



COLLEGE OF DUPAGE

Administrative Procedure Manual

**Human Resources - General
Procedure No. 15-11**

Prohibition of Sexual Discrimination, Harassment and Misconduct

I. Purpose

College of DuPage (College) is committed to maintaining a safe and healthy educational and employment environment that is free from discrimination, harassment and misconduct on the basis of sex, which includes sexual orientation or gender-related identity. The purpose of this procedure is to implement the College's Sexual Discrimination, Harassment and Misconduct Policies (Board Policy 15-11 and Board Policy 15-10), ensure a safe and healthy educational and employment environment, and meet legal requirements in accordance with: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the College's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; relevant sections of the Illinois Human Rights Act, which prohibits discrimination on the basis of sex or sexual orientation, including gender-related identity; and the Clery Act, which requires timely warning to the community of certain immediate threats.

The College has an affirmative duty to take immediate and appropriate action once it knows of any act of sexual discrimination, harassment and/or misconduct in any of its educational or employment programs or activities. The College will promptly and thoroughly investigate any complaints of sexual discrimination, harassment and/or misconduct in accordance with the procedures set forth below.

II. Jurisdiction

The College's Sexual Discrimination, Harassment and Misconduct Procedures apply to students, faculty, staff, appointees, or third parties, regardless of sexual orientation or gender-identity, whenever the misconduct occurs:

- A.** On College property; or
- B.** Off College property if:
 - 1. The conduct was in connection with a College or College-recognized program or activity; or
 - 2. The conduct may have the effect of creating a hostile environment for a member of the College community.

III. Scope

A. Students

Sections I-II, III(A), and IV-XIV of Board Procedure 15-11 governs sexual discrimination, harassment and/or misconduct involving students, such as:

1. A student victim and/or complainant and a student respondent;
2. A student victim and/or complainant and an employee or third-party respondent;
3. An employee victim and/or complainant and a student respondent; and
4. A third-party victim and/or complainant and a student respondent.

B. Non-Students

The following Sections of Board Procedure 15-11 govern sexual discrimination, harassment and/or misconduct which solely involve employees and/or third parties:

- Section I, Purpose
- Section II, Jurisdiction
- Section III(B), Scope
- Section IV, Definitions
- Section V(B), Administration
- Section VI, Options for Assistance Following an Incident of Sexual Discrimination, Harassment and/or Misconduct
- Section IX, Interim Measures
- Section X, Miscellaneous
- Section XIV, Training
- Section XV, Procedures Governing Complaints Solely Involving Employees and/or Third Parties

IV. Definitions

- A. Consent:** Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent may not be inferred from silence, passivity, or a lack of active resistance. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent may be withdrawn at any time. A person may be incapable of giving consent due to the person's age, use of drugs or alcohol, the person is asleep or unconscious, or because an intellectual or other disability prevents the person from having the capacity to give consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Consent is an affirmative response, not lack of one, (i.e., the absence of "no" should never be interpreted as "yes").
- B. Dating Violence:** The term dating violence means violence committed by a person: 1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and 2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- C. Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Illinois, or by any other

- person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Illinois.
- D. Hostile Environment Caused by Sexual Harassment:** a sexually harassing hostile environment is created when conduct by an individual is so severe, pervasive or persistent that it denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the College's educational programs or activities or the individual's employment access, benefits or opportunities. In determining whether a hostile environment has been created, the conduct in question will be considered from both a subjective and an objective perspective of a reasonable person in the alleged victim's position, considering all the circumstances.
- E. Incapacitation:** When a person is incapable of giving consent due to the person's age, use of drugs or alcohol, or because an intellectual or other disability which prevents the person from having the capacity to give consent.
- F. Intimidation:** To make timid or fearful, to compel or deter by or as if by threats. Intimidation is a form of retaliation prohibited by the College's Sexual Discrimination, Harassment and Misconduct Policy and Procedures.
- G. Proceeding:** All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.
- H. Result:** Any initial, interim, and final decision by an official or entity authorized to resolve disciplinary matters within the institution. The result includes any sanctions imposed by the institution.
- I. Retaliation:** Any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging sexual discrimination, harassment or misconduct or any person cooperating in the investigation of such allegations (including testifying, assisting or participating in any manner in an investigation) is strictly prohibited. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by the College's Sexual Discrimination, Harassment and Misconduct Policy and Procedures. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the allegations of sexual discrimination, harassment or misconduct.
- J. Sexual Assault:** Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- K. Sex Discrimination:** Discrimination on the basis of sex, sexual orientation or gender-related identity. Sex discrimination includes sexual harassment, sexual misconduct and sexual violence.
- L. Sexual Exploitation:** Occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual

exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or a sexually transmitted disease to another, or exposing one's genitals to another in non-consensual circumstances.

M. Sexual Harassment: Unwelcome sexual advances, requests for sexual acts or favors, and other verbal, non-verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, academic advancement, evaluation, or grades;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment, academic advancement, evaluation, or grading decisions affecting that individual;
3. Such conduct has the purpose or effect of substantially interfering with an individual's employment or educational performance or creating an intimidating, hostile, or offensive employment or educational environment; or
4. Such conduct denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the College's educational programs or activities or the individual's employment access, benefits or opportunities.

Examples of conduct of a sexual nature include:

- Verbal: Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats.
- Non-Verbal: Sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures.
- Physical: Touching, pinching, brushing the body, or any unwelcome or coerced sexual activity, including sexual assault.

N. Sexual Misconduct: Includes sexual assault, sexual exploitation, dating violence, domestic violence, sexual violence and stalking.

O. Sexual Violence: Physical sexual acts perpetuated against a person's will or where a person is incapable of giving consent (e.g. due to the person's age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

P. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress.

Q. Threat: Any oral or written expression or gesture that could be interpreted by a reasonable person as conveying an intent to cause harm to persons or property.

V. Administration

A. Title IX Coordinator

To ensure compliance with Title IX, the College has designated the Dean of Students as the Title IX Coordinator. Any individual who believes he/she has been discriminated against or harassed because of their gender, who has been subjected to sexual harassment, sexual assault, sexual misconduct, or relationship violence in violation of College policy, or who has witnessed such activity against another may file a complaint or obtain information and assistance from the College's Title IX Coordinator.

Susan Jerak
Dean of Students
College of DuPage
425 Fawell Blvd.
Glen Ellyn, IL 60137
Telephone: (630) 942.3224
Email: TitleIXCoordinator@cod.edu

Responsibilities of the Title IX coordinator include:

- Overseeing the College's response to all Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.
 - A Title IX complaint includes complaints alleging sexual discrimination, sexual harassment and/or sexual misconduct (as those terms are defined herein) which involve a College student as the victim and/or complainant or as the respondent.
- Being informed of all reports and complaints raising Title IX issues, including those initially filed with another individual or office or if the investigation will be conducted by another individual or office.
- Ensuring that adequate training is provided to students, faculty and staff on Title IX issues.

Conducting Title IX investigations, including investigating facts relative to a complaint and recommending appropriate sanctions against the perpetrator and remedies for the complaint.

- With respect to Title IX complaints that relate to a College employee as the victim and/or complainant or as the respondent, the Title IX Coordinator will partner with the Department of Human Resources which will manage the investigation into the allegations and which will recommend appropriate sanctions against the employee.
- Determining appropriate interim measures for a victim and/or complainant upon learning of a report or complaint of sexual violence.

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- Ensuring that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local victim advocacy organizations and services providers, including rape crisis centers.
- Promoting an educational and employment environment which is free of sexual discrimination and gender bias.

Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to the United States Department of Education's Office for Civil Rights:

Office for Civil Rights, *Chicago Office*
U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4544
Telephone: (312) 730-1560
Email: OCR.Chicago@ed.gov

B. Department of Human Resources

The Department of Human Resources will partner with the Title IX Coordinator with respect to any Title IX complaints which involve a College employee as the victim and/or complainant or as the respondent.

The Department of Human Resources will oversee the College's response to all complaints of sexual discrimination, harassment and/or misconduct which solely involve employees and/or third parties.

VI. Options for Assistance Following an Incident of Sexual Discrimination, Harassment, or Misconduct

A. Immediate Assistance

1. On- and Off-Campus Counselors and Advocates. The following on- and off-campus counselors and advocates can provide an immediate confidential response in a crisis situation:

Confidential Advisors
YWCA Rape Crisis Hotline
Phone: (630) 971-3927
www.ywcachicago.org

For Employees:
Employee Assistance Program
Northwestern Medicine
Phone: (888) 933-1327

For Students:
Student Assistance Program
Northwestern Medicine

Phone: (855) 933.8727

COD Counseling and Advising Center
Mental Health Counselors
Student Services Center (SSC) 3200
Phone: (630) 942-2259

2. Emergency Response. Anyone who experiences or observes an emergency situation should immediately call 911 and/or the College Police at (630) 942-2000.
3. On- and Off-Campus Health Care Options. Victims may seek treatment for injuries, preventative treatment for sexually transmitted disease, and other health services by contacting the following for health care options:

YWCA Rape Crisis Hotline
Phone: (630) 971-3927

911, in an emergency

COD Police
Phone: (630) 942-2000

Central DuPage Hospital*
Emergency Department
Phone: (630) 933-1600

*Indicates health care options which provide rape kits and/or Sexual Assault Nurse Examiners.

Seeking medical treatment also serves to preserve physical evidence of sexual violence.

B. Ongoing Assistance for Students

1. On- and Off-Campus Counseling, Advocacy and Support.

See Section X(A), below.

2. Academic Accommodations and Interim Measures.

See Section X(C), below.

C. Ongoing Assistance for Employees

Employee Assistance Program
Northwestern Medicine
Phone: (888) 933-1327

VII. Student Reporting and Confidentially Disclosing Sexual Discrimination, Harassment and/or Misconduct

The College encourages student victims of sexual discrimination, harassment and/or misconduct, including sexual violence, to talk to somebody about what happened so that victims can get the support they need and so that the College can respond appropriately. Different employees on campus have different abilities to maintain a student victim's confidentiality:

- Some employees are required to maintain near complete confidentiality.
- Some employees may talk to a student victim in confidence and generally only report to the College that an incident occurred without revealing any personally identifying information.
- Some employees are required to report all the details of an incident (including identities of the student victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees, called "Responsible Employees", constitutes a report to the College and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

The various reporting and confidential disclosure options available are set forth in further detail below.

A. Student Privileged and Confidential Communications

Mental-Health Counselors. The only college individuals that are exempt from reporting sexual abuse of an adult without the victim's permission are State of Illinois licensed counselors who provide mental-health counseling to students (including those counselors who act in that role under the supervision of a licensed counselor). The College requires all campus employees to report the suspected abuse of children (those under the age of 18).

Contact information for such mental-health counselors is as follows:

Mental Health Counselors
COD Counseling and Advising Center
Student Services Center (SSC) 3200
Phone: (630) 942-2259

All communications between a Confidential Advisor and a student pertaining to an incident of sexual violence shall remain confidential, unless the student consents to the disclosure of the communication in writing. The Confidential Advisor may disclose confidential communications between the Confidential Advisor and the student if failure to disclose would result in clear, imminent risk of serious physical injury to or death of the student or another person.

Non-Mental-Health Counselors and Advocates. Individuals who work or volunteer in the on-campus Student Affairs offices, including front desk staff and students, can generally talk to a student victim without revealing any personally identifying information about an incident to the College. A student victim can seek assistance and support from these individuals without triggering a College investigation that could reveal the student victim's identity or that the student victim has disclosed the incident.

While maintaining a student victim's confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify

the student victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual discrimination, harassment and misconduct on and off campus so the Title IX Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

Contact information for such non-mental-health counselors and advocates is as follows:

Student Success Counselors
COD Counseling and Advising Center
Student Services Center (SSC) 3200
Phone: (630) 942-2259

A student victim who speaks to a mental-health or non-mental-health counselor or advocate must understand that, if the student victim wants to maintain confidentiality, the College's ability to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator(s) may be diminished.

Even so, these counselors and advocates will still assist the student victim in receiving other necessary protection and support, such as student victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A student victim who at first requests confidentiality may later decide to file a complaint with the College or report the incident to law enforcement, and thus will have the incident fully investigated. These counselors and advocates will provide the student victim with assistance if the student victim wishes to do so.

Note: While these counselors and advocates may maintain a student victim's confidentiality vis-à-vis the College, they may have reporting or other obligations under state law. Any College employee who suspects or receives knowledge that a minor student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, is required to: 1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline; and 2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.

Also Note: If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the College community, College Police may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

B. Student Reporting to "Responsible Employees"

A College employee who has the authority to redress sexual discrimination, harassment or misconduct, who has the duty to report incidents of such or other student misconduct, or who a student could reasonably believe has this authority or duty is a Responsible Employee. When a student victim tells a Responsible Employee about an incident of sexual discrimination, harassment or misconduct, the student victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the student victim and that the College will need to determine what happened – including the names of the student victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the College's response to the report.

To the extent possible, the College provides immunity for students who in good faith report an alleged violation of the comprehensive policy to a "responsible employee" so that the reporting student will not receive a disciplinary sanction for a student conduct violation (e.g., underage drinking) revealed in the course of reporting, unless the violation was "egregious" (e.g., an action that places the health or safety of another person at risk).

The following categories of employees are the College's Responsible Employees:

- College Administrators
- Title IX Coordinator
- Supervisors and Managerial Staff
- Faculty
- Campus Police
- Coaches

Before a student victim reveals any information to a Responsible Employee, the employee should ensure that the student victim understands the employee's reporting obligations – and, if the student victim wants to maintain confidentiality, direct the student victim to the confidential resources listed above.

If the student victim wants to tell the Responsible Employee what happened but also maintain confidentiality, the employee should tell the student victim that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the student victim's request for confidentiality.

Silent Witness Program

We understand the difficulty people may experience in reporting crimes or incidents of concern to us face-to-face. We offer the Silent Witness Program to anyone who has witnessed, or knows about, a crime committed on campus.

You are welcome to send an email to: mullin@cod.edu with information you feel may be useful in keeping our campus safe and secure. It is important that you provide as much detail as to who, what, when and where, as possible. Your identity will be protected to the fullest extent possible.

C. Electronic and/or Anonymous Reporting

The College provides an online system for electronic reporting. The reported may choose to provide his/her identity or may choose to report anonymously. Please note that anonymous reporting will significantly limit the College's ability to respond. The electronic and/or anonymous reporting form can be found on the College of DuPage website at:

https://cm.maxient.com/reportingform.php?CollegeofDuPage&layout_id=6

D. Student Requesting Confidentiality From the College: How the College Will Weigh the Request and Respond

If a student victim discloses an incident to a Responsible Employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students and employees, including the student victim.

If the College honors the request for confidentiality, a student victim must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be diminished.

Although rare, there are times when the College may not be able to honor a student victim's request in order to provide a safe, non-discriminatory environment for all students and employees.

The College has designated the following individual(s) to evaluate requests for confidentiality:

- Title IX Coordinator
- Vice-President of Human Resources
- COD Chief of Police

When weighing a student victim's request for confidentiality or that no investigation or discipline be pursued, a range of factors will be considered, including the following:

- The increased risk that the alleged perpetrator(s) will commit additional acts of sexual discrimination, harassment or misconduct, such as:
 - Whether there have been other sexual discrimination complaints about the same alleged perpetrator;
 - Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of misconduct or violence;
 - Whether the alleged perpetrator threatened further sexual discrimination or violence against the student victim or others;
 - Whether the sexual discrimination was committed by multiple perpetrators;
- Whether the sexual discrimination, harassment or misconduct was perpetrated with a weapon;
- Whether the student victim is a minor;
- Whether the College possesses other means to obtain relevant evidence of the sexual discrimination, harassment or misconduct (e.g., security cameras or physical evidence); and

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- Whether the student victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the student victim's request for confidentiality.

If the College determines that it cannot maintain a student victim's confidentiality, the College will inform the student victim at the earliest point possible and will, to the extent possible, only share information with people responsible for handling the College's response.

If the College determines that it can respect a student victim's request for confidentiality, the College will also take immediate action as necessary to protect and assist the student victim.

If a victim's request for confidentiality limits the College's ability to formally investigate a particular allegation, the College may take steps to limit the effects of the alleged sexual discrimination, harassment and/or misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Such action may include, but is not limited to:

- Providing increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred;
- Providing training and education materials for students and employees;
- Revising and publicizing the College's policies regarding sexual discrimination, harassment and misconduct; and
- Conducting climate surveys regarding sexual misconduct.

VIII. Employee Reporting and Disclosing Sexual Discrimination, Harassment and/or Misconduct of a Student

In addition to the reporting requirements for Responsible Employees (see Section VII(B), above), all College employees who have information regarding sexual discrimination, harassment and/or misconduct of a student are encouraged to report it to the Title IX Coordinator or any Responsible Employee.

If you are a third party or concerned person who is not a current student, faculty, or staff member but want to report sexual misconduct which involved a member of the College of DuPage community, contact the Title IX Coordinator at:

Susan Jerak
630-942-3224
TitleIXCoordinator@cod.edu

IX. Interim Measures

The College will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated. The College will also:

- Assist the victim in accessing other available victim advocacy, academic support, counseling disability, health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which could include the College obtaining a no-contact order, helping to change working arrangements or course schedules (including for the alleged perpetrator(s) pending the outcome of an investigation) or adjustments for assignments or tests; and
- Inform the victim of the right to report a crime to campus or law enforcement – and provide the victim with assistance if the victim wishes to do so.

The College may not require a victim to participate in any Title IX investigation or in a disciplinary proceeding against a student.

Because the College is under a continuing obligation to address the issue of sexual discrimination, harassment and misconduct campus-wide, reports of such incidents (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision, or security at locations where the reported incident occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

X. Miscellaneous

1. **Take Back the Night and Other Public Awareness Events.** Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents are not considered notice to the College of sexual discrimination, harassment or misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students’ Title IX rights at these events.
2. **Anonymous Reporting.** Although the College encourages victims to talk to someone, the College provides for an online system for anonymous reporting. The system will notify the user (before s/he enters information) that entering personally identifying information may serve as notice to the College for the purpose of triggering an investigation. Anonymous reports can be filed through the COD Police website (www.cod.edu/about/police_department/).
3. **Off-Campus Counselors and Advocates.** Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the victim requests the disclosure and signs a consent or waiver form. Contact information for such off-campus resources is as follows:

Confidential Advisors

YWCA Rape Crisis Hotline

Phone: (630) 971-3927

www.ywcachicago.org

For Employees:

Employee Assistance Program

Northwestern Medicine

Phone: (888) 933.1327

For Students:

Student Assistance Program

Northwestern Medicine

Phone: (855) 933.8727

Note: While these off-campus counselors and advocates may maintain a victim's confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

4. Clery Act Reporting Obligations. Pursuant to the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* ("Clery Act," 20 U.S.C. 1092(f)), the College maintains a public crime log and publishes an Annual Security Report ("ASR") available to all current students and employees. The ASR documents three calendar years of select campus crime statistics (including statistics regarding incidents of dating violence, domestic violence, and stalking), security policies and procedures, and information on the basic rights guaranteed to victims of sexual assault. The Clery Act also requires the College to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees.

XI. Title IX Complaint Investigation Procedures

A. Formal Investigation Process

1. Initiation of Investigation by Title IX Coordinator: Upon receipt of a Title IX complaint of sexual discrimination, harassment and/or misconduct, including sexual violence, the Title IX Coordinator will initiate a prompt, fair and thorough investigation. The investigation will be conducted by the Title IX Coordinator or his/her designee, and the College will conclude the investigation within 60 calendar days or less. Where the allegations are complex or other factors delay the investigative process, an extension may be granted.

With respect to Title IX complaints that relate to a College employee as the victim and/or complainant or as the respondent, the Title IX Coordinator will partner with the Department of Human Resources which will manage the investigation into the allegations made against the College employee and which will recommend appropriate sanctions against the College employee Respondent.

2. Interim Measures Provided: During the investigation, the Title IX Coordinator will ensure the victim and/or complainant receive Interim Measures as set forth in Section IX, above,

and will advise the victim and/or complainant of the right to file a complaint with College Police or law enforcement agencies.

3. Notice to Respondent:
 - a. Within 10 business days of receipt of a complaint, the respondent will be given written notice of the charges against him/her.
 - b. The respondent will be advised of the nature of the evidence against him/her (unless release of the evidence would endanger the health or safety of victim(s) or witness(es)).
4. Due Process Rights of Victim and/or Complainant and Respondent
 - a. The victim and/or complainant and student respondent will each be afforded the right to present information and witnesses relevant to his or her case.
 - b. When the victim and/or complainant or student respondent is requested to appear at an investigatory meeting or proceeding related to a complaint, he or she may be accompanied by an advisor. An advisor is defined as a family member, peer, staff/faculty member of the College, or a union representative; it does not include legal counsel or an attorney at law.
 - c. If the respondent is a College employee, then any employee misconduct investigation procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.
5. Evidence Considered: Investigators will interview and receive evidence from the victim, complainant, respondent and any witnesses identified during the course of the investigation. The victim's prior sexual history with anyone other than the respondent will not be considered during the investigation or any proceeding related to a complaint. The mere fact of a current or previous consensual dating or sexual relationship between the victim and respondent does not itself imply consent or preclude a finding of sexual violence.
6. Preservation of Evidence: Any physical evidence gathered by the investigator will be preserved by the COD Police.
7. Concurrent Criminal Investigation: The existence of a concurrent criminal investigation by law enforcement agencies will not necessarily delay or interrupt the investigation procedures outlined herein. However, the law enforcement agency may request that the College investigation be temporarily suspended. In such cases, the College will evaluate the law enforcement agency's request to determine whether and for how long to suspend its investigation. It is understood that during an ongoing criminal investigation, information relevant to the pending case or prosecution may not be permitted to be shared with the College until the criminal investigation is closed.
8. Report of Investigation: At the conclusion of the investigation, the investigator will prepare a thorough report outlining the: complaint, investigation conducted and all relevant evidence obtained; investigator's conclusions with an explanation of reasoning and/or support for such conclusions; and recommendations for sanctions or other

remedial action as appropriate. The investigator will submit his/her report to the Title IX Coordinator, Department of Human Resources and/or both, as appropriate.

B. Determination

1. Determination Based Upon Preponderance of the Evidence: For student respondent cases, the Title IX Coordinator shall review the investigator's report and all evidence gathered to determine whether the student respondent engaged in sexual discrimination, harassment and/or misconduct in violation of College policy. The determination of violations shall be made based on the preponderance of evidence, meaning whether it is more likely than not that this policy was violated.

For employee respondent cases, the Department of Human Resources and Title IX Coordinator will determine whether the employee respondent engaged in sexual discrimination, harassment and/or misconduct in violation of College policy.

2. Notice to Respondent: For student respondents, within 7 business days after receipt of the investigator's report, the Title IX Coordinator will notify the student respondent via certified mail, return receipt requested, of his/her determination. If the Title IX Coordinator determines that the student respondent has violated the College's prohibition of sexual discrimination, harassment and/or misconduct, this notification will also advise the student respondent of:
 - a. Disciplinary sanctions; and
 - b. The right to appeal the determination and sanctions in accordance with the Appeal Procedures set forth in Section VIII, below.

For employee respondents, the Department of Human Resources will follow its obligation under any applicable College Policies and collective bargaining agreements in providing notice.

3. Notice to Victim and/or Complainant: Concurrently with the notice provided to respondent, the Title IX Coordinator will notify the victim and/or complainant within 7 business days after receipt of the investigator's report, via certified mail, return receipt requested, of his/her determination. If the Title IX Coordinator determines that the respondent has violated the College's prohibition of sexual discrimination, harassment and/or misconduct, this notification will also advise the victim and/or complainant of:
 - a. Any individual remedies offered or provided to the victim and/or complainant;
 - b. Disciplinary sanctions imposed on the respondent that directly relate to the victim and/or complainant;
 - c. In sexual violence cases only, any disciplinary sanctions imposed on the respondent;
 - d. The right to appeal the determination and sanctions in accordance with the Appeal Procedures set forth in Section XII, below; and

- e. If the College determines that a hostile environment exists, it will inform the victim and/or complainant of steps it has taken to eliminate the hostile environment and to prevent recurrence.

C. Sanctions, Protective Actions, and Remedies

1. Sanctions. Student respondents who have violated the College's prohibition of sexual discrimination, harassment and/or misconduct are subject to any sanctions set forth in the College's Code of Student Conduct Procedures 20-35, up to and including expulsion.

College employee respondents who have violated the College's prohibition of sexual discrimination, harassment and/or misconduct will be subject to disciplinary action up to and including termination, consistent with any applicable employee guidebooks and/or collective bargaining agreement obligations.

2. Protective Actions. The College may take protective measures as appropriate, including no-contact orders, trespass notices, or other protective measures. College Police will enforce court ordered no-contact, restraining and/or protective orders to the fullest extent of the law.
3. Remedies. The College will administer remedies for the victim and/or complainant depending upon the specific nature of the complaint. In addition, the College may administer remedies for the College community as a whole.

Remedies for the victim and/or complainant may include, but are not limited to:

- Assisting the victim and/or complainant to change his/her academic and/or work environment if requested and if reasonably available;
- Providing an escort to ensure that the victim and/or complainant can move safely between classes and activities;
- Ensuring that the victim and/or complainant and the respondent do not attend the same classes;
- Providing counseling services;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Arranging for the victim and/or complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the victim and/or complainant's academic record; and
- Reviewing disciplinary actions taken against the victim and/or complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the victim and/or complainant being disciplined.

Remedies for the College community as a whole may include, but are not limited to:

- Offering counseling, health, mental health, or other holistic and comprehensive victim services to all students and employees affected by sexual discrimination, harassment, and/or misconduct;
- Designating an individual from the College's counseling center to be available to assist victims of sexual discrimination, harassment, and/or misconduct whenever needed;

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- Developing materials on sexual discrimination, harassment and misconduct for campus-wide distribution to students, employees, and/or third-parties;
- Creating a committee of students and College officials to identify strategies for preventing and addressing sexual discrimination, harassment and misconduct; and;
- Conducting periodic climate surveys to identify how students and employees perceive and experience sexual discrimination, harassment and misconduct at the College.

XII. Title IX Appeal Procedures for Victims and/or Complainants and Student Respondents

A. Appeal Request

A victim and/or complainant or a student respondent who wishes to appeal the decision reached by the Title IX Coordinator at the conclusion of a formal investigation must submit a written request for appeal to the Judicial Review Board (JRB). This request must be submitted to the Vice President of Student Affairs within 10 business days after receipt of the Title IX Coordinator's letter of determination.

The appeal request must be typewritten, must indicate if the requestor wishes to appear in person before the JRB, and must state the grounds for appeal. Appeals must be made on the basis of one or more of the following grounds:

1. Procedural error was committed.
2. The finding of facts contained in the decision included inaccurate information.
3. Specific evidence considered during the investigation is objectionable.
4. Evidence not offered during the investigation is now available. In such cases, the new evidence must be described.
5. The sanction imposed is lenient, excessive or otherwise inappropriate.

Within 10 business days after receipt of the appeal request, the Vice President of Student Affairs will decide whether to grant the appeal based on whether the appeal meets one of the above enumerated grounds for appeal and shall inform the appellant by certified mail, return receipt request. If the appeal is granted, the Vice President of Student Affairs will refer the matter to the JRB, and the Hearing Procedures for the JRB set forth below will be followed. In the event of an appeal, the decision(s) of the JRB will be final in all cases, other than for cases resulting in a recommendation for suspension or expulsion.

In the event a victim and/or complainant or a student respondent does not appeal within the required 10 business day period, the decision of the Title IX Coordinator will be final.

If the respondent is a College employee, then any employee misconduct appeal procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.

B. Establishment of the Standing JRB

A standing JRB will hear cases and make recommendations on appropriate disciplinary cases referred to it by the Vice President of Student Affairs or appealed to it by students who are the subject of disciplinary actions involving disciplinary suspension and expulsion. The JRB will be established each fall. It will be composed of the following persons:

1. Two members of the administrative staff appointed by the Vice President of Student Affairs.
2. Two members of the faculty appointed by the Vice President of Student Affairs.
3. One member of the student body appointed by the Vice President of Student Affairs, excluding cases related to Title IX complaints.

None of the above-named persons may sit in any case in which they have a direct personal interest. Decisions in this regard will be made by the JRB as a whole. The Vice President of Student Affairs may appoint interim members as required.

C. Hearing Procedures for the JRB

1. The hearing will be closed to the public.
2. The victim and/or complainant and respondent shall each be entitled to appear in person with an advisor (as defined in Section XI(A)(4)(b), above), present his/her case to the JRB, and call witnesses in his/her behalf.

When requested by the victim, the JRB shall make arrangements so that the victim and respondent do not have to be in the same room at the same time (such as by arranging for participation via videophone, closed circuit television, video conferencing, or other means).

3. The hearing will begin with a presentation by the Title IX Coordinator of his/her determination, followed by a presentation by the appellant. The non-appellee may present his/her case as well.
4. The Title IX Coordinator, appellant and appellee may present information in oral and written form, by witnesses and/or through documents. The parties will be given an opportunity to question witnesses, except that the respondent may under no circumstances personally question the victim.
5. The JRB reserves the right to hear the testimony of witnesses separately, so that the witnesses will not hear each other's testimonies.
6. Pertinent and relevant information will be reviewed by the JRB without regard for the legal rules of evidence.
7. The Title IX Coordinator, appellant and appellee may make closing statements at the conclusion of the hearing on both the issue of misconduct and the issue of the recommended discipline.

8. An audio recording of the proceedings will be created and will be made available to either party upon request.
9. The JRB will render its written decision within 10 business days after the hearing. The decision will be to affirm, reverse or modify the Title IX Coordinator's determination. If the JRB finds the respondent engaged in sexual discrimination, harassment and/or misconduct in violation of College policy, the JRB will then determine or recommend a disciplinary action.
10. If a student respondent is found not to have engaged in sexual discrimination, harassment and/or misconduct in violation of College policy, and if coursework has been missed as a direct result of the action taken against the student respondent, appropriate action will be taken to assist the student respondent in completing the course(s).
11. In all cases other than suspension or expulsion, the decision of the JRB is final.
12. If the decision of the JRB is to suspend the student respondent, that decision will be transmitted to the Vice President of Student Affairs. The student respondent will then have two business weeks after the decision to appeal to the Vice President of Student Affairs. The appeal will consist of the student respondent's written statement of disagreement with the decision and argument for reversal, relevant documentation and the recording or transcript of the JRB hearing. The Vice President of Student Affairs will review relevant information before making a decision. The Vice President of Student Affairs will render a decision to uphold the suspension or to take other appropriate action within 15 business days after receiving the respondent's written appeal. If the Vice President of Student Affairs decides to impose a less severe sanction than suspension, the decision of the Vice President of Student Affairs is final. The Vice President of Student Affairs will not have the authority to increase the severity of the recommended sanction.
13. If the decision of the JRB is to expel the student respondent, that decision will be transmitted to the Vice President of Student Affairs. The student respondent will then have two business weeks after the decision to appeal to the Vice President of Student Affairs. The appeal will consist of the student respondent's written statement of the disagreement with the decision and argument for reversal, relevant documentation and the recording or the transcript of the JRB hearing. The Vice President of Student Affairs will review the relevant information before making a decision. The Vice President of Student Affairs will render a decision to uphold the expulsion or to take other appropriate action within 15 business days after receiving the respondent's written appeal. If the Vice President of Student Affairs decides to impose a sanction less severe than expulsion, the decision of the Vice President of Student Affairs is final.

XIII. Prevention and Education for Students

The College will review on an ongoing basis, its sexual discrimination, harassment and misconduct prevention and education programming to ensure students and employees are provided substantive opportunities to learn about sexual discrimination, harassment and misconduct, including primary prevention, bystander intervention, risk reduction, consent, reporting methods, relevant College policies and procedures, retaliation, the impact of trauma, relevant definitions, and other pertinent topics.

XIV. Training

The Title IX Coordinator, College Police, Responsible Employees, victim advocates, and anyone else involved in responding to, investigating or adjudicating sexual discrimination, harassment and misconduct incidents receive education and training on primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures, confidentiality requirements, relevant College policies and procedures, retaliation, the impact of trauma, relevant definitions, and other pertinent topics. The College will annually review its training offerings to identify ways in which to enhance its effectiveness.

XV. Procedures Governing Complaints Solely Involving Employees and/or Third Parties

An employee or third party should notify the Department of Human Resources' Director of Labor and Employee Relations ("Director") or the Manager of Employee Relations ("Manager") if he or she believes that the College, its employees or agents have engaged in sexual discrimination, harassment or misconduct of an employee or third party in violation of Board Policy 15-11.

The Director/Manager may attempt to resolve complaints informally. However, if a formal complaint is filed, the Director/Manager will address the complaint promptly and equitably as follows.

A. Filing a Complaint

An employee or third party (hereinafter "Complainant") who wishes to avail him or herself of this procedure may do so by filing a complaint with the Director/Manager. The Director/Manager will request the Complainant to provide a written statement regarding the nature of the complaint and will require a meeting with the Complainant. The Director/Manager shall assist the Complainant as needed.

B. Investigation

Each complaint shall be investigated promptly, thoroughly, impartially, and as confidentially as possible. The Director/Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his/her behalf. The complaint and identity of the Complainant will not be disclosed except as required by law, as necessary to fully investigate the complaint, or as authorized by the Complainant. As a general rule, all complaints will be investigated, even when the Complainant requests that nothing be done.

1. The Director/Manager or his/her designated investigator (hereinafter "investigator") will investigate all complaints or allegations of sexual discrimination, harassment, or misconduct, except that, depending on the circumstances, the Vice President of Human Resources may appoint a special investigator. The appointment of a special investigator does not preclude the involvement or assistance of the Director/Manager in the investigation. Whenever the Vice President of Human Resources deems necessary, a third party (e.g., an attorney) may serve as a special investigator. The investigator should not have any involvement with the Complainant or the alleged wrongdoer outside of the investigation. The Director will ensure that investigators have sufficient authority and resources.

2. The investigator will inform potential complainants, complainants, and witnesses that the College prohibits any form of retaliation against anyone who, in good faith, brings a complaint or provides information to the individual investigating a complaint.
3. The investigator will provide a fair opportunity for both sides to be heard.
4. During the investigation, the investigation file will be kept separate from personnel record files.
5. The investigator will prepare a comprehensive written report of his/her findings and will provide the report to the Vice President of Human Resources. If a complaint of sexual discrimination, harassment or misconduct contains allegations involving the Vice President of Human Resources, the written report shall be provided directly to the College President, who will make a decision in accordance with Section D, below.
6. Employee misconduct investigation procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.

C. Decision

Within 15 business days after receiving the investigator's report, the Vice President of Human Resources shall mail his or her written decision to the Complainant by U.S. mail, first class. A copy will be placed in the investigation file.

D. Appeal

Employee misconduct appeal procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.

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