

COKER COLLEGE

STUDENT SEXUAL MISCONDUCT POLICY AND PROCEDURES

If you or someone you know may have been a victim of sexual assault or any other type of Sexual Misconduct prohibited under this Policy, you are strongly encouraged to seek immediate assistance.

**ASSISTANCE CAN BE OBTAINED 24 HOURS A DAY, 7 DAYS A WEEK, FROM
THE OFFICE OF CAMPUS SAFETY(843-383-8140)**

During business hours (8:30 a.m. - 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact Brianna Douglas, Coker College Title IX Coordinator (843) 383-8060 or bbuncedouglas@coker.edu.

For additional information about seeking medical assistance and emotional support, as well as important contact information, including local law enforcement agencies and Carolina Pines Regional Medical Center; see Exhibit A attached to this Policy.

ARTICLE I. INTRODUCTION

(a) Notice of Nondiscrimination.

As a recipient of Federal Funds, Coker College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. §1681 et seq. ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, sexual misconduct (as defined below) constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to Coker College's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights. Coker College's Title IX Coordinator is Brianna Douglas. The following is Brianna Douglas' contact information:

Brianna Douglas, Title IX Coordinator
2nd. Floor Administration Building
300 East College Ave.
Hartsville, South Carolina 29550
843-383-8060
bbuncedouglas@coker.edu

(b) Overview of the Policy.

Coker College (the “College”) is committed to maintaining and strengthening an environment founded on civility and respect. Sexual Misconduct, as defined by this Student Sexual Misconduct Policy and Procedures (this “Policy”), is antithetical to the values and standards of the College community, is incompatible with the safe, healthy environment that the College community expects and deserves, and will not be tolerated. The College is committed to providing programs, activities and an educational environment free from sex discrimination. The College is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct and timely and fair resolution of sexual misconduct complaints, and in furtherance of that commitment, this Policy sets forth available resources (Exhibit A), describes prohibited conduct (Article II), and establishes procedures for responding to complaints of sexual misconduct (Articles III-VI).

The College will make this Policy and information about recognizing and preventing Sexual Misconduct readily available to all students and other members of the College community.

(c) Applicability of this Policy.

This Policy applies to any allegation of sexual misconduct made by or against a student of the College, regardless of where the alleged sexual misconduct occurred.¹

Although there is no geographical limitation to invoking this Policy, Sexual Misconduct that is alleged to have occurred at a significant distance from the College and/or outside of college property may be more difficult for the College to investigate.

Furthermore, students may file complaints under this Policy against individuals who are neither students nor employees of the College if the conduct giving rise to the complaint is related to the College’s academic, educational, athletic or extracurricular programs or activities. The College’s disciplinary authority, however, may not extend to such third parties.

(d) Period of Limitations.

A complaint of sexual misconduct may be filed at any time that the Complainant or the Respondent is enrolled as a student, or current employee of the College, regardless of the length of time between the alleged sexual misconduct and the decision to file the Complaint. However, the College strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a Complaint may compromise the subsequent investigation, and evidence may be diminished.

¹ Details regarding the College’s policy governing sexual misconduct regarding employees may be found in the College’s Faculty & Staff Sexual Misconduct Policy and Procedures (available from the Office of Human Resources 843-383-8333)

(e) Definitions Applicable to this Policy.

The definitions applicable to this Policy are set forth in Exhibit B.

ARTICLE II. STATEMENTS OF POLICY

(a) Prohibition on Sexual Misconduct.

Any act of sexual misconduct constitutes a violation of College policy and is prohibited. The College is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct and timely and fair resolution of sexual misconduct cases. Creating a safe environment is the responsibility of all members of the College community. This policy is designed to protect the rights, needs, and privacy of alleged victims, Complainants (if not the alleged victim), and Respondents. In addition to violating College policy, sexual misconduct might also constitute criminal activity. Individuals are strongly encouraged to inform law enforcement authorities about instances of sexual misconduct.

Information on filing a complaint with local law enforcement authorities or the College is set forth in Article III, below.

(b) Prohibition on Retaliation.

Retaliation against any person for filing, supporting or providing information in connection with a Complaint of sexual misconduct is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other College disciplinary procedures, as deemed appropriate in the College's discretion. Any person who feels that he or she has been subjected to retaliation should make a report to the assigned Title IX Coordinator assigned to his or her case.

(c) Confidentiality.

The College will make every feasible effort to preserve the confidentiality of and prevent the disclosure of the identities of the parties involved in a sexual misconduct matter. However, information regarding alleged sexual misconduct must be handled in accordance with applicable state and federal privacy laws, and individuals should understand that under conditions of imminent harm to the community, the College may be required by federal law to inform the community of the occurrence of the incident(s) of sexual misconduct for the protection of all members of the community. In addition, information regarding alleged sexual misconduct will be shared among College administrators as appropriate and necessary. The College cannot control confidentiality violations by third parties.

Complainants, alleged victims (if not the Complainant) and Respondents may request that the College treat information regarding alleged Sexual Misconduct as confidential. The College takes such requests seriously; however, such requests may limit the College's ability to investigate and take reasonable action in response to a Complaint.² In such cases, the College will evaluate the request(s) that a complaint remain confidential in the context of the College's commitment to provide a reasonable safe and non-discriminatory environment.

In order to make such an evaluation, the Assigned Title IX Coordinator may conduct a preliminary investigation into the alleged sexual misconduct and may weigh the request(s) against the following factors:

- I. the seriousness of the alleged sexual misconduct;
- II. whether there have been other complaints of sexual misconduct against the Respondent;
- III. the Respondent's right to receive information about the allegations if the information is maintained by the College as an "education record" under FERPA; and
- IV. the applicability of any laws mandating disclosure.

The assigned Title IX Coordinator will inform the person requesting confidentiality if the College cannot ensure confidentiality.

Even if the College cannot take disciplinary action against the Respondent because of the Complainant's and/or, if applicable, the alleged victim's request for confidentiality, to the extent possible and necessary, the College will nevertheless take prompt and effective action to limit the effects of the alleged sexual misconduct and to prevent its recurrence. For instance, the College may issue a "no-contact" order or take other appropriate interim measures to ensure an individual's safety even in the absence of a formal proceeding.

(d) Related Misconduct and Limited Immunity.

The Disciplinary Board is empowered to hear allegations of, and to impose sanctions for, sexual misconduct and any other violations of the rules and regulations found in this Policy.

The College considers the reporting and adjudication of sexual misconduct cases on campus to be of paramount importance. The College does not condone underage drinking; however, the College may extend limited immunity from punitive sanctioning in the case of illegal alcohol use

² A Respondent has a right to know the name of the accuser and information regarding the nature of the allegations in order to defend against the Complaints: thus, the Complainant may not be able to both adjudicate the Complaint and maintain his or her confidentiality during that process. That said, as explained later in this Section, if the Complainant insists on confidentiality, the College may still take action to limit the effects of the Sexual Misconduct and prevent its recurrence.

to victims, witnesses and those reporting incidents and/or assisting the victims of sexual misconduct, provided that they are acting in good faith in such capacity.

(e) Students with Disabilities.

The College will make arrangements to ensure that students with disabilities are provided appropriate accommodations as needed to participate in the steps and procedures outlined in this Policy.

Request for accommodations must be made to the Dean of Students (located on the second floor of the Student Center, and available by phone at 843-383-8035). The Dean of Students will review the supporting disability-related documentation, make a decision about the request, notify the student about approved accommodations and make arrangements for the accommodations. Accommodations may include, but are not limited to, providing interpreters for the deaf, providing recordings of materials for the blind, and assuring a barrier-free location for the proceedings.

ARTICLE III. HOW AND WHERE TO FILE A COMPLAINT ALLEGING SEXUAL MISCONDUCT

Because sexual misconduct may constitute both a violation of College policy and criminal activity, and because the College grievance process is not a substitute for instituting legal actions, **the College encourages individuals to report alleged sexual misconduct promptly to campus officials and to law enforcement authorities.** Individuals may, however, choose to decline to report alleged sexual misconduct to such campus officials and/or law enforcement authorities. The College respects and supports the individual's decision with respect to reporting; nevertheless, the College may notify appreciate law enforcement authorities if required or warranted by the nature of the allegations at issue.

A Complaint of sexual misconduct may be filed at any time that the Complainant or the Respondent is enrolled as a student of the College, or employed by the College, regardless of the length of time between the alleged sexual misconduct and the decision to file the Complaint. The College strongly encourages individuals to file Complaints promptly, however, in order to preserve evidence for a potential legal or disciplinary proceeding.

(a) Filing a Complaint with Local Law Enforcement.

Individuals are strongly encouraged to inform law enforcement authorities about instances of sexual misconduct. Individuals may, however, choose to decline to report alleged sexual misconduct to law enforcement authorities. The College respects and supports the individual's

decision with respect to reporting; however, the College may nonetheless notify appropriate law enforcement authorities if required or warranted by the nature of the allegations at issue.

Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may contact any of the following for assistance in filing a complaint with local law enforcement:

- I. the College's Office of Campus Safety, 24 hours a day, seven days a week (available by phone at 843-383-8140) and located at 311 East. Carolina Ave.
- II. the College's Title IX Coordinator, Brianna Douglas, from 8:30 a.m. to 5:00 p.m., Monday through Friday (available by phone at 843-383-8060 or bbuncedouglas@coker.edu) and located on the 2nd Floor Administration Building located at 300 East College Ave. Hartsville, South Carolina 29550.
- III. the Dean of Students from 8:30 a.m. to 5:00 p.m. Monday through Friday (available by phone at 843-383-8035) and located on the 2nd floor of the Student Center located at 300 East College Ave. Hartsville, South Carolina 29550

Individuals may inform law enforcement authorities about sexual misconduct and discuss the matter with a law enforcement officer without making a formal criminal complaint (or a College Complaint). Individuals who make a formal criminal complaint may also choose to pursue a College complaint simultaneously. A criminal investigation into the matter does not preclude the College from conducting its own investigation (nor is a criminal investigation determinative of whether sexual misconduct, for purposes of this Policy, has occurred). However, the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence. In the event of such a delay, the College may take interim measures when necessary to protect the alleged victim and the College community.

(b) Filing a Complaint with College Administration.

Any Student or employee of the College may file a Complaint against other students, staff, or faculty. Students may also file complaints against third parties who are not enrolled at or employed by the College if the conduct giving rise to the Complaint is related to the College's academic, educational, or extracurricular programs or activities. The College may not have jurisdiction to discipline third parties, but it can provide a complainant with support services and, if appropriate, it will conduct an investigation of the incident to ensure that it does not represent a pattern of Sexual Misconduct occurring at the College or involving its students or employees.

Individuals may choose to decline to report alleged sexual misconduct to campus officials. The College respects and supports the individual's decision with respect to reporting; however, if information about sexual misconduct comes to the attention of the College, the College may (1) start an investigation even in the absence of a filed Complaint and/or (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

Anyone wishing to make a Complaint under this Policy should contact one of the following individuals or offices.

1. Title IX Coordinator. Coker College Title IX Coordinator is Brianna Douglas whose office is located in the Administration Building. Brianna may be contacted during business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) by phone at 843-861-6446 or by email at bbouncedouglas@coker.edu.
2. Office of Campus Safety. The Office of Campus Safety is located at 311 E. Carolina Ave. The Office of Campus Safety is also available by phone at 843-383-8140. Campus Safety Officers are available 24 hours a day, 7 days a week.
3. Office of the Dean of Students. The Dean of Students is located on the second floor of the Student Center. The Office of the Dean of Students is available during business hours (8:30 a.m. - 5:00 p.m., Monday through Friday) by phone at 843-383-8035.

If an employee of the Office of Campus Safety, or the Office of the Dean of Students, receives a report of alleged sexual misconduct, that employee must notify the College Title IX Coordinator.

An individual may report alleged sexual misconduct to a college employee other than those referenced above. No member of the College community may discourage an individual from reporting alleged incidents of sexual misconduct. An employee with knowledge about a known or suspected incident of sexual misconduct (other than health-care professionals and other individuals who are statutorily barred from reporting) must report the incident to the College's Title IX Coordinator. No employee is authorized to investigate or resolve complaints without the involvement of the College's Title IX Coordinator.

ARTICLE IV. PROCEDURES APPLICABLE TO ALL COMPLAINTS OF SEXUAL MISCONDUCT

(A) Overview.

The Assigned Title IX Coordinator will be responsible for overseeing the prompt, fair and impartial investigation and resolution of complaints filed with the College.³ The College will proceed with an investigation and resolution of a complaint even if a complaint has been filed with law enforcement as well. If the College's investigation is delayed temporarily while law enforcement is conducting its own investigation and gathering evidence, the College may take interim measures, up to and including discipline, when necessary to protect the alleged victim

³ If the Title IX Coordinator is the Respondent, then the Executive Vice President will appoint another College administrator to serve as the Assigned Title IX Coordinator in performing the Title IX Coordinator's duties under this Policy.

and the College community. The College may also start an investigation even in the absence of a filed complaint if information about sexual misconduct comes to the attention of the college. In addition, the College may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations in the complaint.

The College will make every reasonable effort to ensure that the investigation and resolution of a complaint occurs in as timely and efficient a manner as possible. The College's investigation and resolution of a complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the complaint, absent extenuating circumstances. Throughout the investigation, the Complainant and the Respondent will receive periodic status updates from the Assigned Title IX Coordinator. If a student judicial hearing is necessary, the hearing will take place within 15 days of the conclusion of the investigation. If a hearing has taken place, both the Complainant and the Respondent will receive a Final Outcome Letter within ten calendar days of the conclusion of the hearing. Any party may request an extension of any deadline by providing the Assigned Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Assigned Title IX Coordinator may modify any deadlines contained in this Policy as necessary and for good cause.

A Complainant may determine after filing a complaint that he or she does not wish to pursue resolution of the complaint through the College. The College takes such requests seriously. However, Complainants are advised that such requests may limit the College's ability to take action in response to a Complaint. Title IX requires the College to evaluate the request(s) that a Complaint not be adjudicated in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment. In order to make such an evaluation, the Assigned Title IX Coordinator may conduct a preliminary investigation into the alleged Sexual Misconduct and may weigh the Complainant's request(s) against the following factors:

1. the seriousness of the alleged Sexual Misconduct;
2. whether there have been other Complaints of sexual misconduct against the Respondent;
3. the Respondent's right to receive information about the allegations if the information is
4. maintained by the College as an "education record" under FERPA, and the applicability of any laws mandating disclosure.

Even if the College cannot take disciplinary action against the Respondent because of the request to not pursue an investigation, Title IX requires the College to investigate and take reasonable action in response to the information known to it; thus, the College may take such measures and impose such discipline as are deemed necessary by the Dean of Students following an investigation. The Complainant's complaint may also be used as an anonymous report for data collection purposes under the Clery Act.

If at any point during the complaint, investigative or disciplinary processes, the Assigned Title IX Coordinator reasonably believes that a Respondent who is a member of the College community poses a substantial threat of harm to the Respondent, the Complainant, or other members of the campus community; threatens or endangers College property; or disrupts the stability and continuance of normal College operations and functions, such person may request the following actions:

1) For student Respondents:

a) that the Registrar places a transcript hold to be placed on the Respondent's transcript; or

b) that the Dean of Students:

i) summarily suspend the Respondent from campus housing on an interim basis and/or restrict his or her movement on campus, or

ii) summarily suspend the Respondent. A summary suspension may be imposed only when, in the judgment of the Dean of Students, the student Respondent's presence on the College's campus would constitute a threat to the safety and well-being of members of the campus community. During the summary suspension, the student Respondent may not enter the campus or participate in any College activities without obtaining prior permission from the Dean of Students. Other temporary measures may be taken in lieu of summary suspension where the Dean of Students determines that such measures are appropriate. In the event that a Student Respondent is summarily suspended, the complaint, investigative, and disciplinary processes must be completed within the shortest reasonable time period.

2) For Employee Respondents, that the individual authorized to make personnel decisions regarding the employee at issue:

a) take such steps as are reasonable, appropriate and necessary to restrict the Respondent's movement on campus; or

b) reassign or place on administrative leave such employee Respondent. Determinations regarding employee discipline will be made in accordance with the College's policies and procedures governing such matters.

These actions may be appealed to the Executive Vice President, whose decision regarding their imposition will be final.

(B) STEP 1: The Appointment of the Coordinator and the Investigator.

After a Complaint (formal or informal) has been filed with the College, the Title IX Coordinator may choose to handle the Complaint him or herself or may appoint an Assigned Title IX Coordinator to handle the Complaint.

In either case, the Title IX Coordinator may also promptly appoint an Investigator and will share the name and contact information with the Complainant, the alleged victim (if not the Complainant) and the Respondent. The Investigator will investigate the complaint in a neutral manner. The Assigned Title IX Coordinator will serve as a facilitator throughout the resolution process, and will not serve as an investigator.

Within seven days of such appointment, the Assigned Title IX Coordinator, the Investigator, the Complainant, the alleged victim (if applicable) or the Respondent may identify to the Assigned Title IX Coordinator in writing any real or perceived conflicts of interest posed by assigning such Investigator to the matter. The Assigned Title IX Coordinator will carefully consider such statements and will assign a different individual as Investigator if it is determined that a conflict of interest exists.

(C) STEP 2: Initial Meetings with the Assigned Title IX Coordinator.

(i) Complainant's Initial Meeting with the Assigned Title IX Coordinator. As soon as is practical, the Coordinator will contact the Complainant to schedule an initial meeting. Before this initial meeting, the Coordinator will provide the Complainant a copy of this Policy. During the initial meeting, the Coordinator will

1. inform the Complainant of this Policy;
2. provide the Complainant with the on-line sexual misconduct Complaint form on which the Complainant may, if he or she agrees to disclose the information, provide details regarding the allegation, including the name of the accused individual and the date, location and general nature of the alleged sexual misconduct (the Complainant may either complete the complaint form him- or herself or he or she may choose to dictate the information to the Coordinator, who will confirm the accuracy of his or her documentation with the Complainant);
3. explain avenues for formal and informal resolution of the Complaint, including a description of the College's grievance procedure and an explanation of how the procedure works;
4. explain the steps involved in a sexual misconduct investigation;
5. discuss confidentiality standards and concerns with the Complainant;
6. determine whether the Complainant wishes to pursue a resolution (formal or informal) through the College or no resolution of any kind;
7. refer the Complainant to the Counseling Center or other resources, as appropriate; and

8. discuss with the Complainant, as appropriate, possible interim accommodations that can be provided to the Complainant during the pendency of the investigative and resolution processes. The College may extend accommodations to an individual if requested, appropriate, and reasonably available, whether a formal Complaint has been filed (with either campus administrators or law enforcement agencies) or whether an investigation (by either campus administrators or law enforcement agencies) has commenced.

Accommodations may include, but are not limited to:

- A. arranging office locations or work schedules for employees;
- B. issuing no-contact orders to prevent any contact, whether in person or directly, between the Complainant, the Respondent, witnesses, and/or third parties;
- C. providing the Complainant an escort to ensure that he or she can move safely between classes and activities;
- D. changing a Complainant's or a Respondent's on-campus housing, if any, to a different on-campus location;
- E. arranging to dissolve a housing contract and pro-rating a refund;
- F. changing campus working situations;
- G. rescheduling class work, assignments, and examinations;
- H. arranging for the Complainant to take an incomplete in a class;
- I. moving a student from one class section to another;
- J. permitting a student a temporary withdrawal from the College;
- K. providing a student with alternative course completion options;
- L. providing counseling services; and
- M. providing academic support services.

A Victim Advocate may be present to support the Complainant during this meeting.

If the Complainant is not the alleged victim, then the Coordinator will, as soon as is practicable, contact the alleged victim and attempt to schedule and conduct a similar meeting with him or her. A Victim Advocate may be present to support the victim during this meeting.

The Complainant will, at a minimum, provided that the Complainant has disclosed the information, set forth the name of the accused individual and the date, location and nature of the alleged sexual misconduct. The Assigned Title IX Coordinator will review the Complaint and, if applicable, promptly determine interim accommodations to be provided to the Complainant. Such determination will be promptly communicated to the Complainant (and in no event later than the point at which it is communicated to the Respondent) and the Respondent.

(ii) If the Complainant wishes to pursue a formal or informal resolution through the College, as soon as is reasonably practicable after the Coordinator's initial meeting with the Complainant (and, if applicable, the alleged victim), the Coordinator will schedule an initial meeting with the Respondent. Before this initial meeting, the Coordinator will inform the Respondent in writing of

the existence and general nature of the Complaint and provide the Respondent with a copy of this Policy. During the initial meeting with the Respondent, the Coordinator will

1. provide the Respondent with sufficient information consistent with state and federal privacy laws and, if applicable, the Complainant's and/or the alleged victim's request for confidentiality, to allow him or her to respond to the substance of the allegation, if possible including the name of the Complainant and the alleged victim (if not the Complainant) and the date, location and nature of the alleged Sexual Misconduct;
2. inform the Respondent of this Policy and provide the Respondent with a copy;
3. explain the College's procedures for formal and informal resolution of the Complaint, including a description of the College's grievance procedure and an explanation of how the procedure works;
4. explain the steps involved in a sexual misconduct investigation;
5. discuss confidentiality standards and concerns with the Respondent;
6. inform the Respondent of any interim accommodations already determined and being provided to the Complainant and the alleged victim (if not the Complainant) that directly affect the respondent (e.g. changing his or her class schedule, moving him or her to an alternate residence hall, or changing work schedule);
7. explain the role of an Advocate in a sexual misconduct proceeding and determine whether the Respondent desires for the College to appoint an Advocate to assist him or her;
8. refer the Respondent to the Counseling Center or other resources, as appropriate; and
9. discuss with the Respondent, as appropriate, possible interim accommodations that can be provided to the Respondent during the pendency of the investigative and resolution processes. The College may extend accommodations to an individual if requested, appropriate, and reasonably available, whether a formal Complaint has been filed or whether an investigation by either campus administrators or law enforcement agencies has commenced.

(D) STEP 3: The Investigation.

The Assigned Title IX Coordinator may forward the Complainant's Complaint to the Investigator unless it is clear on its face that no reasonable grounds exist for believing that the conduct at issue (1) constitutes sexual misconduct or (2) denies or limits the Complainant's (or the victim's, if he or she is not the Complainant) ability to participate in or receive the benefits of the College's programs or activities based on sex.

In the event that the Complainant was made by someone other than the victim, the Assigned Title IX Coordinator will consider the following factors in determining whether it is reasonable for the Investigator to investigate the Complaint:

- I. the source and nature of the information,

- II. the seriousness of the alleged incident,
- III. the specificity of the information,
- IV. the objectivity and credibility of the source of the information,
- V. whether the individuals subjected to the sexual misconduct can be identified, and
- VI. whether those individuals wish to pursue the matter.

In the event that the Assigned Title IX Coordinator does not forward the Complainant's Complaint to the Investigator, he or she will determine and document, in consultation with the Complainant, Respondent, and other college administrators, as necessary, the appropriate resolution of the Complaint and inform the parties of the same.

Upon receipt of the Complaint, the Investigator will promptly begin investigating the Complaint, taking steps including, but not limited to:

1) conducting interviews with the Complainant, the alleged victim (if not the Complainant), the Respondent and third-party witnesses (including expert witnesses, where applicable) and summarizing such interviews in written form;

2) visiting, inspecting, and taking photographs at each relevant site; and

3) where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies).

A Victim Advocate may be present to support the Complainant (or the victim, if not the Complainant or Respondent) during the investigation process.

Throughout the investigation, the Investigator will remain neutral.

The Investigator will complete an investigative report that includes, among other things, summaries of all interviews conducted, photographs and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed written analysis of the events in question (the "Investigative Report"). The Investigator will share the Investigative Report with the Assigned Title IX Coordinator, who will distribute it, concurrently, to the Complainant, the alleged victim (if not the Complainant) and the Respondent. All parties to whom the Investigative Report is distributed pursuant to this Policy must maintain it in confidence; the Investigative Report may only be disclosed as is contemplated by this Policy.

The Assigned Title IX Coordinator is responsible for determining, based on and within five days of receiving the Investigative Report, whether reasonable grounds exist to believe that the conduct at issue (1) constitutes sexual misconduct and (2) denies or limits the Complainant's (or the victim's, if he or she is not the Complainant) ability to participate in or receive the benefits of the College's programs or activities based on sex.

The Assigned Title IX Coordinator will specify which allegations and, if applicable, which other, related alleged misconduct, will go forward for resolution under this Policy.

If the Assigned Title IX Coordinator finds no reasonable grounds to believe that the conduct at issue constitutes sexual misconduct or denies or limits the Complainant's (or the victim's, if he or she is not the Complainant) ability to participate in or receive the benefits of the College's programs or activities based on sex, the Assigned Title IX Coordinator will determine (in consultation with the Complainant, Respondent, and other College administrators, as necessary) and document the appropriate resolution of the Complaint. In such case, the Assigned Title IX Coordinator will promptly notify the parties of that determination.

The Complainant, the alleged victim (if not the Complainant), and/or the Respondent may appeal the Assigned Title IX Coordinator's decision in writing to the Executive Vice President of the College (providing a copy of the appeal to the Assigned Title IX Coordinator) within ten days of receipt of the determination. The Assigned Title IX Coordinator will promptly inform the other parties of the appeal. Within five days of the receipt of the Complainant's appeal, the Executive Vice President will make a determination as to whether the Complaint should proceed to hearing or the case should be closed and whether any additional or different remedial action is necessary. The Executive Vice President will notify the Complainant, the alleged victim (if not the Complainant), and the Respondent concurrently of his or her decision.

ARTICLE V. FORMAL RESOLUTION.

(a) General Procedures and Policies.

The following procedures apply if the Complainant elects formal resolution of his or her Complaint.

At any time prior to the date of the hearing, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged sexual misconduct. In such a situation, the Assigned Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant, the victim (if not the Complainant) and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without a hearing and without any further rights of appeal by either party. If either the Complainant or the Respondent objects to such proposed sanction(s), then a Hearing Panel will convene for the exclusive purpose of determining a sanction, which determination will be subject to appeal pursuant to Section V (c)(vi) of this Policy.

At any time prior to the date of the hearing, the Complainant may elect to resolve his or her Complaint through the informal resolution process, provided that the Respondent (and the alleged victim, if not the Complainant) agrees to informal resolution.

(b) Procedures for Resolving Complaints against Faculty and Staff Respondents.

Formal resolution of Complaints against faculty and staff Respondents will, after the conclusion of the investigatory and related processes set forth in Article IV above, proceed according to the discipline procedures set forth in the employee handbook.

(c) Procedures for Resolving Complaints against Student Respondents.

When the Complainant elects to pursue a formal resolution, there will be a hearing before a panel of the Sexual Misconduct Board (the "Hearing Panel").

(i) The Hearing Panel. The Chair of the Disciplinary Board will select the members of the Hearing Panel from among the members of the Disciplinary Board. This panel will not include students and will instead be comprised of three faculty and/or staff members (none of whom shall be from the same academic department or office as the Complainant, the victim (if not the Complainant), or the Respondent, if applicable). The Chair of the Board will either appoint or serve as the Chair of the Hearing Panel. In the event that the Chair of the Board fails to make such designations, the Executive Vice President of the College will select the members and Chair of the Hearing Panel. The Chair of the Hearing Panel will notify the Assigned Title IX Coordinator of (1) the date, time and location of the hearing and (2) the names of the members of the Board selected to serve on the Hearing Panel. The Assigned Title IX Coordinator will share the Complaint and the Investigative Report with the Chair of the Hearing Panel and, if only a portion of the misconduct alleged in the Complaint justifies continuing to the hearing process, he or she will specify which part(s) of the alleged misconduct will be the subject of the hearing.

(ii) Notice of the Hearing. Promptly after the Assigned Title IX Coordinator has determined that reasonable grounds exist to believe that a violation of this Policy has occurred (as set forth above), he or she will provide concurrent written notice to the Complainant, the alleged victim (if not the Complainant) and the Respondent, by email or in person, setting forth (1) the date, time and location of the hearing (which will be no more than 15 days following the conclusion of the investigation) and (2) the names of the members of the Board selected to serve on and chair the Hearing Panel. If only a portion of the alleged misconduct justifies continuing to the hearing process, the Assigned Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the hearing. The parties may challenge the participation of any member of the Hearing Panel by submitting a written objection to the Chair of the Board within three days of receipt of the notice of the hearing. Such objection must state the specific reason(s) for the objection. The Chair of the Board will evaluate the objection and determine whether to alter the composition of the Hearing Panel. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Hearing Panel. Any changes in the composition of the Hearing Panel must be provided in writing to both parties at least one day prior to the date of the hearing.

(iii) Failure to Appear. If the Complainant, the alleged victim (if not the Complainant) or the Respondent fails to appear at the scheduled hearing, and such party was provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the Chair of the Hearing Panel will direct the Hearing Panel to proceed with the hearing and determine the resolution of the Complaint.

(iv) Hearing Policies and Procedures.

1) Submissions for Use at the Hearing.

a) By the Hearing Panel. No fewer than five days prior to the hearing date, the Assigned Title IX Coordinator will provide written notice to the parties of the witnesses that the Hearing Panel plans to call.

b) By the Parties. No fewer than five days prior to the hearing date, the Complainant and the Respondent must provide the Title IX Coordinator with

- a list of witnesses, if any, that they propose to call;
- a list of questions for the Hearing Panel to ask the witnesses;
- copies of documents and a description of any other information they propose to present;
- a statement as to whether they will be accompanied at the hearing by legal counsel and;
- if desired, written statements of position.

No fewer than three days prior to the hearing date, the Title IX Coordinator will provide each party with a packet containing copies of the other party's list of witnesses, documents, and other information to be presented at the hearing and stating whether the other party will be represented by legal counsel. In the absence of good cause, which shall be determined by the Chair of the Hearing Panel in his or her sole discretion, the parties may not introduce at the hearing witnesses, documents, or other information that were not timely provided to the Assigned Title IX Coordinator.

c) The members of the Hearing Panel will review in advance of the hearing all of the written materials submitted for use at the hearing, including the Investigative Report.

2) Counsels, Advisors and Other Advisors.

a) Legal Counsel. The College is not obligated to provide legal counsel on behalf of any party; however, either party may engage legal counsel to be present at the hearing on his or her behalf. Such counsel may privately consult with and advise his or her client during the proceeding, but he or she may not address the Hearing Panel, cross-examine witnesses, or have any other speaking role. The Hearing Panel may seek advice from the College's in-house

or outside counsel on questions of law and procedure throughout the hearing process; however, factual determinations are solely within the domain of the Hearing Panel.

b) Advisors. Both the Complainant and the Respondent may have an Advisor present to support and assist them during the hearing. The Chair of the Hearing Panel may disallow the attendance of an Advisor if such Advisor is also a witness or if, in the discretion of the Chair of the Hearing Panel, such Advisor's presence would be obstructive to the hearing or otherwise warrant his or her removal from the hearing. An Advisor may communicate with a party privately, but he or she may not address the Hearing Panel, cross-examine witnesses, or have any other speaking role.

c) Other Advisors. Absent accommodation for disability and except as set forth in this Section V(c)(iv)(2), the parties may not be accompanied by any other individual during the hearing process.

3) Evidentiary Matters.

Generally, the Complainant and the Respondent will have an equal opportunity to present evidence. Formal rules of evidence will not be observed during the hearing. Accordingly, for example, the Complainant and the Respondent may elect to rely upon the statements of witnesses contained in the Investigative Report if such witnesses are unavailable to attend the hearing. Evidence of the past sexual histories of the Complainant, the alleged victim (if not the Complainant) and the Respondent will not be permitted at the hearing, with the following exceptions:

- a) evidence is permitted to show that the Complainant or the alleged victim (if not the Complainant) has in the past been formally disciplined by the College for falsely filing Complaints alleging Sexual Misconduct,
- b) evidence is permitted to show that the Respondent has in the past been either convicted in a criminal proceeding or formally disciplined by the College for Sexual Misconduct, and
- c) evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally charged with violation of the Policy with respect to such conduct and regardless of whether a report has been filed with the College with respect to such to conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Misconduct at issue before the Hearing Panel, provided that (1) the Respondent has not been found "not responsible" by the Disciplinary Board in a proceeding related to such sexual activity and (2) the Chair of the Hearing Panel has made written findings both that the evidence is reliable and trustworthy and that the conduct is sufficiently and substantially similar to the conduct at issue before the Hearing Panel to suggest a pattern of behavior.

4) Conduct of the Hearing.

a) Generally. The hearing will be conducted in an inquisitorial manner, which means that the Hearing Panel will be responsible for asking questions of the parties and the witnesses and developing evidence through testimony. The Chair of the Hearing Panel will resolve any questions concerning procedure or the admission of evidence or testimony (including the relevancy and reliability of the evidence and testimony). Members of the College community are expected to provide truthful testimony.

b) Testimony.

i) Of Witnesses. The Chair of the Hearing Panel will determine the order of the witnesses. The Complainant and the Respondent may call and, with the permission of the Hearing Panel, question their own witnesses, but they may not question each other directly. Both parties may ask the Chair of the Hearing Panel to pose additional questions or inquire further into specific matters by submitting these requests in writing or orally, at the discretion of the Chair of the Hearing Panel. If necessary, a brief recess may be granted to allow both parties an opportunity to prepare and submit such requests. The Chair of the Hearing Panel may disallow or reframe any questions that he or she deems irrelevant or redundant. The parties shall have an equal opportunity to present witnesses and are responsible for the attendance of their witnesses at the hearing

ii) Of the Respondent. The Respondent may choose not to testify; however, his or her exercise of that option will not preclude the Hearing Panel from making a determination regarding the Complaint filed against the Respondent.

c) Closing.

After all parties and witnesses (excluding the Respondent, should he or she choose not to testify) have been questioned, the Hearing Panel will determine whether there are unresolved issues that may be clarified by the presentation of additional information. If so, the Chair of the Hearing Panel will suspend the hearing and reconvene it in a timely manner in order to receive such additional information. A suspension may not be based on the failure of the witnesses to appear without good cause or on the proposed introduction of documents or other information that should have been submitted before the Hearing. Once the Chair of the Hearing Panel deems that all relevant evidence has been submitted, the Complainant and the Respondent may make a closing statement. The Chair of the Hearing Panel may permit them a short recess to prepare their closing statements.

(v) Outcome.

1) The Decision of the Hearing Panel. Following the conclusion of the hearing, the Hearing Panel will confer and by majority vote determine whether the evidence (including the information provided in and by the Investigative Report, the parties' written statements, if any, the evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not⁴ that the Respondent committed Sexual Misconduct and that the sexual misconduct was so severe or pervasive as to deny or limit the Complainant's (or the victim's, if he or she is not the Complainant) ability to participate in or receive the benefits of the College's programs or activities based on sex.⁵

2) Sanctions. Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for misconduct, or both. Sanctions may include, without limitation, termination, expulsion or suspension from the College, disciplinary probation, expulsion from campus housing, mandated counseling, and/or other educational sanctions deemed appropriate by the Hearing Panel. The Hearing Panel will determine recommended sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The Hearing Panel will forward its recommendations to the Dean of Students within five days of the conclusion of the hearing. Within five days of receipt of the Hearing Panel's recommendation, the Dean of Students will impose such sanctions, or if necessary, may modify the sanctions in consultation with the Hearing Panel. Sanctions imposed are not effective until the resolution of any timely appeal of the decision of the Hearing Panel. However, if it is advisable in order to protect the welfare of the Complainant, the victim (if not the Complainant) or the College community, the Hearing Panel may recommend and the Dean of Students may determine that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted or the Executive Vice President of the College may determine.

3) Final Accommodations and Corrective Action. Promptly following the conclusion of the hearing and the Hearing Panel's issuance of a determination of responsibility, the Assigned Title IX Coordinator and Dean of Students will determine the final accommodations to be provided to the Complainant and/or the victim (if not the Complainant), if any, and the Assigned Title IX

⁴ In other words, the standard of proof will be the preponderance of the evidence standard.

⁵In disputes about whether Sexual Harassment occurred or whether allegedly harassing conduct was welcome, the Hearing panel will examine the totality of the circumstances, specifically giving consideration as appropriate to the following factors (although none of the factors alone is dispositive): (a) statements by any witnesses to the alleged incident, (b) evidence about the relative credibility of the alleged victim and the alleged harasser, (c) evidence that the alleged harasser has been found to have harassed others or evidence that the alleged victim has made false allegations against other individuals, (d) evidence of the alleged victim's reaction or behavior following the alleged incident, (e) evidence about whether the alleged victim filed a Complaint or took other action to protest the conduct soon after the alleged incident occurred, and (f) other contemporaneous evidence. Furthermore, in disputes about whether conduct denied or limited the ability of the alleged victim to participate in or benefit from the College's educational programs and activities, the Hearing Panel will examine the totality of the circumstances, specifically giving consideration as appropriate to the following criteria: (1) the type, frequency and duration of the conduct (the more severe the conduct, the less the need to show a repetitive series of incidents, particularly if the harassment is physical), (2) the identity of and relationship between the alleged harasser and the alleged victim, (3) the number of individuals involved, (4) the age and sex of the alleged harasser and the alleged victim, (5) the location of the incidents and the context in which they occurred, and (6) whether there have been similar incidents (including incidents of gender-based but nonsexual harassment).

Coordinator will communicate such decision to the Complainant and the victim (if applicable), respectively, and to the extent that it affects him or her, to the Respondent. Such accommodations may include, but are not limited to:

1. issuing no-contact orders to prevent any contact between the Complainant, the victim (if not the Complainant), the Respondent, witnesses, and/or third parties;
2. providing alternative course completion options;
3. arranging for an incomplete in a class;
4. permitting a temporary or permanent withdrawal from the College;
5. providing counseling services;
6. providing academic support services;
7. providing tuition adjustments;
8. arranging alternative work schedules;
9. arranging alternative office space.

The Assigned Title IX Coordinator will also take steps, where necessary, to prevent the further harassment of or Retaliation against the Complainant, the victim (if not the Complainant) or third parties, such as informing them about how to report subsequent problems, following up with them to ensure that there are no subsequent problems, providing trainings for the school community, and providing sexual misconduct or other counseling for the Respondent. The Assigned Title IX Coordinator will also, where appropriate, take steps to prevent the harassment of the Respondent.

Furthermore, the Assigned Title IX Coordinator will take prompt corrective action if the Complainant or the victim (if not the Complainant) experiences Retaliation or is subjected to further sexual misconduct or if the original sanctions imposed on the Respondent are ineffective to protect the safety and well-being of the Complainant, the victim (If not the Complainant) or other member of the College community. In cases involving sexual harassment, the Assigned Title IX Coordinator will also take reasonable steps to eliminate any hostile environment that has been created, such as conducting trainings and disseminating informational materials. In taking the above-outlined steps, the Assigned Title IX Coordinator will make every reasonable effort to minimize the burden on the Complainant.

4) Final Outcome Letter. Within ten calendar days following the conclusion of the hearing (or such longer time as the Chair of the Hearing Panel may for good cause determine), the Hearing Panel will issue a written decision letter (the "Final Outcome Letter") concurrently to the Respondent, the Complainant and the victim (if not the Complainant). The Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible, if any, (3) sanctions imposed on the Respondent, if any, and it may set forth names of other individuals, such as a victim or witness, provided that such other individuals provide their written consent so such inclusion. However, in order to comply with FERPA, the letter will not include information considered part of the Respondent's

“education record” (as that term is defined by FERPA), such as information about sanctions that do not relate to the Complainant or the victim (if not the complainant).

5) Privacy and Disclosure. In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearing (including the Investigative Report, the notice of hearing, and the pre-hearing submissions referenced above) and documents, testimony, or other information introduced at the hearing may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law. If it is determined, however, that the Respondent committed sexual misconduct and that the sexual misconduct was so severe or pervasive as to deny or limit the Complainant’s (or the victim’s, if he or she is not the Complainant) ability to participate in or receive the benefits of the College’s programs or activities based on sex, College policy does not prohibit the further disclosure of the Final Outcome Letter by either the Complainant, the victim (If not the Complainant) or the Respondent. The College acknowledges that sharing the Final Outcome Letter with others, including family, friends, legal counsel, mental health professionals, and sexual assault advocates or victims, may be a critically important part of the Complainant’s and, if applicable, the victim’s healing process.

(vi) Appeals. The Complainant or the Respondent may appeal the decision of the Hearing Panel and/or the sanction imposed on the Respondent within five calendar days from the date of the Final Outcome Letter. The decision of the Hearing Panel and the sanction imposed on the Respondent may, if desired, be appealed simultaneously.

1) Appeals of the Decision of the Hearing Panel Regarding Responsibility for Sexual Misconduct. The only permissible grounds for an appeal are (a) insufficiency of the evidence to support the decision, (b) availability of germane new evidence not available at the time of the hearing that could significantly impact the outcome of the hearing and/or (c) procedural errors during the hearing that significantly impacted the outcome of the hearing.

Appeals of the decision of the Hearing panel must be made in writing to the Executive Vice President of the College (providing a copy of the appeal to the Assigned Title IX Coordinator). The Assigned Title IX Coordinator will promptly inform the other parties (i.e., the Complainant, the alleged victim (if not the Complainant), and/or the Respondent) of the filing of the appeal. Within five days of the receipt of the appeal, the Executive Vice President will make a determination (i) that the decision of the Hearing Panel should stand, or (ii) that the decision of the Hearing Panel should be overturned.

In the event the Executive Vice President determines that the decision of the Hearing Panel should be overturned, the Executive Vice President will specify, after consultation with the Assigned Title IX Coordinator and other College administrators, as necessary, the appropriate steps to be taken to come to a final resolution of the Complaint (which may or may not include

an additional hearing or set of hearings before a different Hearing Panel.) The Executive Vice President will notify the Complainant, the alleged victim (if not the Complainant) and the Respondent concurrently of his or her decision.

2) Appeals of Sanctions. The sanctions imposed on the Respondent may be appealed on grounds the severity of the sanction imposed is incommensurate to the gravity of the Sexual Misconduct for which the Respondent was found responsible. Appeals must be made in writing to the Executive Vice President of the College (providing a copy of the appeal to the Assigned Title IX Coordinator). The Assigned Title IX Coordinator will promptly inform the other parties (i.e., the Complainant, the alleged victim (if not the Complainant), and/or the Respondent) of the filing of the Appeal. Within five days of the receipt of the appeal, the President will make a determination (a) that the decision of the Hearing Panel should stand, or (b) that the decision of the Hearing Panel should be overturned. In the event that the President determines that the decision of the Hearing Panel should be overturned, the President will specify (after consultation with the Assigned Title IX Coordinator and other College administrators, as necessary) either (1) the final sanctions to be imposed on the Respondent, which will not be subject to further appeal or (2) that another hearing will be convened before the Hearing Panel for the sole purpose of considering sanctions, in which case the final sanctions set by the Hearing Panel will not be subject to further appeal. The Executive Vice President will notify the Complainant, the alleged victim (if not, the Complainant) and the Respondent concurrently of his or her decision.

(vii) Documentation. The College will retain documentation (including but not limited to the written Complaint, notifications, the Investigative Report, any written findings of fact, petitions for appeal, and any written communication between the parties), for at least seven years. Documentation pertaining to expulsions or degree revocations will be retained indefinitely.

ARTICLE VI. INFORMAL RESOLUTION

The following procedures apply if the Complainant elects informal resolution of his or her Complaint, provided that (1) the Respondent (and the alleged victim, if he or she is not the Complainant) agrees to such resolution, (2) the Complainant and the Respondent are both Students of the College, and (3) the Assigned Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the Complaint.

The Complainant has the right to terminate the informal resolution process at any time and proceed with formal resolution. Furthermore, the Assigned Title IX Coordinator may terminate or decline to initiate informal resolution, and proceed with formal resolution instead. In such cases, statements or disclosures made by the parties in the course of the informal resolution process may be considered in the subsequent formal resolution proceedings.

(a) General Procedures and Policies.

(i) The Respondent's Acknowledgement of Responsibility. At any time prior to the imposition of sanction, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Assigned Title IX Coordinator will propose sanction(s) for the Respondent. If both the Complainant and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without any further rights of appeal by either party. If either the Complainant or the Respondent objects to such proposed sanction(s), then a Hearing Panel will convene for the exclusive purpose of determining sanctions, which determination will be subject to appeal by either party pursuant to Section V(c) (vi) of this Policy. For purposes of this sanction hearing, all of the provisions of this Policy relating to the imposition of a sanction for Sexual Misconduct shall apply.

(b) The Informal Resolution Process.

(i) The Proceeding; the Presiding Officer. When the Complainant's Complaint is to be resolved according to the informal resolution process, there will be a proceeding before a Presiding Officer. The Assigned Title IX Coordinator will serve as the Presiding Officer, provided that such person is not, in any given case, the individual who made the determination that reasonable grounds exist to believe that a violation of the Policy has occurred.

(ii) Notice of the Proceeding. Promptly after the Assigned Title IX Coordinator has appointed the Presiding Officer, the Assigned Title IX Coordinator will provide concurrent written notice to the Complainant, the alleged victim (if not the Complainant) and the Respondent, by email or in person, setting forth (1) the date, time and location of the proceeding (which will be no more than ten days following the conclusion of the investigation, absent extenuating circumstances) and (2) the name of the individual selected to serve as the Presiding Officer. If only a portion of the alleged misconduct justifies continuing to a proceeding, the Assigned Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the proceeding. Either party may challenge the participation of the Presiding Officer by submitting a written objection to the Assigned Title IX Coordinator within three days of receipt of the notice of the proceeding. Such objections must state the specific reason(s) for the objection. The Assigned Title IX Coordinator will evaluate the objection and determine whether to change the Presiding Officer. Failure to submit a timely and proper objection will constitute a waiver of any right of objection. Any substitution of the party serving as the Presiding Officer must be provided in writing to both parties at least one day prior to the date of the proceeding.

(iii) Attendance. The Respondent is expected to attend the informal resolution proceeding, but he or she is not required to participate in such proceedings. If either party fails to appear at the proceeding, or such party was provided proper notice of the proceeding as set forth above, then absent extenuating circumstances, the Presiding Officer may direct that resolution of the Complaint be determined according to the formal resolution process set forth above.

(iv) The Proceeding.

1) The Complainant's Rights. During the informal resolution proceeding, the Complainant may

- a) confront the Respondent in the presence of, and facilitated by the Presiding Officer,
- b) communicate his or her feelings and perceptions regarding the incident and the impact of the incident, and
- c) relay his or her wishes and expectations regarding protection in the future.

2) Counsel, Advisors and Other Advisors

a) Legal Counsel. Under no circumstances may legal counsel be present at the proceeding on behalf of any party.

b) Advisors. Both the Complainant and the Respondent may have an Advisor present to support and assist them during the informal resolution proceeding. The Presiding Officer may disallow the attendance of an Advisor, if, in his or her discretion, such Advisor's presence would be destructive to the proceeding or otherwise warrant his or her removal from the proceeding. An Advisor may communicate with a party privately, but he or she may not address the Presiding Officer or have any other speaking role.

c) Other Advisors. Absent accommodation for disability and except as set forth in Section VI(b)(iv)(2)(b) above, the parties may not be accompanied by a legal or other Advisor during the proceeding.

(c) Resolution.

(i) Determination. Following the conclusion of the proceeding, the Presiding Officer will determine whether the evidence (including the information provided in and by the Investigative Report, the parties' written statements, if any, the evidence presented at the proceeding, and the testimony of the parties) establishes that it is more likely than not that the Respondent committed Sexual Misconduct and that the sexual misconduct was so severe or pervasive as to deny or limit the Complainant's (or the victim's, if he or she is not the Complainant) ability to participate in or receive the benefits of the College's programs or activities based on sex.

(ii) Sanctions. The Presiding Officer will determine recommended sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The Presiding Officer will promptly forward its recommendations to the Dean of

Students, who will promptly set such sanctions as he or she believes, are appropriate under the circumstances. Sanctions imposed are not effective until the resolution of any timely appeal of the decision of the Presiding Officer. However, if it is advisable in order to protect the welfare of the Complainant, the victim (if not the Complainant) or the College community, the Presiding Officer may recommend and the Dean of Students may determine that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted or the Executive Vice President of the College may determine.

(iii) Final Accommodations. The Assigned Title IX Coordinator and the Dean of Students will promptly determine the final accommodations to be provided to the Complainant and/or the victim (if not the Complainant), and the Assigned Title IX Coordinator will communicate such decision to the Complainant and the victim (if applicable), respectively, and, to the extent that it affects him or her, to the Respondent. Such accommodations may include, but are not limited to, those set forth above in Section IV(c)(i)(9) above.

(iv) Appeals. Either party may appeal the decision of the Presiding Officer and/or the sanction imposed on the Respondent according to the provisions of Section V(c)(vi) above.

(v) Privacy and Disclosure. In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the informal resolution process is not open to the general public. Accordingly, documents prepared in anticipation of the proceeding (including the Investigative Report or the notice of the proceeding) and other information introduced at the proceeding may not be disclosed outside of the proceeding, except as may be required or authorized by law.

EXHIBIT A

STUDENT SEXUAL MISCONDUCT POLICY AND PROCEDURES

Suggested Actions for Victims of Sexual Assault

If you are the victim of a Sexual Assault, the College's first priority is to help you take steps to address your safety; medical needs and emotional well-being. You are encouraged to take the following actions regardless of whether you have made a decision about whether to pursue criminal or College disciplinary charges.

(1) Ensure Your Physical Safety.

You may seek help from **local law enforcement agencies**, or by contacting the **Coker College's Office of Campus Safety**. The Coker College Office of Campus Safety can assist

you with contacting local law enforcement and can help you obtain transportation to the local law enforcement office. Security personnel are on duty 24 hours a day, seven days a week.

You may also apply at the Darlington County Courthouse (1 Public Square, Darlington, S.C. 29540) for an **Injunction for Protection** (a protective order), Monday through Friday, 8:30 a.m. until 5:00 p.m. You may apply for emergency protection after hours with the Darlington County Sheriff's Department. Information on obtaining an Injunction for Protection is available at <http://www.darcosc.com>. Injunctions for Protection are enforced by the court system.

(2) Seek Medical Assistance and Treatment.

Local options for medical care include **Coker College Health Services and Carolina Pines Regional Medical Center**. It is crucial that you obtain medical attention as soon as possible after a sexual assault to determine the possibilities of physical injury, to prevent or treat sexually transmitted diseases (such as HIV), and to prevent pregnancy. Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 72 hours. Even if you have not decided to file charges, it is advisable to have the evidence collection kit completed so that you can preserve the options of obtaining an Injunction for Protection and filing charges at a later date. Carolina Pines Regional Hospital administers evidence collection kits. Individuals may go directly to Carolina Pines Hospital or may be referred to the hospital by Coker College Health Services.

In order to best preserve evidence for an evidence collection kit, you should avoid showering, bathing, going to the bathroom or brushing your teeth before the kit is completed. You should also wear (or take with you in a paper-not plastic-bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

You may be accompanied to the hospital by a friend or other support person. At the hospital, a physician will briefly screen you, and a forensic nurse trained in evidence collection procedures will conduct the examination, collecting hair, fluid and tissue samples. When obtaining an evidence collection kit, you have the option of filing an official police report immediately or have a "Jane Doe kit" collected, which allows the evidence to remain anonymous until you choose to make an official police report.

(3) Obtain Emotional Support

The Coker College Counseling Center can help victims sort through their feelings and begin the recovery process. The professionals at the Counseling Center are trained to provide crisis intervention on short-term and emergency issues. The Counseling Center can also provide

referral services for outside providers and law enforcement. Counseling is free of charge to all Students of the College. In some instances, the law may require the disclosure of information shared by the students with counselors. However, absent a legal mandate to the contrary, counseling services are strictly confidential, are not part of students' College records, and will not be reported to other College personnel. The Counseling Center can also put victims in touch with a Victim Advocate. In addition to providing support to victims, Victim Advocates can also accompany victims to their initial meetings with the Case Manager and can be present during the investigation process.

(4) Obtain Information

You are encouraged to report incidents of Sexual Misconduct to the College's Title IX Coordinator (even if you have filed a report directly with law enforcement). Further information about how to report Sexual Misconduct is provided in the body of the Policy. College personnel can help you access resources and can provide you with support and information, including information on the College's procedures for investigating and addressing instances of Sexual Misconduct.

EXHIBIT B

STUDENT SEXUAL MISCONDUCT POLICY AND PROCEDURES

Definitions

(i) Advisor. An "Advisor" is an individual who is appointed by the Office of the Dean of Students to assist an individual involved in, and accompany an individual to meetings related to, a Sexual Misconduct proceeding. Advisors receive training in working with victims and alleged perpetrators of Sexual Misconduct.

(ii) Assigned Title IX Coordinator. The "Assigned Title IX Coordinator" means either the Title IX Coordinator or the Deputy Title IX Coordinator assigned by the Title IX Coordinator to handle a given Complaint.

(iii) Board. The "Board" is the Sexual Misconduct Board.

(iv) Clery Act. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act") is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

(v) Complainant. A “Complainant” is an individual who reports or files a Complaint. A Complainant may be someone other than the person who may have been subjected to the Sexual Misconduct.

(vi) Complaint. A “Complaint” is an allegation of Sexual Misconduct asserted against another party and reported to or filed with the College.

(vii) Consent. “Consent” is informed, freely and actively given and mutually understandable words or actions that indicate a willingness to participate in mutually agreed-upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from:

1. Silence, passivity, acceptance, or lack of resistance alone;
2. A current or previous dating or sexual relationship (or the existence of such a relationship with anyone else);
3. Attire;
4. The buying of dinner or the spending of money on a date; or
5. Consent previously given (i.e., consenting to one sexual act does not imply consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, intimidation, coercion or the threat, expressed or implied, of bodily injury. Whether a party used intimidation or coercion to obtain consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by:

- A. Minors, even if the other participant did not know the minor’s age.
- B. Mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled.
- C. Persons who are incapacitated (whether as a result of drugs, alcohol or otherwise), unconscious, asleep or otherwise physically helpless or mentally or physically unable to make informed, rational judgments. The use of alcohol or drugs does not diminish one’s responsibility to obtain Consent and does not excuse conduct that constitutes Sexual Misconduct under this Policy.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other’s willingness to continue and capacity to consent. Neither party should make assumptions about the other’s willingness to continue.

(viii) Dating Violence. “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 following factors:
 - a) the length of the relationship,
 - b) the type of relationship, and
 - c) the frequency of interaction between the persons involved in the relationship.

(ix) Day. A “day” is a business day, unless otherwise specified.

(x) Domestic Violence. “Domestic Violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse 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 SC]**, 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 SC]**.

(xi) FERPA. The Family Educational Rights and Privacy Act (“FERPA”) is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 CFR Part 99. FERPA protects the privacy of student education records. FERPA grants to parents or eligible students the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

(xii) Final Outcome Letter. “Final Outcome Letter” is defined in Section V(c)(v)(5).

(xiii) Hearing Panel. “Hearing Panel” is defined in Section V(c). The Hearing Panel will receive annual training on (1) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct a hearing process that protects the safety of victims and promotes accountability.

(xiv) Investigative Report. “Investigative Report” is defined in Section IV(d).

(xv) Investigator. The “Investigator” is a neutral fact-finder who is designated by the Assigned Title IX Coordinator to investigate a Complaint. Typically, the Investigator will be a College security officer or a member of College administration, in either case trained annually on (1) reasonable and appropriate investigative techniques, (2) issues related to Dating Violence,

Domestic Violence, Sexual Assault, and Stalking, and (3) how to conduct an investigation that protects the safety of victims and promotes accountability.

(xvi) Respondent. A “Respondent” is an individual who has been accused of committing Sexual Misconduct by the report or filing of a formal or informal Complaint.

(xvii) Retaliation. “Retaliation” means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to intimidation, threats, and harassment.

(xviii) Sexual Assault. “Sexual Assault” means any actual, attempted or threatened sexual act with another person without that person’s Consent. Sexual Assault includes but is not limited to:

1. Sexual Battery and attempted Sexual Battery;
2. Intentional and unwelcome sexual touching (including disrobing or exposure), however slight, with any body part or any object, by man or a woman upon a man or a woman, without effective Consent, of a person’s breasts, buttocks, groin, or genitals (or clothing covering such areas), or coercing, forcing, or attempting to coerce or force another to touch you, themselves, or a third party with any of these body parts or areas when such touching would be reasonably and objectively offensive;
3. Any sexual act in which there is force, violence, or use of duress or deception upon the victim;
4. Any sexual act perpetrated when the victim is unable to give Consent; and
5. Sexual intimidation, which includes but is not limited to:
 - A. Threatening, expressly or implied, to commit a sexual act upon another person without his or her Consent..
 - B. Stalking or cyberstalking, and
 - C. Engaging in indecent exposure.

(xix) Sexual Battery. “Sexual Battery” means oral, anal, or vaginal penetration by or union with, the sexual organ of another by the anal or vaginal penetration of another by any other object.

(xx) Sexual Exploitation. “Sexual Exploitation” means any act of taking non-Consensual, unjust or abusive sexual advantage of another person for one’s own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual Exploitation includes, but is not limited to:

1. Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such person;
2. Prostituting another person (i.e. personally gaining money, privilege or power from the sexual activities of another);
3. Non-Consensual videotaping, photographing, or audiotaping of sexual activity and/or

- distribution of these materials via media such as, but not limited to, the Internet;
4. Exceeding the boundaries of Consent (e.g., allowing another person to observe Consensual sex without the knowledge of or Consent from all participants);
 5. Voyeurism; and
 6. Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.

(xxi) Sexual Harassment. “Sexual Harassment” is any unwelcome verbal, non verbal, written, electronic or physical conduct of a sexual nature. Examples of Sexual Harassment include instances in which:

1) Submission or consent to the behavior is reasonably believed to carry consequences for the individual’s education, employment, on-campus living environment, or participation in a College activity. Examples of this type of sexual harassment include:

- a) pressuring an individual to engage in sexual behavior for some educational or employment benefit, or
- b) making a real or perceived threat that rejecting sexual behavior will carry a negative educational or employment consequence for the individual.

2) The behavior is so severe or pervasive that it has the effect of substantially interfering with the individual’s work or educational performance by creating an intimidating, hostile, or demeaning environment for employment, education, on-campus living, or participation in a College activity. Examples of this type of sexual harassment include:

- a) one or more instances of Sexual Assault;
- b) persistent unwelcome efforts to develop a romantic or sexual relationship;
- c) unwelcome sexual advances or requests for sexual favors;
- d) unwelcome commentary about an individual’s body or sexual activities;
- e) repeated and unwelcome sexually-oriented teasing, joking, or flirting; and
- f) verbal abuse of a sexual nature.

Sexual harassment also includes acts of intimidation, bullying, aggression or hostility based on gender or gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

(xxii) Sexual Misconduct. “Sexual Misconduct” means any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual Misconduct can occur between

strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women, and it can occur between people of the same or different sex. The College encourages reporting of all Sexual Misconduct. Sexual Misconduct includes but is not limited to:

- 1) Dating Violence;
- 2) Domestic Violence;
- 3) Non-forcible sex acts, which are unlawful sexual acts where Consent is not relevant, such as sexual contact with an individual under the statutory age of Consent, as defined by State law, or between persons who are related to each other within degrees wherein marriage is prohibited by law;
- 4) Sexual Assault;
- 5) Sexual Exploitation;
- 6) Sexual Harassment; and
- 7) Stalking.

(xxiii) Disciplinary Board. The “Disciplinary Board or the “Board” is a standing group composed of faculty and/or staff who are specially trained to handle cases involving Sexual Misconduct. The Board members and the Chair of the Board will be appointed by the Executive Vice President. All Board members will receive regular (at least annual) professional training in hearing practices and procedures, including sensitivity training.

(xxiv) Stalking. “Stalking” means 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.

(xxv) Student of the College. A “Student of the College” is any student who:

1. is registered at the College or enrolled at the College (a) at the time of the alleged Sexual Misconduct and (b) at the time a Complaint is filed; and
2. is either:
 - a) registered to be enrolled or is currently enrolled at the College on a full-time basis, or
 - b) registered to be enrolled or is currently enrolled at the College on less than a full-time

basis and is not an employee of the College. Solely for purposes of this definition, the term “employee of the College” does not include those individuals who are employed by the College through a work-study or similar program.⁶

(xxvi) Title IX Coordinator. The College’s “Title IX Coordinator” is Brianna Douglas. The Title IX Coordinator has ultimate oversight responsibility for handling Title IX-related complaints and for identifying and addressing any patterns or systemic problems involving Sexual Misconduct. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or College processes, incidents, patterns or problems related to Sexual Misconduct on campus or in College programs. All allegations involving Sexual Misconduct should be directed to the Title IX Coordinator.

(xxvii) Victim Advocate. A “Victim Advocate” is an individual who is trained to provide free, confidential crisis intervention, advocacy, emotional support, referral and accompaniment services to individuals who may have been subjected to Sexual Misconduct.

EXHIBIT C

COKER COLLEGE STUDENT SEXUAL MISCONDUCT POLICY AND PROCEDURES

SEXUAL MISCONDUCT COMPLAINT FORM

Today’s date _____

Information Regarding the Complainant:

Name of the Complainant: _____

Complainant’s Phone Number _____

The Complainant is (please check one): a faculty member a student (current/former)

a staff member not affiliated with the College

Information Regarding the Victim (if he or she is not the Complainant):

Name of the Victim:

⁶ Individuals who are enrolled at the College on less than a full-time basis and are “employees of the College” as that term is defined above are governed by the College’s Faculty & Staff Sexual Misconduct Policy & Procedures (available from the Vice President of Academic Affairs at 843-383-8000 or from the Human Resources Office at 843-383-8333), as appropriate.

The Victim is: (please check one) :: a faculty member a student (current/former)

 a staff member not affiliated with the College

Information Regarding the Respondent:

Name of the Respondent

The Respondent is (please check one) a faculty member a student (current/former)

 a staff member not affiliated with the College

Information Regarding the Alleged Sexual Misconduct:

Time and date of the alleged Sexual Misconduct:

Location of the alleged Sexual Misconduct:

on campus

off

Campus _____

Witnesses or third parties who may have information regarding the alleged Sexual Misconduct:

Please provide a brief description of the alleged Sexual Misconduct:

You may wish to consider including, among other things, some or all the following information in your description: the gender of the parties, the relationship between the parties, whether on or more of the parties were under the influence of alcohol or drugs at the time of the alleged Sexual Misconduct, whether the Respondent used pressure or force (physical or otherwise) in the course of the alleged Sexual Misconduct and the frequency (if applicable) of the alleged Sexual Misconduct.

Please feel free to use the reverse side of this form to continue your description, if desired.

Signature of the Complainant _____