



# Policy and Procedures Prohibiting Sex Discrimination, Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Policy & Procedures, Effective August 14, 2020  
Revised August 1, 2025

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## **POLICY STATEMENT**

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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, sexual 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 or sexual harassment, including sexual assault, dating violence, domestic violence and stalking. Sometimes, discrimination involves exclusion from activities, such as admissions,<sup>1</sup> or employment. Other times, discrimination takes the form of harassment, which can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to resolution using one of the [College’s Complaint Resolution Procedures](#)<sup>2</sup> 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.

## **SCOPE OF THE POLICY AND JURISDICTIONAL STATEMENT**

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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.

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 affects the College’s working, living or learning environments, regardless of whether that conduct occurred on or off campus.

Regardless of where the conduct occurred, the College will review complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity, or whether the College otherwise has a substantial interest in the allegations. A substantial College interest includes:

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

<sup>2</sup> Allegations subject to resolution using “Process A” are those allegations that fall within Title IX’s jurisdiction 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, 85, Fed. Reg. 30026-579 (May 19, 2020). Allegations subject to resolution using Process B are those allegations where the facts do not fall within the scope of conduct prohibited by the May 19 Title IX Regulations regarding sexual harassment but are prohibited by Title IX or other federal regulations, state law or campus policy.

- 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.

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:<sup>3</sup>

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<sup>3</sup> Names and contact information subject to change.

<b>Clark Atlanta University</b> Ramona Roman <a href="mailto:rroman@cau.edu">rroman@cau.edu</a>	<b>Morehouse School of Medicine</b> <a href="mailto:titleix@msm.edu">titleix@msm.edu</a>
<b>Morehouse College</b> Keith Cobbs <a href="mailto:keithcobbs@morehouse.edu">keithcobbs@morehouse.edu</a>	<b>Spelman College</b> Jaray Mazique, Ed.D. <a href="mailto:jaraymazique@spelman.edu">jaraymazique@spelman.edu</a>

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. The College may implement a Resolution process even when the Respondent is not 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 (e.g., 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 sexual 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,<sup>4</sup> student organizations, faculty, administrators, staff, contractors, and third parties such as guests, visitors, volunteers, invitees. 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 & CLERY ACT COMPLIANCE COORDINATORS**

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 reports to the President of the College and is directly supervised by the Senior Vice President, Chief of Staff and Secretary of the College. The College has directed the Office of Public Safety to coordinate the College’s compliance with obligations related to the [Clery Act](#).

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<sup>4</sup> For the purposes of student conduct, the College considers an individual to be a student when an offer of admission has been accepted and thereafter as long as the student has a continuing educational interest in the College. A student maintains a continued educational interest during academic terms, scheduled vacations, summer months, periods of leave, and during off-campus study.

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](mailto:titleixteam@spelman.edu). For more information about Title IX and VAWA, please go to the [Spelman 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 in overseeing complaints, the College's Complaint Resolution Procedures, or the provision of supportive measures, they do not act with bias for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

**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](mailto: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](mailto:kcouch1@spelman.edu)

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

Dr. Narketta Sparkman-Key  
Office of the Provost, Rockefeller Hall, Rm. 101  
(404) 270-5616  
Email: [marklee@spelman.edu](mailto:marklee@spelman.edu)

Ivy Gardner, Director of Employee Relations and Compliance  
Office of Human Resources, Rockefeller Hall, Rm. 301  
(404) 270-5182  
Email: [ivygardner@spelman.edu](mailto:ivygardner@spelman.edu)

To raise any concern involving bias, misconduct, discrimination, or conflict of interest by the Director of Title IX and Compliance contact Dr. Terri Reed, Senior Vice President, Chief of Staff and Secretary of the College, at (404) 270-5005 or by email at [treed15@spelman.edu](mailto:treed15@spelman.edu). Concerns of bias, misconduct, discrimination, or a potential conflict of interest 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](mailto: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](mailto:clery@ed.gov) or by calling 1-800-4-FED-AID (1-800-433-3243).

## **NOTICE/FORMAL COMPLAINTS OF POLICY VIOLATIONS**

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

File an incident report 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://www.spelman.edu/title-ix/> or by email [titleixteam@spelman.edu](mailto:titleixteam@spelman.edu). A complaint may be filed with the Director of Title IX & Compliance in person, by mail, or by electronic mail by using the contact information in the section immediately above.

A Formal Complaint means a document filed and signed by the Complainant or signed by the Director of Title IX & Compliance alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s).

Anonymous reports are accepted but may still give rise to a need to investigate. The College offers and tries to provide 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. 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.

### **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 sign a formal complaint to initiate a Resolution process 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.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College 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, supportive measures, and remedies to the Complainant and the community, but will not otherwise 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.

### **TIME LIMITS ON REPORTING**

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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.

### **MANDATORY REPORTING AND CONFIDENTIAL RESOURCES**

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All Spelman College faculty, staff, and administrators (including some student-employees), other than those deemed Confidential Employees (listed below), are Mandated Reporters and are expected to promptly disclose any knowledge they have that a member of the community is experiencing or has experienced sexual discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking and/or retaliation in any Spelman College program or activity to the Director of Title IX & Compliance or a Deputy Title IX Coordinator. Mandated Reporters must 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.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. 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. If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Director of Title IX and Compliance (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

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.

**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.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with a confidential resource listed below.

**On-campus Confidential Resources:**

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) <a href="http://MagellanAscend.com">MagellanAscend.com</a>

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](http://MagellanAscend.com) or dial 1-800-523-5668.

**Off-campus Confidential Resources:**

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

**SUPPORTIVE MEASURES**

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The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

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

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 a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

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. Spelman will act to ensure as minimal an academic impact on the parties as possible and 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
- 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 assistance
- Implementing contact limitations – mutual no contact orders or Persona Non Grata (PNG)

- Academic support, extensions of deadlines, or other course/program-related adjustments
- Criminal Trespass Warning (CTW) or Be-On-the-Lookout (BOLO) orders<sup>5</sup>
- Timely warnings
- Amnesty for violation of certain policies
- 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.

## **ONLINE HARASSMENT AND MISCONDUCT**

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Spelman College policies are written and interpreted broadly to include inline manifestations of any of the prohibited behaviors below, when those behaviors occur in or have an effect on the College's Education Program or Activities or when they involve the use of Spelman's networks, technology, or equipment.

Although College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to 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 social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; 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 Spelman community.

Nothing in the Policy is intended to infringe upon or limit a person's free speech rights. Any online postings or other electronic communications, including technology-facilitated Bullying, Stalking, Harassment, etc., occurring completely outside of the College's control (e.g., not on Spelman networks, websites, or between Spelman email accounts) will only be subject to the Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption or infringement on/harm to the rights of others. Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures will be provided.

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<sup>5</sup> CTW or BOLO are actions implemented and enforced through sworn law enforcement officers.

## **CONDUCT PROHIBITED UNDER THIS POLICY**

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

The College has adopted the following definition of Sexual Harassment to address the unique environment of an academic community, which consists of both employees and students.

Acts of sexual harassment may be committed by any person upon any other person regardless of the sex of those involved.

Title IX regulations define Sexual Harassment, as an umbrella category that includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all Formal Complaints that fall within the Title IX jurisdiction as determined by the Director of Title IX and Compliance.

### **Sexual Harassment**

Unwelcome conduct on the basis of sex that satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of the College,
  - b. conditions<sup>6</sup> the provision of an aid, benefit, or service of the College,
  - c. on an individual's participation in unwelcome sexual conduct;
- 2) Sexual Harassment (Hostile Environment):
  - a. Unwelcome conduct, determined by a Reasonable Person, to be so severe, and pervasive, and, objectively offensive, that it effectively denies a Complainant equal access to the College's program or activity.<sup>7</sup>

### **Sexual Assault**

Any sexual act directed against another individual, without the consent of that individual, including instances in which the individual is incapable of giving consent.

- a. Non-Consensual Sexual Penetration (Rape, Sodomy)
  - i) 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) 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.

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<sup>6</sup> Implicitly or explicitly

<sup>7</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent), though a Decision-maker may consider compelling evidence that rebuts an assertion of unwelcomeness. Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a Reasonable Person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- b. Non-Consensual Sexual Contact (Fondling/Criminal Sexual Contact)
  - i) The intentional touching of an individual's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts without the individual's consent for the purpose of sexual degradation, sexual gratification, sexual humiliation, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental capacity.
- c. Incest  
Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Georgia law.
- d. Statutory Rape  
Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 16 years old.

### **Dating Violence**

Violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with an individual.

- a. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition:

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

### **Domestic Violence<sup>8</sup>**

Violence, on the basis of sex, committed by a current or former spouse or intimate partner of an individual, by a person with whom the individual shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the individual as a spouse or intimate partner, or by a person similarly situated to a spouse of the individual under the domestic or family violence laws of Georgia, or by any other person against an adult or youth individual who is protected from that person's acts under the domestic or family violence laws of Georgia.

### **Stalking**

Engaging in a course of conduct, on the basis of sex, 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

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<sup>8</sup> 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.

- b. to suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

### **Sexual Exploitation**

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. Examples of sexual exploitation may include, but are not limited to:

- a. Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- b. Electronically distributing (e.g., Airdropping, Snapchatting) nude or sexual photos or videos of another person without their consent
- c. Invasion of sexual privacy (e.g., doxxing)
- d. Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- e. Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- f. Prostituting another person
- g. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- h. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- i. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- j. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- k. Knowingly soliciting a minor for sexual activity
- l. Engaging in sex trafficking

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

### **Other Misconduct Offenses**

In addition to the violations described above, the College also prohibits the following offenses as forms of sex-based discrimination when the act is based on the sex (including sex characteristics and sex stereotypes), pregnancy status, or status as a parent.

#### **Bullying**

Repeated and/or severe aggressive behavior that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish a person, that is not speech or conduct that is otherwise protected by the First Amendment.

#### **Endangerment**

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 or damages their property.

#### **Hazing**

Any act or action which does or is likely to endanger the mental or physical health or safety of any person as it relates to a person's initiation, admission into, or affiliation with any Spelman group or organization. Hazing, defined as any intentional, knowing, or reckless act, whether committed individually or in concert with others, against another person or group of person – regardless of their willingness to participate (as defined further in the Spelman Hazing Policy).

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of Hazing to be upheld,
- It shall not constitute an excuse or defense to a Hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained,
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered Hazing.

#### **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.

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.

Violation of any other College policies may constitute a discrimination on the basis of sex, when a violation is motivated by sex (including sex characteristics and sex stereotypes), pregnancy status, or status as a parent and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

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.

### **Failure to Comply/Process Interference**

The following behaviors impact the response process and are prohibited:

- Intentional failure to comply with the reasonable directives of the Director of Title IX and Compliance in the performance of their official duties, including with the terms of a no contact order,
- Intentional failure to comply with emergency removal or interim suspension terms,
- Intentional failure to comply with sanctions,
- Intentional failure to adhere to the terms of an Informal Resolution agreement,
- Intentional failure to comply with mandated reporting duties as defined in the Policy,
- Intentional interference with a resolution process, including, but not limited to:
  - Destroying or concealing evidence
  - Seeking or encouraging false testimony or providing false testimony or evidence
  - Intimidating or bribing a witness or party

### **FORCE, COERCION, CONSENT AND 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. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. 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.”).

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, voluntary, and clear agreement, by word or action to engage in mutually agreed upon, sexual activity<sup>9</sup>.

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 within a reasonably immediate time. Silence or the absence of resistance alone should not be interpreted as consent. Although resistance is not required or necessary, it is a clear demonstration of non-consent.

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. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of Sexual Assault.

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 BDSM<sup>10</sup> or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even

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<sup>9</sup> The age of consent in the state of Georgia is 16.

<sup>10</sup> Bondage, discipline/dominance, submission/sadism, and masochism.

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:** Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

A person cannot consent if they are unable to understand what is happening or are disoriented, 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 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.

## **CONSENSUAL RELATIONSHIP POLICY**

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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 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.html>.

## **SANCTIONS**

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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 Misconduct 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

## **EMERGENCY REMOVALS**

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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 applicable Deputy Title IX Coordinator, the Spelman College Public Safety Department, and the General Counsel 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, ongoing 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, VP of Human Resources and Culture, 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.

## **PROMPTNESS**

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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**

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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 or sexual harassment, 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.

## **COMPLAINT RESOLUTION PROCESS A & B**

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The procedures explained in Process "A" pertain to alleged violations of the [College's Policy Prohibiting Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence and Stalking \("Sexual Misconduct, Relationship Violence and Stalking Policy"\)](#) that fall under the requirements as set forth in Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85, Fed. Reg. 30026-579 (May 19, 2020).

For misconduct that fall outside the scope of the requirements as set forth in Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85, Fed. Reg. 30026-579 (May 19, 2020), please see procedures detailed in Sexual Misconduct, Relationship Violence and Stalking [Complaint Resolution Process "B"](#).

## **Process A Overview**

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 Sexual Misconduct, Relationship Violence and Stalking 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, 85, Fed. Reg. 30026-579 (May 19, 2020). The Director of Title IX and Compliance oversees compliance with Title IX, the College's Sexual Misconduct, Relationship Violence and Stalking Policy, and the related 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 Sexual Misconduct, Relationship Violence and Stalking Policy and its Complaint Resolution 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 victim 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, the Equal Employment Opportunity Commission or with the Clery Compliance Division, where applicable.

The College will always strive for consistency in following the procedures set forth in this Complaint Resolution Process but recognizes that the unique circumstances of any particular case may require flexibility. As such, the College reserves the right to adapt the Complaint Resolution Process to meet the particular circumstances of each case, while preserving transparency and fairness for all Parties and maintaining the integrity of the Complaint Resolution Process. The procedures described below may also be used to address collateral misconduct arising from the investigation or 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, or staff handbooks.

The College will send written communications to students, faculty, or staff involved in the Complaint Resolution 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/Complaint**

Upon receipt of a signed written formal complaint or notice to the Director of Title IX and Compliance (or designee) of an alleged violation of the Policy, the College initiates a prompt initial assessment to determine the next steps the College needs to take.

### ***Initial Assessment***

Following receipt of notice or a signed formal complaint of an alleged violation of the Sexual Misconduct, Relationship Violence and Stalking Policy, the Director of Title IX and Compliance (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:

- If notice<sup>11</sup> is given, the Director of Title IX and Compliance seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Director of Title IX and Compliance determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety to the Spelman community.
- If a formal complaint is received, the Director of Title IX and Compliance assesses its sufficiency and works with the Complainant to make sure it is completed correctly. The Director of Title IX and Compliance will also determine if the misconduct alleged falls within the scope of Title IX and advise the Complainant.
- The Director of Title IX and Compliance reaches out to the Complainant to offer supportive measures.
- The Director of Title IX and Compliance works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Director of Title IX and Compliance 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 Director of Title IX and Compliance works with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Resolution Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an Informal Resolution option is preferred, the Director of Title IX and Compliance assesses whether the complaint is suitable and may seek to determine if the Complainant and the Respondent are also willing to engage in informal resolution.
  - If a Formal Resolution Process is preferred, the Director of Title IX and Compliance determines whether the misconduct alleged falls within the scope of Title IX and whether the misconduct and Respondent falls within the College's jurisdiction.

If the Director of Title IX and Compliance determines that the Title IX resolution ("Process A") does not apply, the Director of Title IX and Compliance will "dismiss" that aspect of the complaint, if any, assess which resolution process is applicable, and will refer the matter accordingly. **Please note that dismissing a complaint under the Title IX Sexual Harassment Policy ("Process A") is a procedural step and does not limit the College's authority to address a complaint with an appropriate process and remedies. As appropriate, the College will address formal complaints alleging a violation of the Sexual Misconduct Policy to Complaint Resolution Process B.**

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<sup>11</sup> Notice refers to the act of an employee, student, or third-party informing the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. Notice, which is separate from a formal complaint, is usually the first step in the process and does not require any subsequent formal complaint or processes.

### ***Complaint Dismissal (Mandatory or Discretionary)***

Under U.S. Department of Education regulations applicable to Title IX Sexual Harassment, the College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the College's Sexual Misconduct, Relationship Violence and Stalking Policy even if proved; and/or
2. The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations),
3. and/or the College does not have control of the Respondent; and/or
4. The conduct did not occur in the United States; and/or
5. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the College.

The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Director of Title IX and Compliance in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
2. The Respondent is no longer enrolled in or employed by the College such that the College no longer has control over the Respondent; or
3. Specific circumstances prevent the College from gathering sufficient evidence to reach a determination as to the formal complaint or allegations 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.

### ***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 Director of Title IX and Compliance in consultation with the applicable Deputy Title IX Coordinator, the Spelman College Public Safety Department, and the General Counsel using its standard objective violence risk assessment procedures.

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 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 may be accompanied by an Advisor of their choice when meeting with the Director of Title IX and Compliance for show cause meeting.

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 Director of Title IX and Compliance has sole discretion under the Sexual Misconduct, Relationship Violence and Stalking Policy to implement or lift an emergency removal and to determine the conditions and duration. Violation of an emergency removal under the Sexual Misconduct, Relationship Violence and Stalking Policy will be grounds for disciplinary action, which may result in expulsion or termination.

### **Time Limitations for Reporting Sexual Misconduct**

While there is no time limit for reporting incidents of sexual misconduct, all reports should be made as soon as possible after an incident occurs because the passing of time makes a review of the evidence more difficult and the memories of involved Parties become less reliable. After an initial assessment, the Director of Title IX and Compliance reserves the right to forego an investigation where the responding Party is no longer a sanctionable member of the community, unless there is an ongoing concern for the safety or well-being of the College community.

### **Supportive Measures**

At any time after a report of alleged sexual misconduct is received, the Director of Title IX and Compliance may put supportive measures in place to protect the safety and security of the Complainant, Respondent, or the broader College community. Supportive measures may be put in place regardless of whether the Complainant pursues or participates in the Complaint Resolution Process or makes a report to law enforcement. Interim support measures are determined on a case-by-case basis based on individual needs. Please refer to the Policy for a review of supportive measures available.

### **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 Director of Title IX and Compliance, 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](http://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 Director of Title IX and Compliance. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of the Sexual Misconduct, Relationship Violence and Stalking 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 whomever 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 special request to the Director of Title IX and Compliance. The decision to grant this request is at the sole discretion of the Director of Title IX and Compliance and will be granted equitably to all Parties. The College maintains a list of staff and faculty who are eligible to serve in this role.

A Party may make a request of the Director of Title IX and Compliance 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. Prior to a hearing, the Director of Title IX and Compliance 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 investigation 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 Director of Title IX and Compliance, 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 quietly conferring or passing notes during any resolution process meeting, interview, or 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.

### ***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 Sexual Misconduct, Relationship Violence and Stalking Policy [and these Complaint Resolution Procedures](#) 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/ College-Appointed Advisor***

Under U.S. Department of Education regulations applicable to Title IX Sexual Harassment, cross-examination during the hearing must be allowed, and must be conducted by the Parties' Advisors. 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 the Party may not proceed in a Title IX Sexual Harassment ("Process A") hearing without an Advisor. If the Party's Advisor does 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.

### **Resolution Processes**

The College resolves complaints either through Informal or Formal Resolutions, both processes are detailed below. Resolution proceedings are private. All persons present at any time during the resolution 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 choose. The College encourages Parties to discuss sharing information with their Advisors before doing so.

### ***Resolution Timeline***

Upon receipt of a formal complaint, and determination by the Director of Title IX and Compliance the complaint is appropriate for Process A, the College will make a good faith effort to complete the resolution process within a -ninety (90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Director of Title IX and Compliance, 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.

### ***Resolution Process Pool***

The Resolution Processes rely on a pool of campus administrators and faculty ("the Pool") to carry out the process.

### ***Pool Member Appointment***

The Director of Title IX and Compliance, in consultation with the College's Senior Team, appoints the Pool, which acts with independence and impartiality. 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. The 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, and desires to accept a sanction and end the resolution process; or
- When the Director of Title IX and Compliance can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. Either the Complainant or Respondent can contact the Director of Title IX and Compliance to request Informal Resolution. 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 Director of Title IX and Compliance. The Director of Title IX and Compliance 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.

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 Alternate Resolution. The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Director of Title IX and Compliance. The Director of Title IX and Compliance 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. When the Parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

### ***Respondent Accepts Responsibility for Alleged Violations***

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 Director of Title IX and Compliance will determine whether Informal Resolution can be used.

If Informal Resolution is applicable, the Director of Title IX and Compliance will determine whether all Parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Director of Title IX and Compliance 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**

The Director of Title IX and Compliance 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 NOIA 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, and 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 Director of Title IX and Compliance appoints an Investigator to conduct the investigation, usually within five (5) business days of determining that an investigation should proceed. All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant Parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to review fully and respond to all evidence on the record.

### ***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 and 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 or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each Party may meaningfully respond to the evidence. The 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.

### ***Role and Participation of Witnesses in the Investigation***

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 global pandemic) 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***

The investigation 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 as evidence of consent.

### **Formal Resolution Hearing Process**

#### ***Referral for a Hearing***

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the Parties, the Director of Title IX and Compliance 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 Director of Title IX and Compliance will select an appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student.

#### ***Notice of Hearing***

No less than ten (10) business days prior to the hearing, the Director of Title IX and Compliance or the Chair will send notice of the hearing to the Parties. Once mailed, emailed, and/or received in-person, notice 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 Sexual Misconduct, Relationship Violence and Stalking 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 90 business-day goal for resolution. Employee promotions and raises will be placed on hold until the matter is fully resolved.

### ***Hearing and Decision-Maker Composition***

The College will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Director of Title IX and Compliance. With a panel, one of the three members will be appointed as Chair by the Director of Title IX and Compliance. If a Party requests a panel of Decision-makers, the Director of Title IX and Compliance 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 Director of Title IX and Compliance 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.

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

The Director of Title IX and Compliance 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***

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 provide evidence of 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.

After post-hearing deliberation, the Decision-maker(s) renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

### ***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 Director of Title IX and Compliance or the Chair at least five (5) business days prior to the hearing. The Director of Title IX and Compliance 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 Director of Title IX and Compliance 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 Sexual Misconduct, Relationship Violence and Stalking 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 an 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 and will then be excused.

### ***The Order of the Hearing***

#### ***Introductions and Explanation of Procedures***

The Chair explains the procedures and introduces the participants. The introduction phase 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 Director of Title IX and Compliance 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 or the Director of Title IX and Compliance. 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 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***

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 posed by Parties through their advisors 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 irrelevant, 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 or the Director of Title IX and Compliance 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 the Director of Title IX and Compliance, 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.

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 College-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that Party.

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.

### ***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.

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.

***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 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 Director of Title IX and Compliance, 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 Director of Title IX and Compliance within two (2) business days of the end of deliberations, unless the Director of Title IX and Compliance grants an extension. If an extension is granted, the Director of Title IX and Compliance will notify the Parties.

**Notice of Outcome**

Using the deliberation statement, the Director of Title IX and Compliance will work with the Chair to prepare a Notice of Outcome. The Director of Title IX and Compliance will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the Parties and their Advisors within ten (10) 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 addresses 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, including the relevant policy section, and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to obtain evidence, and hearings held. The Notice of Outcome will 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.

## **Sanctions**

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)

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

The sanctions described in the Sexual Misconduct, Relationship Violence and Stalking 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 Director of Title IX and Compliance 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 (or designee).
- Typically, Appeals for Staff will be determined by the Vice President for Business & Financial Affairs (or designee).
- Typically, Appeals for Faculty will be determine by the Faculty Grievance Committee/ President (or designee).
- Typically, Appeals of decisions made by the Director of Title IX and Compliance will be determined by the Senior Vice President and Secretary of the College (or designee).

## ***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 matter;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and

- C. The Director of Title IX and Compliance, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

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. If any of the grounds in the Request for Appeal meet the grounds in the Sexual Misconduct, Relationship Violence and Stalking Policy, then the Appellate Officer will notify the other Party(ies) and their Advisors, the Director of Title IX and Compliance, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other Party(ies) and their Advisors, the Director of Title IX and Compliance, 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 the removal 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 Director of Title IX and Compliance 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 Sexual Misconduct, Relationship Violence and Stalking Policy.

At the discretion of the Director of Title IX and Compliance, 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 Director of Title IX and Compliance 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 Director of Title IX and Compliance.

**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 an employee, who will review the request and, in consultation with the person requesting the accommodation and the Director of Title IX and Compliance, determine which accommodations are appropriate and necessary for full participation in the process.

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BASED ON THE ATIXA 2020 ONE POLICY, TWO PROCEDURES (1P2P) MODEL.  
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## Process B Overview

Spelman College (“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 College’s Policy Prohibiting Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence and Stalking (“Sexual Misconduct, Relationship Violence and Stalking Policy”) and the Director of Title IX and Compliance determines Process A is inapplicable, or alleged violations subject to Process A have been dismissed.

The Director of Title IX and Compliance oversees compliance with Title IX, the College’s Sexual Misconduct, Relationship Violence and Stalking Policy, and the Sexual Misconduct 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, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, the Violence Against Women Reauthorization Act of 2013, other relevant laws and regulations, applicable College policies, including the Sexual Misconduct, Relationship Violence and Stalking Policy and this Complaint Resolution Process.

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 rules of evidence, or standard of evidence as those used by courts or law enforcement to investigate or adjudicate criminal or civil legal violations. A victim of sexual violence or other crimes 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 Complaint Resolution Process but recognizes that the unique circumstances of any particular case may require flexibility. As such, the College reserves the right to adapt the Complaint Resolution Process to meet the particular circumstances of each case, while preserving transparency and fairness for all Parties and maintaining the integrity of the Complaint Resolution Process. The procedures described below may also be used to address collateral misconduct arising from the investigation or 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 Sexual Misconduct, Relationship Violence and Stalking Policy will be addressed through procedures elaborated in the Student Code of Conduct, Faculty, and Staff handbooks.

When Complaints involve Parties attending or employed at Atlanta University Center Consortium member institutions, the College will send notices and communications to the designated Title IX Coordinator or other designated campus official at the Party’s school.

## **Notice/Complaint**

Upon receipt of a formal complaint signed by the Complainant or notice (incident report) to the Director of Title IX and Compliance (or designee) of an alleged violation of the Policy, 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 formal complaint; and/or
3. A Formal Resolution Process including an investigation and a hearing.

The investigation and resolution process will determine whether 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 receipt of notice or a signed formal complaint of an alleged violation of the Sexual Misconduct, Relationship Violence and Stalking Policy, the Director of Title IX and Compliance (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:

- If notice is given, the Director of Title IX and Compliance seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Director of Title IX and Compliance determines whether to initiate a Complaint because a violence risk assessment indicates a compelling threat to health and/or safety to the Spelman community.
- If a formal complaint is received, the Director of Title IX and Compliance will also determine if the misconduct alleged falls within the scope of the Complaint Resolution Process “B” and advises the Complainant.
- The Director of Title IX and Compliance reaches out to the Complainant to offer supportive measures.
- The Director of Title IX and Compliance works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Director of Title IX and Compliance 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 Director of Title IX and Compliance works with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Resolution Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an Informal Resolution option is preferred, the Director of Title IX and Compliance assesses whether the complaint is suitable and may seek to determine if the Complainant and the Respondent are also willing to engage in Informal Resolution.

If the Director of Title IX and Compliance determines that the Complaint Resolution process “A” does not apply, the Director of Title IX and Compliance will “dismiss” that aspect of the complaint, if any,

assesses if Resolution Process “B” is applicable, and will refer the matter accordingly. **Please note that dismissing a complaint under Complaint Resolution “Process A” is a procedural step and does not limit the College’s authority to address a complaint with an appropriate process and remedies.**

### ***Campus Restriction***<sup>12</sup>

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 applicable Deputy Title IX Coordinator and the Spelman College Public Safety Department, using its standard objective violence risk assessment procedures.

In all cases in which a campus restriction (e.g. interim suspension, administrative leave, or Persona Non Grata) is imposed, the Party being removed 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 may be accompanied by an Advisor of their choice when meeting with the Director of Title IX and Compliance for the 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 Director of Title IX and Compliance has sole discretion under the Sexual Misconduct, Relationship Violence and Stalking Policy to implement or suspend a temporary restriction from all or parts of the Spelman campus or its programs/activities and to determine the conditions and duration. Violation of a campus restriction under the Sexual Misconduct, Relationship Violence and Stalking Policy will be grounds for disciplinary action, which may result in expulsion or termination, or a request of the issuance of a criminal trespass warning from the Department of Public safety.

### **Time Limitations for Reporting Sexual Misconduct**

While there is no time limit for reporting incidents of sexual misconduct, all reports should be made as soon as possible after an incident occurs because the passing of time makes a review of the evidence more difficult and the memories of involved Parties become less reliable. After an initial assessment, the Director of Title IX and Compliance reserves the right to forego an investigation where the responding

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<sup>12</sup> Although Process A applies to cross-registered students, this Complaint Resolution “Process B,” in general, does not apply to non-Spelman students, including cross-registered students. Where a respondent of a complaint that has been dismissed under Process A is a cross-registered student, or otherwise must enter Spelman’s campus or access Spelman’s programs or activities for educational purposes only, the respondent may access the procedures found in the **Campus Restriction** section of Process B before the respondent is restricted from the College’s campus on a temporary or emergency basis. The College will make the sole determination of whether a non-Spelman student respondent may access the Process B Campus Restriction procedures. The College may make a decision regarding a cross-registered student’s permanent restriction from Spelman’s campus after a complaint is resolved under the non-Spelman student’s home institution’s policies and procedures.

Party is no longer a sanctionable member of the community, unless there is an ongoing concern for the safety or well-being of the College community.

### **Supportive Measures**

At any time after a report of alleged sexual misconduct is received, the Director of Title IX and Compliance may put supportive measures in place to protect the safety and security of the Complainant, Respondent, or the broader College community. Supportive measures may be put in place regardless of whether the Complainant pursues or participates in the Complaint Resolution Process or makes a report to law enforcement. Interim support measures are determined on a case-by-case basis based on individual needs. Please refer to the Policy for a review of supportive measures available.

### **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 Director of Title IX and Compliance, 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](http://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 determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Director of Title IX and Compliance. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this 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 whomever 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 special request to the Director of Title IX and Compliance/ Process Administrator. The decision to grant this request is at the sole discretion of the Director of Title IX and Compliance/Process Administrator and will be granted equitably to all Parties.

A Party may make a request of the Director of Title IX and Compliance/Process Administrator 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 Director of Title IX and Compliance will also offer to assign a trained Advisor to 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.

### ***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). 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 Sexual Misconduct, Relationship Violence and Stalking 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.

### **Resolution Processes**

*The College resolves complaints either through Informal or Formal Resolutions, both processes are described in more detail below.*

### ***Process Administrators***

Typically, in complaints against a Spelman student or registered student organization, the Dean of Students/Assistant Dean of Students, will serve as the Process Administrator. Typically, in complaints against employees (including part-time contract staff), the Director/ Associate Director of Human Resources will serve as the Process Administrator. Typically, in complaints against faculty, the Vice President Academic Affairs/Provost will serve as the Process Administrator.

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy. While there is an expectation of privacy around what Investigator(s) 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 sharing information with their Advisors before doing so.

### ***Resolution Timeline***

The College will make a good faith effort to complete the resolution process within a ninety (90) business-day time period, including appeal, which can be extended as necessary for appropriate cause by the Process Administrator, 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.

### ***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.

### ***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 Director of Title IX and Compliance / Process Administrator 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.

### ***Informal Resolution Process***

Where appropriate, the College will work to resolve complaints informally by taking immediate and corrective action to stop the misconduct, address its effects, and prevent its recurrence. Informal resolution is most commonly used in cases where the identities of the Complainant or Respondent are not known, when the Complainant wishes to remain anonymous, or when the Complainant requests the matter be resolved informally and the College is able to honor this request. Informal resolution may also be used when there is not enough information to proceed to a Formal Resolution, but some action is necessary to address the impact on the college community.

Participation in Informal Resolution is voluntary. Informal resolution is applicable when Parties voluntarily agree to resolve the matter through alternative resolution, when the Respondent accepts responsibility for a policy violation, or when the Director of Title IX and Compliance/ Process Administrator can resolve the matter informally by providing remedies to resolve the situation. At any time during the informal resolution process, either Party may initiate the formal resolution process by clearly requesting, in writing or verbally, to end the informal resolution proceedings and begin formal resolution proceedings.

If the Parties agree to the recommended resolution, the case will be closed with no further Complaint Resolution Process. If the Parties do not agree to the recommended resolution, the case will proceed to formal resolution. The time spent attempting to resolve the case informally generally will not be counted against the ninety (90) business day timeframe discussed above.

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

#### ***Respondent Accepts Responsibility for Alleged Violations***

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 Director of Title IX and Compliance/Process Administrator will determine whether Informal Resolution can be used.

If Informal Resolution is applicable, the Director of Title IX and Compliance or Process Administrator will determine whether all Parties and the College are able to agree on responsibility. If so, the Director of Title IX and Compliance or Process Administrator 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. The outcome of an Information Resolution 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**

The Director of Title IX and Compliance or Process Administrator 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, and 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 allegations.

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 Director of Title IX and Compliance or Process Administrator appoints an Investigator to conduct the investigation, usually within five (5) business days of determining that an investigation should proceed.

### ***Steps in the Investigation Process***

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant Parties and witnesses and 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.

Prior to the conclusion of the investigation, Parties will receive a secured electronic or hard copy of the preliminary investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is relevant to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each Party may meaningfully respond to the evidence. The Preliminary Investigative Report will include factual information presented during the investigation phase and analysis of relevant consistencies or inconsistencies (if any) between Parties and witnesses interviewed.

Following conclusion of the ten (10) business day review period, the Investigator(s) should document all rationales for any changes to the investigative report made after the review and comment period. After reviewing the written comments from the Parties, the Investigator(s) may determine that either additional investigation is required, or no further investigation is needed. If further investigation is conducted, the Investigator(s) will include any additional relevant information in the Final Investigative Report. 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.

Comments and additional information, submitted by either Party, will be attached to the Final Investigative Report. The Final Investigative Report will be sent to the Parties via their respective College-assigned e-mail address, or when they are not students or employees of the College, their requested email address.

### ***Role and participation of Witnesses in the Investigation***

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.

### ***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 and availability of witnesses. The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to delay temporarily the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or accommodations for disabilities or health conditions.

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.

College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

In the case of students or employees at other AUCC member institutions, the report will also be disseminated to the appropriate College officials at the home institution of the Party. The Parties will have five (5) business days after receiving the Final Investigative Report to submit written comments about the content of the Investigative Report to the Process Administrator.

Upon written request of a Party, the time to submit written comments can be extended for a brief period, if the Director of Title IX and Compliance/Process Administrator concludes, in their sole discretion, that the additional time is warranted, based on a reasonable request of a Party.

Following investigation, the matter will be resolved using either a Single Decision Maker or Panel.

### ***Evidentiary Considerations***

The Investigator(s) and Decision-maker(s) will 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 provide evidence of consent.

### ***Referral for a Hearing***

Once the Final Investigation Report is shared with the Parties, the Director of Title IX and Compliance or Process Administrator 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(s)–unless all Parties and the Decision-maker(s) agree to an expedited timeline.

The Process Administrator will select an appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student. The Process Administrator, in consultation with the Director of Title IX and Compliance, may refer a case for a hearing. The College will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Process Administrator. The College will designate one faculty or staff member to preside over the three-member panel hearing as Chair. If a Party requests a panel of Decision-makers, the Process Administrator can, in his/her sole discretion, choose to empanel a three-member panel.

Decision-maker(s) for both hearing processes are chosen from a pool of faculty and staff members trained on campus procedures related to sex and gender based discrimination and related issues including, but not limited to, issues related to sexual harassment, sexual assault, dating and domestic violence, and stalking.

The composition of the three-member panel will consist of faculty or staff members. A Chair will be appointed to preside over the Panel Hearing process. Single-Decision Maker Hearings and Panel Hearings generally follow the same procedures except when otherwise indicated (for example, Panel Hearings are decided by a majority vote of three while Administrative Conference have only one Decision-maker(s)).

## **Pre-Hearing Process**

### ***Notice of Hearing***

The Notice of Hearing will be provided to the Parties at least at least ten (10) business days prior to the hearing unless the Parties and the Process Administrator have agreed to proceed more quickly. Once mailed, emailed, and/or received in-person, receipt of the notice will be presumed.

The notice will contain:

- the time, date, and place of the hearing;
- whether the hearing will be conducted as a single Decision-maker or Panel;
- a list of all those who will be questioned by the Decision-maker(s);
- an invitation to object to any Decision-maker or Panel member on the basis of demonstrated bias/ conflict of interest;
- a copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already;<sup>13</sup>
- notification that the Parties may have the assistance of an Advisor of their choosing at the hearing.
- an invitation to each Party to submit to the Decision-maker(s) a pre-hearing impact statement that the Decision-maker(s) will review during any sanction determination; and
- an invitation to contact the Director of Title IX and Compliance/Process Administrator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

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<sup>13</sup> The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

No less than three (3) business days prior to the scheduled hearing, either Party may request, in writing, that the scheduled hearing date be changed due to a stated conflict. The Process Administrator will evaluate the request and determine whether there is valid cause to change the hearing date.

Objections to any Decision-maker or Panel member on the basis of demonstrated bias/ conflict of interest must be raised with the Director of Title IX and Compliance/Process Administrator at least three (3) business days prior to the hearing. The Director of Title IX and Compliance/Process Administrator will evaluate the concerns and appoint a new Decision-maker(s), if valid cause exists. The appointment of a new Decision maker may delay the proceedings.

Hearings 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 90 business-day goal for resolution.

### ***Pre-Hearing Meeting***

The Process Administrator or Decision-maker may convene a pre-hearing meeting(s) with the Parties and their Advisors may request a pre-hearing meeting with the Director of Title IX and Compliance/ Process administrator to understand the structure of the hearing and expectations and rules of decorum at the hearing. Parties are welcome to submit questions or topics they would like the Decision Maker(s) to explore with the other Party and or called witnesses.

### **General Hearing Provisions**

The hearing involves an assessment made by the Decision-maker(s). This assessment includes a review of the Investigator(s)'s Final Investigative Report, including documentary and physical evidence or information included in the report.

The Decision-maker(s) also will be provided with any written comments to the Investigator(s)'s Final Investigative Report submitted by the Parties and questions requested by Parties, and any impact statement submitted by parties, if applicable.

The Decision-maker(s) will pose questions to the Parties and Witnesses. The Decision-maker(s) will use a preponderance of evidence standard in deciding whether the Respondent is responsible for violating the Sexual Misconduct, Relationship Violence and Stalking Policy (as to each alleged violation). The preponderance of the evidence standard requires a finding that it is more likely than not that the Respondent is responsible for violating the Sexual Misconduct, Relationship Violence and Stalking Policy.

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 Sexual Misconduct, Relationship Violence and Stalking Policy.

Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-Makers(s) may call witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-maker(s). At the conclusion of questioning, witnesses will be excused.

Review and Determination by Decision-makers(s) will be conducted according to the following guidelines:

- Hearings will be closed to the public.
- The Parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations.
- If Parties fail to appear at the hearing, the Decision-maker(s) reserve the right to proceed as scheduled.
- Persons other than the Parties and their Advisors (discussed below) may be admitted to the hearing at the discretion of the Decision-maker(s).
- The Decision-maker(s) may limit contact or interactions between the Complainant, Respondent, and/or Witnesses.
- All procedural questions are subject to the final decision of the Decision Maker or Chair of the Panel Hearing.
- Panel Hearings will be decided by a majority vote of the Decision-makers.
- 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.

### ***The Order of the Hearing – Introductions and Explanation of Procedures***

The Chair explains the procedures and introduces the participants.

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 Process Administrator. 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.

### ***Testimony and Questioning***

*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).*

### ***Deliberation, Decision-Making and Standard of Proof***

The Decision-maker(s) will prepare a written Deliberation Report and deliver it to the Process Administrator. The Deliberation Report should state the decision of responsibility or no responsibility as to each alleged violation of the Sexual Misconduct, Relationship Violence and Stalking Policy, how each Decision-maker voted (in the case of a Panel Hearing), explain the basis for the decision, and recommended sanction or corrective action. This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Process Administrator within two (2) business days of the end of deliberations, unless the Process Administrator grants an extension. If an extension is granted, the Process Administrator will notify the Parties.

Final determination regarding sanctions or corrective action will be made by the College Official with authority to take corrective and/or disciplinary action.

The Director of Title IX and Compliance, in conjunction with the Dean of Students or designee (for students), the Provost or designee (for faculty), or the Director of Human Resources or designee (for staff) will review the Deliberation Report to ensure the Final Decision is in compliance with applicable legal and statutory requirements.

### **Notification of Outcome**

The Complainant and the Respondent will both be notified simultaneously in writing of the findings of the Single Decision Maker or Panel Hearing within 5 business days following the deliberation date. If the Decision-maker(s) need additional time for deliberation, Parties will be notified in writing of the delay.

Notification to the Complainant will include findings related to violations of Policy, remedies offered or provided to the Complainant, sanctions imposed on the Respondent that directly relate to the Complainant, and any other steps the College has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. The Respondent generally will be notified of the findings and sanctions, including individual non-confidential remedies offered or provided to the Complainant. Complainants and Respondents are informed of appeal procedures and any changes to the outcome that occur prior to the time that such outcome becomes final. The College encourages the Parties to maintain confidentiality of all communication related to findings and sanctions.

### **Sanctions**

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)

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

The sanctions described in the Sexual Misconduct, Relationship Violence and Stalking 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 Director of Title IX and Compliance 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 complaints against students will be determined by the Associate Vice President for Student Affairs (or designee)
- Typically, Appeals for complaints against Staff will be determined by the Vice President for Business & Financial Affairs (or designee).
- Typically, Appeals for complaints against Faculty will be determined by the Faculty Grievance Committee/ President (or designee).
- Typically, Appeals of the decisions made by the Director of Title IX and Compliance will be determined by the Senior Vice President and Secretary of the College.

### ***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 an applicable ground and is timely filed.

Appeals are limited to the following grounds:

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

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. If any of the grounds in the Request for Appeal meet the grounds in the Sexual Misconduct, Relationship Violence and Stalking Policy, then the Appellate Officer will notify the

Parties and their Advisors, the Director of Title IX and Compliance/Process Administrator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The Parties and their Advisors, the Director of Title IX and Compliance/Process Administrator, 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 will remain in place, 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 Director of Title IX and Compliance 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 Sexual Misconduct, Relationship Violence and Stalking Policy.

At the discretion of the Director of Title IX and Compliance, 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 Director of Title IX and Compliance 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, interim and long-term remedies, 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 Director of Title IX and Compliance.

### **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 Director of Title IX and Compliance, determine which accommodations are appropriate and necessary for full participation in the process.

### **REVISIONS OF THIS POLICY AND PROCEDURES**

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This Policy and associated procedures supersede all previous policies addressing harassment, sexual misconduct, 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 those changes are effective once they are posted online.

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.

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BASED ON THE ATIXA 2020 ONE POLICY, TWO PROCEDURES (1P2P) MODEL.  
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## GLOSSARY OF TERMS

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- **Advisor:** a person chosen by a party or appointed by the College 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:** an individual who is alleged to be the victim of conduct that violates this policy or an individual who has alleged retaliation for engaging in a protected activity pursuant to this policy.
- **Confidential Resource:** an employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- **Day:** a business day when the College is in normal operation.
- **Directly Related Evidence:** evidence connected to the allegations, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and which cannot be relied upon by the Decision-maker. Compare to *Relevant Evidence* below.
- **Education Program or Activity:** locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sex discrimination or sexual harassment occurs and includes any building owned or controlled by a student organization that is officially recognized by the College.
- **Employee:** a person, including faculty, employed by the College, either full-or part-time, including certain student-employees acting with the scope of their employment.
- **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”).
- **Formal Complaint:** a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in sex discrimination or sexual harassment under this policy and requesting that the College investigate the allegation(s).
- **Formal Grievance Process:** “Process A”: a method of formal resolution designated by the College to address conduct that falls within the policies and which complies with the requirements of Title IX regulations (34 CFR §106.45) and the Violence Against Women Act amendments to the Clery Act (34 C.F.R. § 668).
- **Formal Resolution Process:** “Process B”: a method of formal resolution designated by the College for those allegations where the facts do not fall within the scope of conduct prohibited or within the jurisdictional scope of the Title IX regulations (34 CFR §106.45).

- **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).
- **Decision-maker or Panel:** those who have decision-making and sanctioning authority within the College's Formal Resolution processes.
- **Informal Resolution:** a resolution the Parties agree to and the Administrator approves, which occurs prior to a Final Determination.
- **Investigation Report.** The Investigator's written summary of all Relevant Evidence gathered during the investigation. Versions include the Draft Investigation Report and the Final Investigation Report.
- **Investigator:** the person(s) 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 harassment and/or retaliation with the Title IX Coordinator and/or their supervisor.<sup>14</sup>
- **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.
- **Parties:** the Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions:** pregnancy, childbirth, or termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.<sup>15</sup>
- **Recipient:** a postsecondary education program that is a recipient of federal funding.
- **Remedies:** actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence of policy violations, and restore access to the College's educational program.

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<sup>14</sup> 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.

<sup>15</sup> Lactation is not specifically covered by the 1975 Title IX regulations; however, it is a best practice to provide reasonable modifications for expressing breast milk.

- **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.
- **Resolution:** the result of an informal or Formal Resolution Process.
- **Sanction:** a consequence imposed by the College on a Respondent who is found to have violated this policy.
- **Sex:** birth Sex (under Title IX). Outside Title IX, Sex can include gender identity, gender expression, sexual orientation, sex characteristics, and sex stereotypes.
- **Sexual Harassment:** the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.
- **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, deputy coordinators, and any member of the Resolution Process Pool.