of the President, Milligan Building, Rm. 2305
(404) 270- 4005
Email: kcouch1@spelman.edu

Dr. Sylvia Griffin, Dean of Students
Office of the Dean of Students, Manley Student Center, Rm. 210
(404) 270-5242
Email: sylvia.griffin@spelman.edu

Dr. Pamela Scott-Johnson,
Provost and VP for Academic Affairs
Office of the Provost, Rockefeller Hall, Rm. 106
(404) 270-3561
Email: pscottjo@spelman.edu

Bernadette Cohen
Director of Human Resources
Office of Human Resources, Rockefeller Hall, Rm. 301
(404) 270-5091
Email: bcohen@spelman.edu

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Director of Title IX and Compliance contact Dr. Terri Reed, Chief of Staff and Secretary of the College, at (404) 270-5005 or by email at treed15@spelman.edu. Concerns of bias, potential conflict of interest, misconduct or discrimination by a Deputy Title IX Coordinator, Investigator, Decision Maker, Appellate Officer, or college-appointed Advisor should be raised with the Director of Title IX and Compliance.

Inquiries or complaints related to this policy may also be made externally with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting their [website](#), via email ocr@ed.gov, or calling 1-800-421-3481. You may also contact the Department of Education's Clery Compliance Division for inquiries or complaints regarding the College's compliance with the Clery Act at: clery@ed.gov or by calling 1-800-4-FED-AID (1-800-433-3243).

Notice/Formal Complaints of Violation

Notice or incident reports of sex discrimination, sex-based harassment, and/or retaliation may be made using any of the following options:

File an incident report or give verbal notice to the Director of Title IX and Compliance or Deputy Title IX Coordinators. Reports may be made at any time (including during non-business hours) by using the [online reporting form](#) posted at <https://spelman.edu/title-ix> or by email titleixteam@spelman.edu.

Anonymous reports are accepted but may still give rise to a need to investigate. The College offers supportive measures to all Complainants, which may be impossible with an anonymous report. A reporting individual or Complainant is not obligated to proceed with a Formal Complaint, Complaint Resolution Procedure, or other formal response, and the College will respect a Complainant's request to dismiss a complaint unless there is a compelling threat to health and/or safety of the community. The Complainant is largely in control and should not fear a loss of privacy by making a report that may allow the College to discuss and/or provide supportive measures.

A Formal Complaint means verbal or written notification by the Complainant or complaint by the Director of Title IX and Compliance alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s).

The College has also classified most employees as Mandated Reporters, who are, required to disclose any knowledge they have that a member of the community is experiencing or has experienced sex discrimination or sex-based harassment, including sexual assault, dating violence, domestic violence, stalking and/or retaliation in any Spelman College program or activity. The section below on [Mandated Reporting](#) details which employees have this responsibility and their duties.

Time Limits on Reporting

There is no time limitation on submitting incident reports or submitting formal complaints to the Director of Title IX and Compliance. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on incident reports or formal complaints significantly impacted by the passage of time (including, but not limited to, acts that have been impacted by the rescission or revision of policy) is at the discretion of the Director of Title IX and Compliance, who may document allegations for future reference, offer

supportive measures and/or remedies, and/or engage in informal or formal action as appropriate.

When an incident report or formal complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures.

Conduct Prohibited Under This Policy

The Department of Education's Office for Civil Rights (OCR), and the State of Georgia regard **Sex-Based Harassment**, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

The College has adopted the following definitions of Sex Discrimination and Sex-Based Harassment in order to address the unique environment of an academic community, which consists of both employees and students.

Acts of sex discrimination and 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.

The April 2024, Title IX regulations define Sex Discrimination as discrimination on the basis of sex stereotypes, sex characteristics, sexual orientation, gender identity, and pregnancy (or related conditions) and Sex-Based Harassment as a form of sex discrimination and means sexual harassment on the basis of sex, including:

- 1) **Quid Pro Quo Harassment.** An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient'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;

- 2) **Hostile Environment Harassment.** 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 recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;

 - (ii) The type, frequency, and duration of the conduct;

 - (iii) 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;

 - (iv) The location of the conduct and the context in which the conduct occurred; and

 - (v) Other sex-based harassment in the recipient's education program or activity; or

- 3) **Specific Offenses.**
 - (i) **Sexual Assault** - meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - a. Any sexual act directed against another individual, without the consent of that

individual, including instances in which the individual is incapable of giving consent.

- i. Non-Consensual Sexual Penetration (Rape, Sodomy). Penetration, no matter how slight, of the vagina or anus of an individual with any body part or object, or oral penetration by a sex organ of another individual, without the consent of the individual or against the individual's will, or
- ii. Non-Consensual Sexual Contact (Fondling). The touching of the private body parts of another individual (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, without the consent of the individual or against the individual's will, or not forcibly or against the individual's will in instances in which the individual is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(ii) Dating Violence - meaning violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with an individual; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship;
 - ii. The type of relationship; and
 - iii. 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 and does not include acts covered under the definition of domestic violence.

(iii) Domestic Violence - meaning felony or misdemeanor crimes committed by a person who:

- a. Is a current or former spouse or intimate partner of an individual under the family or domestic violence laws of Georgia, or a person similarly situated to a spouse of the individual;
- b. Is cohabitating, or has cohabitated, with an individual as a spouse or intimate partner;
- c. Shares a child in common with an individual; or
- d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Georgia.

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.

(iv) Stalking - Engaging in a course of conduct, directed at a specific person, that would cause a reasonable person

- a. to fear for that person's safety, or the safety of others; or
- b. to suffer substantial emotional distress.

For the purposes of this definition:

A course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

- (v) Incest - Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Georgia law.
- (vi) Statutory Rape - Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 16 years old.
- (vii) Sexual Exploitation - Taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy.
 - a. Examples of sexual exploitation may include, but are not limited to, the following:
 - i. Invasion of sexual privacy;
 - ii. Prostituting another individual;
 - iii. Non-consensual photos, video, or audio of sexual activity;
 - iv. Non-consensual distribution of photo, video, or audio of sexual activity, even if the sexual activity or capturing of the activity was consensual;
 - v. Intentional observation of nonconsenting individuals who are partially undressed, naked, or engaged in sexual acts;
 - vi. Knowingly transmitting an STD or HIV to another individual through sexual activity;
 - vii. Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non- consensual circumstances; and/or
 - viii. Sexually-based bullying.
- (viii) Retaliation - Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the Resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Director of Title IX and Compliance and will be promptly investigated. The College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for the College or any member of the College community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The College may charge an individual with separate a code of conduct violation when the College determines an individual has made a materially false statement in bad faith in the course of a Resolution proceeding under this policy and procedure. A determination regarding responsibility following the conclusion of a Resolution proceeding, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Other Sex Discrimination Offenses

In addition to the violations described above, the College also prohibits the following offenses as forms of sex discrimination when the act is based on the Complainant's actual or perceived sex, sexual orientation, gender identity/expression, pregnancy status, or status as a parent.

- a) Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
- b) Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
- c) Discrimination against students and applicants for admission and employees or applicants for employment on the basis of pregnancy or related conditions;
- d) Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- e) Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);
- f) Bullying & Cyberbullying, defined as:
 - i. Repeated and/or severe behavior that is
 - ii. intended or likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally.

Violation of any other College policies may constitute a discrimination on the basis of sex, when a violation is motivated by actual or perceived sex, sexual orientation, gender identity/expression, pregnancy status, or status as a parent and the result is a discriminatory limitation or denial of employment or educational access,

benefits, or opportunities.

Force, Coercion, Consent, Incapacitation

As used in the offenses above, the following definitions and understandings apply:

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 (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated

by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

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 they do not want to engage in certain sexual activity, they want to stop, or they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent: A knowing and voluntary agreement to engage in mutually agreed upon, specific sexual activity. Giving and obtaining consent involves clear permission by word or action to engage in specific sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity. Clear verbal 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 him or her 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.

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, or previous statement or indication that an individual wanted to engage in sexual activity, 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.

Consent in relationships must also be considered in context. When parties consent to BDSM⁴ or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

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 neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment. A Respondent’s temporary mental state, including mental state caused by alcohol or drugs, is not a defense to a sexual assault policy violation.

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.

Online Harassment and Misconduct

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

While the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College community.

Consensual Relationship Policy

Consensual relationships between employees and students are inconsistent with the mission of the College. This type of behavior risks damaging the student’s educational experience, gives the appearance of favoritism and impropriety, harms morale and risks the reputation of the College.

Employees are strongly advised to exercise their best professional judgment concerning students. The

⁴ Bondage, discipline/dominance, submission/sadism, and masochism.

College thus prohibits consensual relationships between employees and students.

If a teaching, mentoring, or supervisory relationship exists between individuals with a current or prior consensual relationship, the relationship must be disclosed to the Provost/Vice President for Academic Affairs or the Vice President for Student Affairs, and alternative teaching arrangements will be implemented and a determination will be made regarding a policy violation.

Additionally, The College prohibits employees from supervising, evaluating, or determining the terms and/or conditions of employment of anyone with whom they have or had a sexual relationship.

When a current or past sexual relationship exists between any employees in a supervisory relationship, immediate steps must be taken to terminate the supervisory arrangement, and alternative means of supervision will be implemented. The supervisor must disclose this relationship to the Director of Human Resources. Either party may request alternative means of supervision.

The complete Consensual Relationship Policy is available online at <https://www.spelman.edu/title-ix/policies-and-procedures/consensual-relationship-policy>.

Sanctions

The College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. In determining the appropriate sanction, the College engages in a careful review of factors and circumstances.

When a violation of the Policy is found, sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. In addition, the College may take steps to address the effects of the conduct on Complainants and others, including, but not limited to, counseling and support resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures. Sanctions and remedial actions aim to eliminate any hostile environment, prevent sex-based discrimination, sexual harassment, sexual assault, dating violence, domestic violence, and stalking from recurring and remedy any discriminatory effects on a Complainant or others.

Sanctioning Range

The following are the typical sanctions that may be imposed upon students/ student organizations and employees, singly or in combination. Sanctions may only be imposed after the completion of a College's Complaint Resolution Procedures, and after a determination, in writing, that a Respondent is responsible for the actions alleged by the Complainant. The sanction imposed will be based on a fact-specific inquiry, and considerations may include the nature and severity of the offense, history, or pattern of prior offenses by the Respondent, and impact of the offense on the Complainant and the greater Spelman community. Potential sanctions for a finding of responsibility for students and student organizations include:

Sex Discrimination

Students/ Organizations: Letter of Warning, Disciplinary Probation, Educational Project, Restricted Access to Campus and College Activities, Restitution, Transcript Notation, Suspension, Expulsion

Employees: Verbal Warning, Written Warning, Performance Improvement Plan, Required Counseling, Required Training or Education, Loss of Annual Pay Increase, Suspension with Pay, Suspension without Pay, Demotion, Revocation of Tenure, Termination

Sexual Harassment

Students/ Organizations: Letter of Warning, Disciplinary Probation, Educational Project, Suspension of Housing, Restricted Access to Campus and College Activities, Restitution, Transcript Notation, Suspension, Expulsion

Employees: Verbal Warning, Written Warning, Performance Improvement Plan, Required Counseling, Required Training or Education, Loss of Annual Pay Increase, Suspension with Pay, Suspension without Pay, Demotion, Revocation of Tenure, Termination

Sexual Assault, Dating Violence, Domestic Violence and Stalking

Students/ Organizations: Disciplinary Probation, Educational Project, Suspension of Housing, Restricted Access to Campus and College Activities, Restitution, Transcript Notation, Suspension, Expulsion

Employees: Required Counseling, Required Training or Education, Loss of Annual Pay Increase, Suspension without Pay, Demotion, Revocation of Tenure, Termination

Other Sex Discrimination Offenses and Failure of a Mandated Reporter to report

Students/ Organizations: Disciplinary Probation, Educational Project, Suspension of Housing, Restricted Access to Campus and College Activities, Restitution, Transcript Notation, Suspension, Expulsion

Employees: Verbal Warning, Written Warning, Performance Improvement Plan, Required Counseling, Required Training or Education, Loss of Annual Pay Increase, Suspension with Pay, Suspension without Pay, Demotion, Revocation of Tenure, Termination

Retaliation

Students/ Organizations: Letter of Warning, Disciplinary Probation, Educational Project, Restricted Access to Campus and College Activities, Restitution, Transcript Notation, Suspension, Expulsion

Employees: Verbal Warning, Written Warning, Performance Improvement Plan, Required Counseling, Required Training or Education, Loss of Annual Pay Increase, Suspension with Pay, Suspension without Pay, Demotion, Revocation of Tenure, Termination

Mandatory Reporting

Most Spelman College employees (faculty, staff, and administrators) are expected to report actual or suspected violations of this policy to the Director of Title IX & Compliance or a Deputy Title IX Coordinator, though there are some limited exceptions (Counseling Center staff, Health Services staff, Dean of the Chapel, and Employee Assistance Program personnel).

To make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources (Counseling Center staff, Health Services staff, the Dean of Chapel, and Employee Assistance Program personnel) may maintain confidentiality to offer options and resources without any obligation to inform the Director of Title IX & Compliance or Deputy Title IX Coordinators unless a Complainant has requested the information be shared. Confidential employees are required to share information about the Title IX Coordinator. The [confidential resource](#) are listed below.

If a Complainant expects formal action to their allegations, reporting to any Mandated Reporter can connect them with resources to report and these employees will immediately pass reports to the Director of Title IX and Compliance (and/or police, if desired), who will take action when an incident is reported to them.

Mandated Reporters, Incident Reports and Complaints

Most employees of Spelman College (including certain student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Director of Title IX and Compliance all known details of a disclosure made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to consider carefully whether they will share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Director of Title IX and Compliance.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Director of Title IX and Compliance by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College. Supportive measures may be offered as the result of such disclosures without formal College action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of this policy and can be subject to disciplinary action for failure to comply.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

Request for No Action

If a Complainant does not wish for their name to be shared with the Respondent, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Director of Title IX and Compliance, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Director of Title IX and Compliance has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Director of Title IX and Compliance may initiate a formal complaint address the allegations, even in the absence of a Complainant’s willingness to proceed with a Resolution process if the Director of Title IX and Compliance determines the existence of a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant’s wishes.

The Director of Title IX and Compliance must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College’s ability to pursue a formal Complaint Resolution Process fairly and effectively.

When the Director of Title IX and Compliance executes the written complaint, they do not become the

Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

The College’s ability to respond to notice may be limited if the Complainant does not want to proceed with an investigation and/or Resolution process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College’s obligation to protect its community.

In cases in which the Complainant requests privacy/no formal investigation and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not pursue formal resolution.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College, and to have the allegations investigated and properly resolved through these procedures.

Confidential Resources

A confidential resource is an individual who is legally and/or ethically bound to keep information confidential that is shared with them in the course of providing counseling or support. Confidential communications cannot be disclosed to anyone without the reporter’s consent, except under extreme circumstances including the physical or sexual abuse of a minor or in cases of immediate threat or danger to a person(s) or the larger College community. Confidential resources also may be required to report limited information, excluding any personally identifiable information, about certain reports of alleged misconduct in compliance with federal reporting requirements.

On-campus confidential resources include the following:

Spelman Counseling Services MacVicar Hall (404) 270-5293	Spelman Health Services MacVicar Hall (404) 270-5249
Dean of the Chapel Bessie Strong Center (404) 270-5728	Magellan -Employee Assistance Program (800) 523-5668 or (800) 882-7610 (TTY) MagellanAscend.com

All the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

For students, the counseling services staff can be accessed on an emergency basis after hours and on weekends by contacting (404) 270-5293 and follow the voice prompts.

For employees, the College provides a 24/7 employee assistance program (EAP) through Magellan. For more information, please visit MagellanAscend.com or dial 1-800-523-5668.

Off-campus confidential resources are available on the [Spelman College Title IX & Compliance Website](#).

Reporting to Law Enforcement

Sex-based harassment can be reported to campus or local law enforcement agencies. College officials are available to provide assistance with making such reports, upon request. Reporting to law enforcement is not required.

Complainants who are considering filing a complaint or law enforcement report of sex-based harassment are encouraged to preserve any evidence of sexual misconduct. Examples of evidence that would assist in an investigation of sex-based harassment include such things as:

- clothing worn during the incident including undergarments;
- sheets, bedding, and condoms, if used;
- list of witnesses with contact information;
- text messages, call history, social media posts; and
- pictures of injuries.

Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sex discrimination, sex-based harassment, and/or retaliation. All options are provided to parties in writing.

Supportive measures individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or (2) Provide support during the College's grievance procedures or during the informal resolution process.

The Director of Title IX and Compliance 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 they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Director of Title IX and Compliance works with Complainants to ensure that their wishes are taken into account with respect to the supportive measures that are offered.

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. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These Remedies/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, including protective orders
- Visa and immigration assistance

- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders or persona non grata) between the parties

- Academic support, extensions of deadlines, or other course/program-related adjustments
- Criminal Trespass Warning (CTW) or Be-On-the-Lookout (BOLO) orders⁵
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Director of Title IX and Compliance

When a no contact order has been issued as a supportive measure or sanction in response to a complaint of a pattern or repeated actions on the part of the Respondent (such as, for example, a complaint of stalking or repeated sexual harassment), violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

Spelman College may be limited in its ability to institute supportive measures when the Complainant/ Respondent is not a member of the Spelman College community (not a student or employee) The Spelman College Director of Title IX and Compliance, to the extent reasonable, will coordinate implementation of support measures at the Complainant's/ Respondent's home institution with appropriate consent to release information, as appropriate.

Emergency Removals

The College can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Director of Title IX and Compliance in consultation with the Dean of Students, Director of Human Resources and/or the Office of the Provost, and the Spelman College Public Safety Department, using its standard objective violence risk assessment procedures.

When a Respondent is not a full-time student or employee of the College, but has an intermittent, on- going relationship with the College that requires continual interaction with the College (such as a cross- registered student, contractor, or professor/faculty of another institution that has a working, contractual relationship with the College), the Dean of Students, Chief Financial Officer/Vice President of Business and Financial Affairs, Director of Human Resources, and/or the Office of the Provost (as appropriate), will determine the proper course of action regarding the cross-registration status or contractual relationship.

In all cases in which an emergency removal is imposed, the student, employee, or contractor will be given notice of the action and the option to request to meet with the Director of Title IX and Compliance 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. A Respondent requesting such a meeting may also bring an Advisor of their choosing.

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 within 5 business days of a Respondent's receipt of notice, objections to the emergency removal will be deemed waived.

⁵ CTW or BOLO are actions implemented and enforced through sworn law enforcement officers.

Promptness

All allegations are acted upon promptly by The College once it has received notice or a formal complaint. Complaints can take 90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in College's procedures will be delayed, the College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

Privacy

Every effort is made by the College to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex 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 34 CFR Part 106, including the conducting of any Investigation, Resolution proceeding arising under this policy and the related procedures.

The College reserves the right to designate 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).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Title IX & Compliance Office, Deputy Title IX Coordinators, Vice President for Business & Financial Affairs, Human Resources Office, Vice President and/ or Associate Vice President for Student Affairs, the Dean of Students Office, Vice President for Academic Affairs/ Provost, and the Spelman College Public Safety Department Police. Information will be shared as necessary with the Investigator(s), Decision-maker(s), witness(es), the Parties, and their Advisors. 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. The College will also comply with State mandates to report child abuse, neglect, and endangerment.

Revisions of This Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, sex discrimination, and/or retaliation and will be reviewed annually by the Director of Title IX and Compliance. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Director of Title IX and Compliance may make minor modifications to procedures that do not materially jeopardize the fairness owed to any Party, such as to accommodate summer schedules. The Director of Title IX and Compliance may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that

changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

Glossary of Terms

- **Advisor:** a person chosen by a party to accompany the party to meetings, investigation interviews, or hearings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- **Complainant:** (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination; or (3) an individual who has alleged retaliation for engaging in a protected activity pursuant to this policy.
- **Complaint:** an oral or written request to the College that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or this part.
- **Confidential Resource:** (1) an employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status), and whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or (2) an employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.
- **Day:** a business day when the College is in normal operation.
- **Decision-maker or Panel:** those who have decision-making and sanctioning authority within the College's Formal Resolution processes.
- **Disciplinary sanctions:** consequences imposed on a respondent following a determination under Title IX that the respondent violated the prohibition on sex discrimination.
- **Education program or activity:** locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the College.
- **Final Determination:** a conclusion by the standard of proof that the alleged conduct did or did not violate policy.

- ***Finding***: a conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- ***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 information into an investigation report and file of directly related evidence.
- ***Mandated Reporter***: an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of sex discrimination and/or retaliation with the Title IX Coordinator and/or their supervisor⁶.
- ***Notice/Complaint***: 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 sexual harassment and/or retaliation on behalf of the College.
- ***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 a 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.
- ***Parties***: the Complainant(s) and Respondent(s), collectively.
- ***Peer retaliation***: retaliation by a student against another student.
- ***Pregnancy or related conditions***: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- ***Program or activity and program***: all of the operations of a college, university, or other postsecondary institution, or a public system of higher education.
- ***Recipient***: a postsecondary education program that is a recipient of federal funding.
- ***Relevant***: related to the allegations of sex discrimination under investigation as part of the grievance procedures under § 106.45, and if applicable § 106.46. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and

⁶ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

- **Remedies:** means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the College's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.
- **Resolution Process Pool:** any Deputy/Title IX Coordinator, Investigator, Decision-maker, Appellate officer, and Advisor who may perform any or all of these roles (though not at the same time or with respect to the same case).
- **Respondent:** a person who is alleged to have violated the prohibition on sex discrimination or retaliation.
- **Retaliation:** intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process, sex discrimination grievance procedures.
- **Resolution:** the result of informal or formal resolution designated by the College to address conduct that falls within the policies, and which complies with the requirements of Title IX regulations.
- **Sanction:** a consequence imposed by the College on a Respondent who is found to have violated this policy.
- **Sex-Based Harassment:** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including the offenses of sexual assault, stalking, and dating violence and domestic violence.
- **Student:** a person who has gained admission.
- **Student with a disability:** a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, [29 U.S.C. 705\(9\)\(B\)](#), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, [20 U.S.C. 1401\(3\)](#).
- **Title IX Coordinator:** at least one 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 designee of the Coordinator for specific tasks.
- **Title IX Team:** the Title IX Coordinator, any deputy coordinators, and any member of the Resolution Process Pool.

GRIEVANCE PROCEDURES FOR SEX DISCRIMINATION AND SEX-BASED HARASSMENT

The procedures explained in this process pertain to alleged violations of the Sex Discrimination and Sex-Based Harassment Policy that fall under the requirements as set forth in Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89, Fed. Reg. 33474-33896 (April 29, 2024).

Overview

Spelman College (“the College”) is committed to providing a safe and nondiscriminatory environment for all members of its community. These procedures outline the process the College will follow when it receives a report alleging a violation of the Policy Against Sex Discrimination and Sex-Based Harassment.

The Director of Title IX and Compliance (“Title IX Director”) oversees compliance with Title IX, the College’s Policy Against Sex Discrimination and Sex-Based Harassment and the related Complaint Resolution Process (“Complaint Resolution Process”).

All reports will be handled in a prompt, fair, and impartial manner in accordance with Title IX of the Education Amendments Act of 1972 and related guidance, the Violence Against Women Reauthorization Act of 2013, other relevant laws and regulations, and applicable College policies, including the Policy Against Sex Discrimination and Sex-Based Harassment Grievance Procedures.

The process described below is the College’s internal administrative process to determine whether College policy has been violated; it is not a criminal or legal process. As such, Spelman’s process does not use the same rules of procedure and evidence as those used by courts or law enforcement to investigate or adjudicate criminal or civil legal violations. A complainant of sexual violence or other crime has the right to file and pursue only a criminal complaint with law enforcement, decline to notify such authorities, or simultaneously file a complaint with law enforcement and the College. The College can assist in notifying law enforcement authorities. Parties may also have options to file civil actions in court and a complaint with the Department of Education Office for Civil Rights or with the Clery Compliance Division, where applicable.

The College will always strive for consistency in following the procedures set forth in this Grievance Process but recognizes that the unique circumstances of any particular case may require flexibility. As such, the College reserves the right to adapt the Grievance Process to meet the particular circumstances of each case, while preserving transparency and fairness for all Parties and maintaining the integrity of the Grievance Process. The procedures described below may also be used to address collateral misconduct arising from the investigation of occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures elaborated in the Student Code of Conduct, faculty, and staff handbooks.

The College will send written communications to students, faculty, or staff involved in Grievance Process through their College-assigned e-mail account. Students, faculty, and staff are responsible for checking their College-assigned e-mail on a daily basis. All communications sent via e-mail are presumptively deemed to be received.

Notice of Complaint

Upon receipt of a verbal or written complaint to the Title IX Director (or designee) of an alleged

violation of the Policy by a complaint or a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant, the College initiates a prompt initial assessment to determine the next steps the College needs to take. The College will initiate at least one of three responses:

1. Offering supportive measures because the Complainant does not want to proceed formally; and/or
2. An Informal Resolution to a complaint; and/or
3. A Formal Resolution Process including a review for sex discrimination and an investigation and a hearing for sex-based harassment.

Note: for sex-based harassment, a person is entitled to make a complaint of sex-based harassment if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements.

The investigation and resolution process will determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

Initial Assessment

Following a verbal or written complaint of an alleged violation of the Policy, the Title IX Director (or designee) engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- The Title IX Director seeks to determine if the person impacted wishes to move forward with the complaint. The Title IX Director will also determine if the misconduct alleged falls within the scope of Title IX and advise the Complainant.
- The Title IX Director will offer supportive measures to the Complainant.
- The Title IX Director makes the Complainant aware of their right to have an Advisor.
- The Title IX Director works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Director works with the Complainant to identify their wishes and then seeks to facilitate implementation. The Formal Grievance Process is not initiated, though the Complainant can elect to initiate one later, if desired.
 - If an Informal Resolution option is preferred, the Title IX Director assesses whether the complaint is suitable and will provide notice of the Complaint to the Respondent, notify them of their right to an advisor, available supportive measures, and determine if the Respondent is willing to engage in informal resolution process.
 - If a Formal Grievance Process is preferred, Title IX Director will provide notice of the Complaint to the Respondent and notify the Respondent of their right to an Advisor, available supportive measures.
- If the Complainant does not wish to move forward with the complaint, the Title IX Director determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety to the Spelman community.

The Title IX Director may consolidate complaints of sex discrimination against more than one

respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.⁷ When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

If the Title IX Director determines that the complaint is not within the scope of Title IX, the Title IX Director will “dismiss” the complaint and assesses which College grievance process is applicable, if any, and will refer the matter accordingly to the appropriate staff. Please note that dismissing a complaint under Title IX is a procedural step and does not limit the College’s authority to address a complaint with an appropriate process and remedies, if applicable.

Complaint Dismissal

The College may dismiss a complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. A complainant notifies the Title IX Director in writing that the Complainant would like to withdraw the complaint or any allegations therein; and/or
2. The conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX as defined in the College’s Policy; and/or
3. The respondent is not participating in the Spelman College’s education program or activity and is not employed by Spelman College; and/or
4. The Title IX Director declines to initiate a complaint, and the College determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX, even if proves; and/or
5. The College is unable to identify the respondent after taking reasonable steps to do so. Spelman College will make reasonable efforts to clarify the allegations with the complainant; and/or
6. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the complaint or allegation therein.

Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties, where appropriate. This dismissal decision is appealable by any Party under the procedures for appeal below. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

If the dismissal is appealed, Spelman College will:

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
2. Implement appeal procedures equally for the parties;
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;

⁷ The Department of Education notes that the College is not permitted to consolidate complaints if consolidation would violate the Family Educational Rights and Privacy Act (FERPA). Consolidation would not violate FERPA when a recipient obtains prior written consent from the parents or eligible students to the disclosure of their education records. *See* 34 CFR 99.30; 34 CFR 99.3 (defining an “eligible student” as “a student who has reached 18 years of age or is attending an institution of postsecondary education”).

4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;⁹
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, Spelman College will, at a minimum:

1. Offer supportive measures to the Complainant as appropriate;
2. If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Title IX Director to ensure that sex discrimination does not continue or recur within the College's education program or activity.

Emergency Removal

The College can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Director in conjunction with the appropriate campus administrators and/or Spelman College Public Safety department and is typically part of the initial assessment.

In all cases in which an emergency removal is imposed, the party being removed will be given notice of the action and the option to request to meet with the Title IX Director 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. A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Director for show cause meeting. 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.

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 within five (5) business days of the notice, objections to the emergency removal will be deemed waived. There is no appeal process for emergency removal decisions. The Title IX Director has sole discretion under the Policy to implement or lift an emergency removal and to determine the conditions and duration. Violation of an emergency removal under the Policy will be grounds for disciplinary action, which may result in expulsion or termination.

Retaliation

The College prohibits retaliation for reporting or participating in the Complaint Resolution Process. Any individual who is subject to or aware of possible retaliation or has other concerns regarding a complaint should report these concerns to the Title IX Director, who shall take appropriate action to address such conduct in a prompt and equitable manner. Reports of retaliation may be submitted electronically using an incident report form, which can be found here: www.spelman.edu/title-ix

Counterclaims

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted. Counterclaims may be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Director. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of the Policy.

Right to an Advisor

The Complainant and Respondent (“Parties”) may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process if they so choose. The Parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A Party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s). The College may permit Parties to have more than one Advisor upon request to the Title IX Director and will be granted equitably to all Parties.

A Party may make a request of the Title IX Director to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. The purpose of this pre-meeting is to allow Parties and their Advisors to clarify and understand their role and College’s policies and procedures. The merits of the investigation or complaint will not be discussed during this meeting.

Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a Party chooses to advise, support, and/or consult with them throughout the resolution process. The Parties may choose Advisors from inside or outside of the College community. The Title IX Director will also offer to assign a trained Advisor for any Party if the Party so chooses. If the Parties choose an Advisor from the pool available from the College, the Advisor will be trained by the College and be familiar with the College’s resolution process. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

Advisor’s Role

The Parties may be accompanied by their Advisor in all meetings and interviews at which the Party is entitled to be present, including intake and interviews. Advisors should help the Parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other Party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

Expectations of an Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College generally expects an Advisor to adjust their schedule to allow them to attend College scheduled meetings when planned. The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Any Advisor who oversteps their role as defined by the Policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented.

Advisors in Hearing

Under U.S. Department of Education regulations applicable to Title IX Sex-Based Harassment, live hearings require cross-examination and must be conducted by the Parties' Advisors or the Decision-maker(s). The Parties are not permitted to directly cross-examine each other or any witnesses. If a Party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A Party may reject this appointment and choose their own Advisor, but they may not proceed in a hearing without an Advisor. If the Party's Advisor will not conduct cross-examination, the College will appoint an Advisor who will do so in a respectful, non-abusive manner, regardless of the participation or non-participation of the advised Party in the hearing itself. Extensive questioning of the Parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other Party does not or cannot afford an attorney, the College is not obligated to provide an attorney.

Resolution Processes

The College resolves complaints either through Informal or Formal Resolutions described in more detail below. There are different grievance processes for Sex Discrimination complaints and Sex-Based Harassment complaints. Resolution proceedings are private. All persons present at any time during the grievance process are expected to maintain the privacy of the proceedings in accordance with College policy. While there is an expectation of privacy around what Investigators share with Parties during interviews, the Parties have discretion to share their own knowledge and evidence with others if they so choose. The College encourages Parties to discuss this with their Advisors before doing so.

Resolution Timeline

The College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time-frame, including appeal, which can be extended as necessary for appropriate cause by the Title IX Director, who will provide notice and rationale for any extensions or delays to the Parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

Conflicts of Interest

The College will notify Parties of the Investigator(s), Decision-maker(s), or Appeal Decision-maker(s). Parties will have the opportunity to raise any potential conflict of interest or perceived bias within three (3) business days of this notification. The Title IX Director will determine whether a conflict of interest exists. No Investigator(s) or Decision-Maker will make findings or determinations in a case in which they have a conflict of interest.

Resolution Process Pool

The Resolution Processes rely on a pool of campus administrators and faculty (“the Pool”) to carry out the process. In addition to campus administrators and faculty, the College may also retain an external investigator, informal resolution process facilitator or decision-maker. While members of the Pool are trained annually in a variety of skill sets and can rotate amongst the different roles in different cases, the College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of administrative function within the College, particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

Informal Resolution

Informal Resolution can include three different approaches:

- When the Parties agree to resolve the matter through an alternate resolution mechanism;
- When the Respondent accepts responsibility for violating Policy desires to accept a sanction and end the resolution process; or
- When the Title IX Director can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to request it to the Title IX Director. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Director to so indicate. It is not necessary to pursue Informal Resolution first in order to pursue a Formal Resolution Process, and any Party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Resolution Process.

Prior to implementing Informal Resolution, the College will provide the Parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Director.

The Informal Resolution process can include negotiation, mediation, or restorative practices, by which a mutually agreed upon resolution of an allegation is reached. All Parties must consent to the use of Informal Resolution. The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Director. The Title IX Director maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution are not appealable.

Respondent Accepts Responsibility

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Director will determine whether Informal Resolution can be used.

If Informal Resolution is applicable, the Title IX Director will determine whether all Parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Director implements the accepted finding that the Respondent is in violation of College policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary. This result is not subject to appeal once all Parties indicate their written assent to all agreed upon terms of resolution. When the Parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

Formal Resolution Process

For Sex Discrimination and Sex-Based Harassment complaints, the Title IX Director will provide written Notice of the Investigation and Allegations (the “NOIA”) to the Respondent upon commencement of the Formal Resolution Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The Notice of Investigation will include among other items, a meaningful summary of all allegations and Parties involved, relevant policies implicated, a statement of the potential sanctions/responsive actions, a statement that the NOIA is not a presumption that a Policy violation has occurred and that an investigation and determination into the allegation will determine responsibility, a statement that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence, the name(s) of the Investigator(s). Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

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(es) 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.

Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Director appoints an Investigator to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed. All investigations are adequate, thorough, reliable, impartial, prompt, and fair. The burden is on the College to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred. Investigations involve interviews with all relevant Parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. All Parties have an equal opportunity, through the investigation process, to present fact witnesses and other inculpatory evidence that are relevant and not otherwise impermissible, ask questions and to fully review and respond to all evidence on the record. Upon receipt of the notice of investigation, Parties have three (3) business days to object to the Investigator(s) on the basis of conflict of interest or demonstrated bias.

Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant Parties and witnesses; obtaining available, and relevant evidence. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions they wish the Investigator(s) to ask of the other Party and witnesses, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. The Investigator(s) write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no Policy analysis, and render no recommendations as part of their report.

Prior to the conclusion of the investigation, Parties will receive a secured electronic copy of the draft investigation report as well as an opportunity to inspect and review all evidence submitted or obtained that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination. Parties will have ten (10) business days to review and comment on the investigative report and evidence submitted or obtained during the investigation period. 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.

Although the College does not restrict the ability of the parties to speak to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures, the College expects all parties are expected to maintain the privacy of the records shared with them. The parties cannot engage in retaliation, including against witnesses.

Role and Participation of Witness

Witnesses (as distinguished from the Parties) who are employees of the College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may warrant discipline.

While in-person interviews for Parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, or health crisis) may require individuals to be interviewed remotely. Zoom, Microsoft Teams, or similar technologies may be used for interviews, if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved Parties must be made aware of audio and/or video recording.

Evidentiary Considerations

Spelman College will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by Spelman College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

7. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
8. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Spelman College obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is 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 sex-based 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 sex-based harassment or preclude determination that sex-based harassment occurred.
9. Incidents not directly related to the possible violation, unless they evidence a pattern;
10. The character of the Parties.

FORMAL GRIEVANCE PROCESS - SEX DISCRIMINATION

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the Parties, the Title IX Director (or Designee) will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The Title IX Director (or Designee) will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

1. Parties will have an equal opportunity to access the relevant and not otherwise impermissible evidence;
2. Parties will have a reasonable opportunity to respond to the evidence or the accurate description of the evidence;
3. The Title IX Director (or Designee) will be able to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination; and
4. The Title IX Director (or Designee) will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Determination of Sex Discrimination

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, The Title IX Coordinator (or Designee) will:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
2. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
3. Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

If there is a determination that sex discrimination occurred, the Title IX Director will, as appropriate:

- Coordinate the provision and implementation of remedies to a Complainant and other people Spelman College identifies as having had equal access to the College's education program or activity limited or denied by sex discrimination;
- Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Spelman College's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and

- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

FORMAL GRIEVANCE HEARING PROCESS - SEX-BASED HARRASSMENT

Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the Parties, the Title IX Director will refer the matter for a hearing. The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the Parties and the Decision-maker–unless all Parties and the Decision-maker agree to an expedited timeline.

The Title IX Director will select an appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student. Once mailed, emailed, and/or received in-person, notice of hearing will be presumptively delivered.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the 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 summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business day goal for resolution. Employee promotions and raises will be placed on hold until the matter is fully resolved.

Hearing and Decisionmaker Composition

The College will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Director. With a panel, one of the three members will be appointed as Chair by the Title IX Director. If a Party requests a panel of Decision-makers, the Title IX Director can, in his/her sole discretion, choose to empanel a three-member panel. The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Director may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason. Upon receipt of the notice of the Decision-Maker or three-member panel, Parties will have three (3) business days to object to the appointment of a decision maker, on the basis of demonstrated bias or conflict of interest.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Director may not serve as a Decision-maker 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 designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

Evidentiary Considerations

Spelman College will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness. Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a

pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

The Parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s). These statements will be considered when a determination of responsibility is reached to inform the sanctioning stage.

Alternative Hearing Participation Options

If a Party or Parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Director or the Chair at least five (5) business days prior to the hearing. The Title IX Director or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Director or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Hearing Procedures

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the Parties (or three (3) organizational representatives when a student organization is the Respondent), Advisors to the Parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

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

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 Decision-maker(s) and the Parties' Advisors and will then be excused.

The Order of the Hearing – Introductions and Explanation of Procedures

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Director will review and decide the challenge.

At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Director. The hearing facilitator may attend to logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

Investigator Presents the Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the Parties (through their Advisors). The Investigator(s) will be available during the entire hearing process, but not during deliberations. Because the Investigator's participation in the hearing is as a fact witness, questions directed towards the Investigator shall be limited to facts collected by the Investigator pertinent to the Investigation. Neither the Parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

Testimony and Questioning

Spelman College will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. Once the Investigator(s) present their report and are questioned, the Parties and Witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the Parties through their Advisors ("cross-examination").

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may explore arguments regarding relevance with the Advisors if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the Party/Witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are relevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance, subject to any appeal. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Chair has ruled on a question.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Director, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

Refusal to Submit to Cross-Examination and Inferences

Cross-examination is the process by which the Parties answer questions posed by the Advisor of the other party, or in the case of Witnesses, the Advisor of both Parties. If a Party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning by Parties' Advisors, then the Decision-maker(s) may not rely on any prior statement (factual assertion) made by that Party or Witness at the hearing (including those contained in the investigation report) in the determination of responsibility. The Decision-maker(s) may consider all Evidence other than statements made by the Party or Witness(es) who did not participate in the Cross-Examination. Evidence provided that is something other than a statement by the Party or witness may be considered.

The Decision-maker(s) may not draw any inference solely from a Party's or Witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a Party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a Party attends a hearing, without an Advisor, the College will provide that Party with an Advisor to conduct cross-examination on behalf their behalf.

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.

Deliberation, Decision-Making and Standard of Proof

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by Spelman College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Spelman College obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is 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 sex-based 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 sex-based harassment or preclude determination that sex-based harassment occurred.

The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the Parties has an opportunity to review any impact statement submitted by the other Party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding. The Decision-maker(s) will review the statements and any pertinent conduct history provided by the appropriate administrator and will determine the appropriate sanction(s) in consultation with other administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Director, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions. This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Director within five (5) business days of the hearing, unless the Title IX Director grants an extension. If an extension is granted, the Title IX Director will notify the Parties.

Notice of Outcome

Using the deliberation statement, the Title IX Director will work with the Chair to prepare a Notice of Outcome. The Title IX Director will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the Parties and their Advisors within five (5) business days of receiving the Decision-maker(s)' 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 identify the specific policy(ies) reported to have been violated, information about the policies and procedures used to evaluate the allegations, the decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred, any disciplinary sanctions imposed on the Respondent, if applicable, whether remedies other than the imposition of disciplinary sanctions will be provided to the Complainant, and to the extent appropriate, other students identified to be experiencing the effects of the sex-based harassment. 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 the Complainant and the Respondent.

Sanctions

Discipline will not be imposed on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination. 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 discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision-maker(s)

If there is a determination that sex discrimination occurred, as appropriate, the Title IX Director will:

- Coordinate the provision and implementation of remedies to a complainant and other people the College identifies as having had equal access to Spelman College's education program or activity limited or denied by sex discrimination;
- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Spelman College's education program or activity; and
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date the Title IX Director provides the parties with the written determination of the result of any appeal, or, if no party appeals, the expiration of the window to appeal without an appeal being requested.

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

Appeals

Any Party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Director within five (5) business days of the delivery of the Notice of Outcome. No appeal Decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

- Typically, Appeals for students will be determined by the Associate Vice President for Student Affairs.
- Typically, Appeals for Staff will be determined by the Vice President for Business & Financial Affairs.
- Typically, Appeals for Faculty will be determined by the Faculty Grievance Committee/ President.

Grounds for Appeal

The Request for Appeal will be forwarded to the Appellate Officer for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Appeals are limited to the following grounds:

- A. Procedural irregularity that affected the outcome of the outcome;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could change the outcome of the matter; and
- C. The Title IX Director, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, the Title IX Director will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;

If any of the grounds in the Request for Appeal do not meet the grounds in this Complaint Resolution Procedure, that request will be denied by the Appellate Officer and the Parties will be notified in writing of the denial and the rationale.

The other Party(ies) and their Advisors, the Title IX Director, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appellate Officer to all Parties for review and comment.

Sanction Status During Appeal

Any sanctions imposed as a result of the hearing are suspended during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above. If sanctions that remove or separate a Party from the College, a class, or housing are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the

justification for doing so must be permitted within 48 hours of implementation. The College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Director may implement additional long-term remedies or actions with respect to the Parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence. Examples of remedies/actions can be found in the Policy.

At the discretion of the Title IX Director, certain long-term support or measures may also be provided to the parties even if no policy violation is found. When no policy violation is found, the Title IX Director will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access. The College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

Failure to Comply

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Panel). Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Director.

Disability Accommodations

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process. Anyone needing such accommodations or support should contact the Director of the Student Access Center Services or Director of Human Resources if employee, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Director, determine which accommodations are appropriate and necessary for full participation in the process.

Revisions of the Policy

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation and will be reviewed annually by the Title IX Director. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution processes, the Title IX Director may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Director may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in the Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.