Hamilton College Harassment and Discrimination Policy

INTRODUCTION

All members of the Hamilton College community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Hamilton seeks to provide an environment in which students, faculty, staff and guests can work, study, and enjoy the College community without harassment or discrimination. The College prohibits harassment and discrimination on the basis of race, gender, sexuality, ethnicity, age, veteran status, or any other characteristics protected by law, in its programs and activities. In addition to being antithetical to Hamilton's community values, harassment and discrimination are prohibited by this Policy, the College's Sexual Misconduct Policy, and by state and federal laws. Therefore, the College commits to providing a prompt and thorough response to actions that adversely impact, or have the potential to adversely impact, the educational or workplace environment of any member of the Hamilton community.

This Harassment and Discrimination Policy ("Policy") has been developed to provide recourse for individuals who believe their rights as protected by this Policy have been violated, and serves as a means to determine, after the fact, if specific behaviors constitute violations of this Policy.

When a community member (i.e., a current student or member of the faculty or staff) decides to make a formal report of an incident of Discriminatory Harassment or Discrimination involving another community member, Hamilton will use the procedures outlined below to take reasonable, prompt, and appropriate action to respond. When a guest or other non-College community member decides to make a formal report, or a community member makes a formal report involving a guest or non-College community member, the process under GUESTS AND NON COLLEGE COMMUNITY MEMBERS will apply. For purposes of this Policy, a formal report by a former student about an incident involving another community member which occurred while that former student was a current student, will be processed under this Policy in the same manner as a formal report by a current student.

The Director of Title IX & Civil Rights Compliance is responsible for administering this Policy and responding to complaints covered under this Policy. The College's Director of Title IX & Civil Rights Compliance is Debbie Owens (dowens@hamilton.edu, 315-859-4896 or after hours for emergencies through Campus Safety at 315-859-4000).

Hamilton College affirms every individual's right to freedom of expression, and fosters the culture of tolerance and civility necessary to fulfill its educational goals. The academic freedom of an educational institution can create a tension with the prohibition of certain behaviors. Hamilton College does not consider visual and/or aural demonstrations, depictions or conduct to be harassment or discrimination when there is a legitimate pedagogical context, such as material having an appropriate connection to course subject matter.

DEFINITIONS

The following definitions are relevant to the operation of this Policy:

Sexual Misconduct

Sexual harassment and harassment based on gender are prohibited at the College and are covered under the Hamilton College Sexual Misconduct Policy, as are other forms of Sexual Misconduct defined therein (including sexual assault, dating or relationship violence or stalking). An individual wishing to report sexual harassment or harassment based on sex, gender, or other Sexual Misconduct as defined in the Sexual Misconduct Policy should contact the College's Director of Title IX & Civil Rights Compliance Debbie Owens (dowens@hamilton.edu, 315-859-4896 or after hours for emergencies through Campus Safety at 315-859-4000).

Prohibited Conduct Under This Policy

Discriminatory Harassment, including any action, language or visual representation, based on any characteristic protected by law other than gender (as noted above, gender based harassment is covered under the Sexual Misconduct Policy), including race, ethnicity, religion, disability, age, veteran status, that is sufficiently severe or pervasive that it has the effect of unreasonably interfering with that person's work or academic performance, or that creates a hostile working, educational, or living environment is prohibited by this Policy, and is referenced herein as **Discriminatory Harassment**.

Other forms of Discrimination (i.e., other than those forms covered under the Sexual Misconduct Policy) based on any characteristic protected by law, including race, gender, sexual orientation, gender identity, ethnicity, religion, disability, age, veteran status, that is sufficiently severe or pervasive that it has the effect of unreasonably interfering with that person's work or academic performance, or that creates a hostile working, educational, or living environment are also prohibited by this Policy, and are referenced herein as **Discrimination**.

Discriminatory Harassment and Discrimination, as defined above, are collectively referred to in this Policy as Prohibited Conduct.

Retaliation is defined as conduct that occurs in response to a complaint of Discriminatory Harassment or Discrimination under this Policy. Hamilton College views retaliation as a serious violation of this Policy that is subject to the same range of sanctions and responsive action as Discriminatory Harassment or Discrimination under this Policy. Actions are considered retaliatory if they are in response to a good faith disclosure of real or perceived prohibited conduct and the actions have a materially adverse effect on the working, academic or college-controlled living environment of an employee or student; or if the faculty, employee, or student can no longer effectively carry out their responsibilities.

Individuals and Processes

Complainant: This term refers generally to an individual who has allegedly been subjected to Prohibited Conduct in violation of this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy apply only after the College has been put on notice of a possible violation and references to "Complainant" in that context should be read (and will be applied by the Director of Title IX & Civil Rights Compliance) accordingly. In the case of complaints that are pursued by the College when the impacted individual does not want to participate in the process, Hamilton may pursue a complaint without such individual's

participation, in which case Hamilton may stand in the place of the Complainant for procedural purposes.

Respondent: This term refers to an individual whose conduct is alleged to have violated this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy apply only after the College has been put on notice of a possible violation and references to "Respondent" in that context should be read (and will be applied by the Director of Title IX & Civil Rights Compliance) accordingly.

Director of Title IX & Civil Rights Compliance: The individual who oversees the College's centralized review, investigation, and resolution of complaints under this Policy (as well as under the College's Sexual Misconduct Policy). The College's Director of Title IX & Civil Rights Compliance is Debbie Owens (dowens@hamilton.edu, 315-859-4896 or after hours for emergencies through Campus Safety at 315-859-4000).

Director of Human Resources: The College's Director of Human Resources is Stephen Stemkoski (315-859-4301 or sstemkos@hamilton.edu).

Senior Staff Member: The Vice President with supervisory authority over the area of the College with which the Respondent is affiliated. The Vice President and Dean of Students is the Senior Staff Member with respect to complaints brought against a student. In the case of complaints brought against members of the faculty, staff, or administration, the Vice President of the area in which the respondent is employed is the Senior Staff Member. For example, the Vice President for Academic Affairs and Dean of Faculty is the Senior Staff Member with respect to complaints brought against a faculty member.

Investigation Team:
Investigator(s): Individual(s) assigned by the Director of Title IX & Civil Rights Compliance to conduct investigations following notice of alleged prohibited conduct. The Investigator(s) may be an appropriately trained College employee or an external investigator(s) as deemed appropriate by the Director of Title IX & Civil Rights Compliance. Upon receipt of a formal complaint, the Director of Title IX & Civil Rights Compliance will assign the investigator(s) to begin the investigation. If the Director of Title IX & Civil Rights Compliance determines that a legitimate conflict of interest exists between an Investigator(s) and a party to a complaint, the Director of Title IX & Civil Rights Compliance, in consultation with the Chair of the HSMB, will appoint a replacement. The Investigator(s) issues a report of the investigation to Director of Title IX & Civil Rights Compliance, but does not make a recommendation with respect to responsibility for violating the Policy.

Harassment and Sexual Misconduct Board: The Harassment and Sexual Misconduct Board (HSMB or the Board) shall be composed of at least eight members (one of whom shall be designated the Chair), appointed by the College's Director of Title IX & Civil Rights Compliance to staggered terms of four years beginning in the Fall semester. Each year the current Board will solicit applications and nominations for any open seat(s), and will recommend individuals to serve for the following year. Members of the Hamilton College community may also nominate individuals for Board membership, provided the nominees are willing to serve if appointed. The Director of Title IX & Civil Rights Compliance, in consultation with the Chair, will ultimately be responsible for

appointing new members and designating a new Chair. Normally, the Chair will be a tenured member of the faculty and serve for one year as Chair. Every effort will be made to maintain a diverse Board, and membership will normally include tenured members of the faculty and full-time staff members. The Director of Title IX & Civil Rights Compliance shall arrange for the Board members to receive annual training. Members of the HSMB are required to maintain the privacy of all information they acquire in this role, unless disclosure is authorized by the Director of Title IX & Civil Rights Compliance. A member of the HSMB can be removed prior to the end of their term by the Director of Title IX & Civil Rights Compliance, in agreement with the Chair of the HSMB, for good reason (e.g., dereliction of duty, failure to abide by the provisions of this Policy, etc.).

Review Panel (Review Panel): In each investigation involving student Respondents, the Director of Title IX & Civil Rights Compliance will appoint a three-person Review Panel from the HSMB to review the investigative report, determine whether this Policy was violated, and, if so, recommend a sanction to the Senior Staff Member. The HSMB Chair serves as a non-voting fourth member of the Review Panel and presides over the review process. If any vacancy on the Review Panel occurs during the investigation, if the Director of Title IX & Civil Rights Compliance determines that a legitimate conflict of interest exists between a member of the panel and a party to a complaint, or if a member of the panel is unable to participate in the consideration of a complaint due to personal or professional circumstances or commitments, the Director of Title IX & Civil Rights Compliance, in consultation with the Chair of the HSMB, will appoint a replacement from those members of the Board eligible to serve.

Appeals Board: This is the group of individuals, defined in Hamilton's Code of Student Conduct that considers all appeals of findings and sanctions in certain cases, as specified in this Policy. The Appeals Board will receive annual training on relevant state and federal law and this Policy. For appeals under this Policy, a subset of the Appeals Board which does not include students will be utilized. This subset of the Appeals Board will receive appropriate training.

Standard of Review and Decisions: The standard of review in making determinations under this Policy will be "clear and convincing evidence," except in those cases that involve claims of gender discrimination under Title IX in which case the Title IX standard of "preponderance of the evidence" will be applicable. Any determination by an individual or body under this Policy will be in writing.

OPTIONS IN RESPONSE

The following information outlines the options available to College community members (i.e., students and members of the Faculty and staff) who believe that they have been impacted by the Prohibited Conduct of another College community member:

1. **Information**: A member of the community may talk with the Director of Title IX & Civil Rights Compliance about the College's process regarding complaints of Discriminatory Harassment or Discrimination. If they wish, a friend or advisor who is an active member of the campus community, and who is not a lawyer, may accompany them.

2. **Informal Resolution**: An individual alleging Prohibited Conduct as defined above is

encouraged to consider informal resolution. Informal resolution may take one of two forms. A student interested in informal resolution may contact the Director of Title IX & Civil Rights Compliance, who will discuss possible approaches with the student to end the Prohibited Conduct that do not require more formal action. A Faculty or Staff member interested in informal resolution may contact the Director of Human Resources, who will discuss possible approaches with the Faculty/Staff member that do not require more formal action.

Informal resolution and/or mediation will not be available in cases involving violence.

3. **Formal Complaint**: An individual may file a formal complaint by submitting to the Director of Title IX & Civil Rights Compliance information including the time, place and nature of the alleged offense and the name of the Respondent, at a minimum. The information must ultimately be recorded in written form by either the Complainant or the Director of Title IX & Civil Rights Compliance. The procedures outlined below will then apply. (Cases alleging sex, gender-based, sex-based, or sexual harassment or other Sexual Misconduct should be reported to the Director of Title IX & Civil Rights Compliance and/or will be referred to the Director of Title IX & Civil Rights Compliance for resolution pursuant to the College's Sexual Misconduct Policy).

CONFIDENTIALITY

The College will make its best efforts to maintain confidentiality during the process of investigating and addressing complaints of Prohibited Conduct, and will discuss confidentiality standards and concerns with the parties during initial meetings about the complaint.

If a Complainant requests confidentiality or otherwise asks that an investigation not be pursued, the College will advise the Complainant that a request for confidentiality limits Hamilton's ability to conduct a thorough investigation and take appropriate disciplinary action. The College will further advise the Complainant about its prohibition on retaliation and its commitment to taking strong responsive action if retaliation occurs.

The College will balance requests for confidentiality with its obligation to provide a safe and non- discriminatory environment for all members of the community. Factors to be considered when making this determination include, but are not limited to, the seriousness of the alleged Prohibited Conduct and whether there have been other complaints or reports of Prohibited Conduct against the alleged harasser.
If the College determines that it can honor a request for confidentiality, the College may still take responsive action to address the Prohibited Conduct and prevent its recurrence without initiating formal action.

If the College determines that it cannot maintain a Complainant's confidentiality, it will notify the Complainant prior to commencing any investigation, and will—to the extent possible — share information only with people responsible for handling the College's response. Under these circumstances, the College will consider methods and measures to protect the Complainant from retaliation or harm.

FORMAL COMPLAINT RESPONSE PROCEDURES

The following steps outline Hamilton's procedures for addressing allegations of Prohibited Conduct made through a formal complaint:

Notice of Complaint

Complaints of Prohibited Conduct may be made orally or in writing, and must ultimately be recorded in written form by the Complainant or the Director of Title IX & Civil Rights Compliance. This record must include, to the extent known, the time, place, and nature of the alleged offense and the name of the Respondent. After receiving the complaint, the Director of Title IX & Civil Rights Compliance will determine if the conduct alleged by the Complainant falls within this Policy.

In cases where it is determined that the act, if proven, does not fall within this Policy, no further investigation will be pursued and the Complainant will be advised by the Director of Title IX & Civil Rights Compliance of other avenues of recourse and support as appropriate. There is no review of this decision.

In cases where the acts, if proven, fall within this Policy but action against an alleged Respondent cannot be taken because the individual is not a member of the College community, the Director of Title IX & Civil Rights Compliance will assess the information given and provide appropriate recommendations and resources to the Complainant, including proceeding under the Guest and Non-College Community Member provisions of this Policy.

Mediation

In cases where the Director of Title IX & Civil Rights Compliance and the HSMB Chair determine that mediation may be appropriate, the Director of Title IX & Civil Rights Compliance will first speak with the Complainant about the option to pursue mediation. If the Complainant is agreeable, then the Director of Title IX & Civil Rights Compliance will meet with the Respondent to discuss the mediation process. If both parties are agreeable to mediation, mediation will be coordinated by the Director of Title IX & Civil Rights Compliance. Either party may discontinue mediation at any time. The mediator will report to the results of the mediation Director of Title IX & Civil Rights Compliance.

At the conclusion of a successful mediation, both parties will sign a statement agreeing that the mediation was successful. If the mediation is unsuccessful, the Complainant can proceed to a formal complaint and hearing after the conclusion of the mediation. A copy of the signed statement will constitute the record of the mediation.

Formal Resolution

In cases of alleged Prohibited Conduct under this Policy, where informal resolution is not used or if used is not successful, the following process will apply. This process may involve the Director of Title IX & Civil Rights Compliance, Chair of the HSMB, an appropriate Senior Staff Member or designee, the Director of Human Resources, an Investigation Team, and/or the Review Panel. In the event the Director of Title IX & Civil Rights Compliance identifies a conflict of interest involving the Chair, the appropriate Senior Staff Member will appoint another member of the HSMB to oversee the HSMB process. If there is a conflict of interest involving the Senior Staff member, another

Senior Staff Member will take the place of the initial Senior Staff Member.

The Director of Title IX & Civil Rights Compliance will meet with the Complainant and explain the investigation procedures that will be followed. The Director of Title IX & Civil Rights Compliance will meet separately with the Respondent to provide notification of the complaint and to explain the procedures that will be followed.

The Respondent has the right to accept responsibility at any time, including prior to investigation. A Respondent choosing this path must provide the Senior Staff Member and the Chair a written statement accepting responsibility for the alleged violation and waiving the right to an investigation. In such cases, the appropriate Senior Staff Member—in consultation with the Chair and the Director of Title IX & Civil Rights Compliance (and in cases involving staff, the Director of Human Resources)—will determine a sanction, which may range from a warning to permanent separation from the College (in the case of students) or termination of employment (in the case of employees), and will respond within 48 hours to the Respondent with the assigned sanction. By accepting responsibility, the Respondent also waives any right to appeal (to the extent one is provided for in this Policy) and will accept the Senior Staff Member's decision as final. If the Respondent does not agree to accept responsibility and disputes the description of alleged conduct, the College will begin an investigation.

Investigation of a Complaint

General

Hamilton College uses an investigation model to resolve complaints under this Policy. An Investigation Team will interview all parties and available witnesses and collect relevant information. The Investigation Team is authorized to contact any relevant people and to access any relevant records not otherwise prohibited by legal protections of privilege or confidentiality. It is the responsibility of the Investigation Team to take custody of, and arrange safekeeping for, any physical or electronic documents or other tangible item to be used in making a finding. The Investigation Team will make every effort to conclude a thorough investigation, including submission of its written report, within 30 business days of the receipt of a complaint. Should a Respondent choose not to participate in the investigative process, the investigation may proceed, a decision will be made, and, if appropriate, a sanction may be imposed based on available information.

Except as otherwise may be required by law, the Complainant and Respondent may each have an advisor who is an active member of the campus community, and who is not a lawyer, present at any meeting related to the investigation and resolution process, but these advisors can only advise the Complainant and Respondent privately and cannot act as speaking advocates. If an advisor is going to accompany a party, the party must advise the Director of Title IX & Civil Rights Compliance of this decision to use an advisor when made, as well as the identity of their advisor. Neither members of the HSMB or the Appeals Board may serve as advisors.

In matters involving students, the College will typically issue "no contact" orders for the duration of the investigation and resolution process. In all other matters, the College will evaluate and implement appropriate measures (which can include temporary removal from the campus in appropriate cases), The College's evaluation of the appropriateness of such measures will be

ongoing.

Rights of the Respondent and Complainant

Common Rights

Each party has the right to:

- preservation of privacy, to the extent possible, consistent with law;
- a timely investigation and appropriate resolution of all complaints through the processes described in this Policy;
- be informed of rules and procedures established in this Policy, as well as the nature and extent of all alleged violations contained within the complaint;
- (in the case of employees) medical and emotional support from the College's Employee Assistance Program (1-800-834-3947) through BRiDGES, a confidential resource for employees regarding issues ranging from alcohol and drug abuse to financial and legal concerns. Appointments with a BRiDGES EAP professional are available 8:00 am until 5:00 pm Monday through Friday with evening hours on Tuesday. Call 315-697-3949 or 1- 800-834-3947 during working hours and a staff member will assist in booking an appointment and/or answering any of your questions. A 24-hour answering machine is also available after hours to provide callers with the numbers for crisis services or to take messages. An employee or a family member may attend up to five sessions unless a referral to a community provider is recommended.
- receive the counsel and support of an advisor (as described above) throughout the investigation and resolution processes;
- to provide information at any step of the procedures outlined in this Policy outside the presence of the other party;
- have irrelevant information concerning incidents not directly related to the complaint excluded from the investigation and resolution proceedings (the Director of Title IX & Civil Rights Compliance and the HSMB Chair may determine that information demonstrating a pattern of behavior related to the alleged violation is admissible information);
- be informed of the names of any additional individuals who may be called to provide information (subject to safety, and/or retaliation considerations);
- have the College request the presence of individuals at investigative and resolution proceedings;
- review of relevant information uncovered in the investigation, subject to the confidentiality limitations imposed by state and federal law. The Director of Title IX & Civil Rights Compliance and the Chair of the HSMB may limit information shared based on relevance, whether its disclosure would be more prejudicial to a party or witness than probative, whether it would constitute an unwarranted invasion of an individual's privacy, or for other legitimate reasons;
- be notified of the finding and any sanction following any Review Panel or Senior Staff Member review;
- petition the Chair of the HSMB and the Director of Title IX & Civil Rights Compliance for
removal of any member of the Investigation Team or Review Panel on the basis of demonstrated bias or conflict of interest;

- appeal any finding and any sanction, to the extent provided for and in accordance with the standards for appeal established by this Policy;
- an outcome based solely on information obtained by the Investigation Team and during the proceeding;
- have complaints investigated and reviewed by individuals who have received annual training;
- have College policies and procedures followed without material deviation;
- be informed in advance of any public release of information regarding the complaint; and
- appropriate, reasonably available measures to reduce the burden on either the Complainant and/or Respondent, which may include (but may not be applicable to all Complainants, depending on their status as a student or an employee):
    - placement of limitations on one party regarding contact with the other party during the investigation and while the complaint is being reviewed;
    - separation or modification of the working, living, and/or academic arrangements of the Complainant and the Respondent and the College's assistance in effecting such change;
    - rescheduling of exams, papers, or other assignments;
    - taking an incomplete in a class;
    - changing class sections;
    - temporary withdrawal; or
    - alternative course completion options.

Additional Rights of the Respondent

- to waive proceedings by admitting responsibility;
- the right to withdraw subject to the provisions of this Policy.

Procedures for Submitting and Accessing Information Collected During the College's Investigation

The Complainant and Respondent will be asked to identify all information they would like the Investigation Team to review, and as such both may recommend witnesses and submit information for consideration. Decisions about interviews and collection and evaluation of relevant information, physical or electronic documents, and other tangible items, however, are ultimately at the sole discretion of the Investigation Team in the context of impartial treatment of both parties. In the course of conducting interviews, the Investigation Team will ask any participant in the investigation to sign a statement attesting to the veracity of the information provided. The Investigation Team will also encourage all participants to keep the substance of an interview confidential, except as may be needed for support and assistance.

At the conclusion of the investigation, the Complainant and Respondent will have the opportunity to review relevant information gathered during the course of the investigation. Prior to this review, however, the Director of Title IX & Civil Rights Compliance and the Chair of the HSMB will review all materials to determine whether to limit information to be shared based on relevance, whether its disclosure would be more prejudicial to a party or witness than probative, whether it

would constitute an unwarranted invasion of an individual's privacy, or for other legitimate reasons.

The Director of Title IX & Civil Rights Compliance will facilitate the opportunity for each party to access such information separately in a private setting. All parties will have an opportunity to respond to this information, in writing, within seven business days. If at any stage following the submission of these responses new and relevant information is gathered, it will be shared with the Complainant and Respondent, subject to the above limitations, who will again have the opportunity to submit a written response within a time frame determined by the Director of Title IX & Civil Rights Compliance. The Complainant and Respondent may request a copy of the other's written response, subject to the right of the Director of Title IX & Civil Rights Compliance and the Chair of the HSMB to redact.

Following the initial seven-day review period by the Complainant and Respondent and any subsequent responses and gathering of new information, the Investigation Team will complete their final written report and, within five business days, meet with the Chair and Director of Title IX & Civil Rights Compliance to deliver that final written report, which will include relevant facts, all investigation materials, Complainant and Respondent statements and responses to the other's statement, and any additional information gathered. The Director of Title IX & Civil Rights Compliance will notify the Complainant and Respondent of the completion of the final Investigation Team report and make arrangements for each to review.

RESOLUTION PROCEDURES

At the conclusion of its investigation, the Investigation Team will provide its final report to the Director of Title IX & Civil Rights Compliance and the HSMB Chair.

A. When the Respondent is a Student

Upon receipt of the final report from the Investigation Team, the Director of Title IX & Civil Rights Compliance will convene the Review Panel. The Review Panel will review the final report and may request any additional relevant information from the Investigation Team and/or to meet individually with any person(s). The Complainant or Respondent also has the right to meet individually with the Review Panel. The focus of any such meeting will only be to clarify information presented in the Investigation Team's final report.

Utilizing all of the above information, the Review Panel is responsible for recommending to the Senior Staff Member whether this Policy was violated and, if so, which specific portion(s).

If the Review Panel determines that this Policy has been violated, the Review Panel will additionally recommend a sanction for the Respondent based on the nature of the violation and available precedent. If the Review Panel determines that the Policy was not violated, no sanction will be recommended. The Review Panel will prepare a brief written summary of its determination and recommended sanction (if applicable) and submit it to the Senior Staff Member. The Review Panel will make every effort to conclude this process within a reasonably prompt time frame as appropriate for the nature of the allegation(s) and investigation.

The Senior Staff Member will make the final decision based on the Review Panel's determination and recommendation and the final Investigation Team report, subject to the Senior Staff Member's right to meet with any individual in reaching their decision. The Senior Staff Member and Chair will meet separately with the Complainant and Respondent to inform them of the Review Panel's determination and recommendation and the Senior Staff Member's decision. Specifically, each party will be informed of the Review Panel's determination of any policy violation(s), any sanction(s) issued, and procedures to appeal the decision.

Should a Respondent choose to withdraw from the College with knowledge that a formal or informal complaint against them had been made under this Policy and prior to the Senior Staff member's final decision, the Respondent's transcript will note that a complaint was pending at the time of withdrawal.

B. When the Respondent is a Faculty Member

When the Respondent is a Faculty Member, the Investigation Team's final report will be presented to the Dean of the Faculty and the Chair of the HSMB. If the Dean, after consultation with the Chair, believes that a violation of this Policy has occurred and a major change in the terms of employment for a Faculty Member respondent or dismissal is appropriate (as provided in X.D. 1(b) of the Faculty Handbook), the Dean will use the Investigation Team's final report (or the relevant portions thereof) as the basis for a petition under X.E of the Faculty Handbook and those procedures will be followed.

In cases where the Dean of the Faculty believes a major change or dismissal is not appropriate, and the Dean finds a violation of College Policy has occurred, the Dean may impose a sanction as provided for in X.D. 1(b) of the Faculty Handbook.

C. When the Respondent is a Staff Member

When the Respondent is a Staff member (i.e., any non-faculty employee), the Investigation Team's final report will be provided to the Director of Human Resources and the Senior Staff Member, who together are responsible for arriving at a determination of whether this Policy was violated. If it is determined that a violation of College Policy has occurred, or if it is determined that no violation of this Policy has occurred but a violation of some other College policy, rule, or requirement has occurred, the Director of Human Resources and Senior Staff Member, after consultation with the Chair or other member of the HSMB, may impose an appropriate sanction.

The Director of Human Resources and the Senior Staff Member will prepare a brief written statement of their determination which will be shared with the Complainant and Respondent. In the event the Director of Human Resources and the Senior Staff Member are unable to agree, they shall advise the President, who will appoint a third person to act as a tie-breaker.

APPEALS

A. When the Respondent is a Student

Either party may appeal the findings as to responsibility and/or the sanction (if applicable), or a decision to dismiss the complaint or specific allegations in the complaint, within seven (7) days of being informed in writing of the determination to be appealed. Grounds for an appeal are limited to:

- a sanction inconsistent with the severity of the violation or otherwise inappropriate;
- procedural irregularity that affected the Review Panel's determination or the determination regarding dismissal (the Appeals Board is not to substitute its judgments on the merits for that of the Review Panel);
- conflict of interest or bias (generally for or against complainants or respondents or individually for or against a party) on the part of the Title IX Coordinator, investigator(s), Hearing Officer, or Review Panel member(s) that affected the Review Panel's determination or the determination regarding dismissal; and/or
- the discovery of new evidence that was not reasonably available at the time the determination regarding responsibility, sanction, or dismissal was made that could affect the Review Panel's determination or the determination regarding dismissal.

Either party may submit a written request for an appeal to the Chair of the Appeals Board. The Appeals Board will not consider submissions from anyone other than the parties themselves. In the request, the party must identify the specific grounds upon which the appeal is based and must provide all of the detail the party wants considered in support of the appeal. Within one week of receipt of the appeal or as soon as practicable thereafter, the Chair shall convene the Appeals Board to determine whether there are grounds for hearing the appeal.

If the Appeals Board decides that there are acceptable grounds for appeal, the Chair of the Appeals Board will inform the Director of Title IX & Civil Rights Compliance and Chair of the HSMB that an appeal request has been made. The Director of Title IX & Civil Rights Compliance will provide the Appeals Board access to the Investigation Report and any other written materials that were made available to the Review Panel. The Chair of the Appeals Board will invite the Chair of the HSMB, the Hearing Officer, and the Director of Title IX & Civil Rights Compliance to review the appeal request and respond in writing, if warranted, ordinarily within seven days of that invitation.

Where the Appeals Board agrees to consider an appeal by the Respondent, the Complainant will be provided with a copy of the Respondent's appeal and invited to respond. Where the Appeals Board agrees to consider an appeal by the Complainant, the Respondent will be provided a copy of the Complainant's appeal and invited to respond. In either case, the Director of Title IX & Civil Rights Compliance and HSMB Chair will review the appeal statement to determine whether the information contained therein is relevant and material to the determination of the appeal and, in general, the Director of Title IX & Civil Rights Compliance and the HSMB Chair may redact information that is irrelevant or otherwise violative of this Policy.

The Appeals Board may:

- uphold the original decision as to responsibility, sanction, or dismissal;

- alter the decision as to responsibility, sanction or dismissal;
- remand the matter to the Review Panel. The Appeals Board may (but is not required to) take this action when there is a procedural irregularity that could be corrected in a review or the presentation of previously unavailable relevant information that could significantly impact the result of the Review Panel's determination;
- remand the matter to the Review Panel with a recommendation that the sanction be modified, together with an explanation of why the original sanction is deemed inappropriate;
- remand the matter to the Director of Title IX & Civil Rights Compliance for reinstatement of a dismissed complaint or allegation, together with an explanation of why the dismissal is deemed inappropriate; or
- remand the matter to an ad hoc Review Panel composed of a new Hearing Officer and members of the HSMB not previously involved in the matter. This will be done only in cases in which the Appeals Board has concluded that bias exists, or otherwise when, in the considered opinion of the Appeals Board, the matter would be best addressed by a newly-constituted panel.

Any determination made following a remand of a matter is subject to appeal to the Appeals Board utilizing this same process.

The appeal will be decided by a majority vote. The Appeals Board will provide the parties, the Chair of the Harassment and Harassment and Sexual Misconduct Board, and the Director of Title IX & Civil Rights Compliance written notice of its decision, including grounds for the decision, normally within ten days of concluding its review process. The record of the appeal will consist of the letter of appeal; any written statements from the parties, Chair of the HSMB and/or the Director of Title IX & Civil Rights Compliance, and the outcome of the appeal. This record will be appended to the written record of the original decision and will be kept with it as part of the case file maintained by the Director of Title IX & Civil Rights Compliance.

Decisions of the Appeals Board are final.

B. When the Respondent is a Faculty Member

If the matter is processed under X.E. of the Faculty Handbook, the faculty member shall have the rights provided therein and no others. For other matters, either party (but only the parties themselves) shall have the right to appeal, in writing, to the President, within five days of receipt of the Dean's determination. Grounds for appeal are limited to:

- Sanction is inconsistent with the severity of the violation;
- Procedural error that had a substantial impact on fairness of the process (the President is not to substitute their judgement on the merits for that of the Dean); or
- The discovery of material evidence, not reasonably available at the time of the determination.

On appeal, the President may uphold the original determination, remand the matter for either further consideration by the Dean of the Faculty and/or investigation, or modify or reject the determination. The President's decision is final.

C. When the Respondent is a Staff Member

In those cases, either party (but only the parties themselves) may appeal the determination of the Director of Human Resources and the Senior Staff Member by submitting a request for an appeal in writing within five days of receiving notice of the determination to the President. Acceptable grounds for an appeal are limited to:

- A sanction inconsistent with the severity of the violation;
- Procedural error(s) that had a material impact on the fairness of the determination (the President is not to substitute their judgment for that of the Director of Human Resources and Senior Staff Member); or
- The discovery of material evidence not reasonably available at the time of the determination.

On appeal, the President may uphold the original determination, remand the matter for either further consideration by the Director of Human Resources and Senior Staff Member and/or investigation, or modify or reject the determination. The President's decision is final.

GUESTS AND NON-COLLEGE COMMUNITY MEMBERS

The College expects all guests and non-College community members to be able to participate in its programs and offerings (to the extent otherwise appropriate) without experiencing in those programs and offerings conduct prohibited by this Policy. The College also expects guests and other non-community members to not engage in such conduct towards others in the context of those programs and offerings. If a guest or other non-community member believes that they have been subjected to such conduct in connection with a College program or offering, or if a College community member believes that they have been subjected to such conduct by a guest or other non-community member, they should make a report to Campus Safety, which will conduct an appropriate investigation and report its findings to the Director of Title IX & Civil Rights Compliance for action. The decision of the Director of Title IX & Civil Rights Compliance in such matters will be final.

CONFLICTS

Whenever a person making a complaint, against whom a complaint is made, or who is a material witness to an event relevant to a complaint has a role under this Policy (e.g., is a Senior Staff Member, Director of Human Resources, etc.), the President may designate someone else to fill that person's role under this Policy (except that in cases processed under the Tribunal provisions of the Faculty Handbook, those provisions on the selection of Tribunal members will govern).

If a complaint is made against the President, or a member of the Board of Trustees, it will go to the Chair of the Board (or the Vice Chair of the Board if the charge is against the Chair), who

may appoint different individuals to any role under this Policy as they deem appropriate to ensure a fair and appropriate process.

MULTIPLE CHARGES/PARTIES

When multiple charges and/or parties are involved, including charges by and against individuals with different statuses (e.g., faculty and student), the Director of Title IX & Civil Rights Compliance, in consultation with the HSMB Chair, will determine the appropriate procedures to be used, including varying from these procedures as may be necessary.

COORDINATION WITH OTHER POLICIES

A particular situation may potentially invoke one or more College policies or processes. The College reserves the right to determine the most applicable policy or process and to utilize that policy or process.

COUNSEL

Any College administrator or official when involved in the implementation of this policy (e.g., HSMB member, Senior Staff member, Director of Human Resources, Tribunal member, etc.) may seek the advice of, and share information with, the College's legal counsel through the Director of Title IX & Civil Rights Compliance.

RECORDS

The Director of Title IX & Civil Rights Compliance shall keep on file in their office for seven years from the date of the filing of the formal complaint the following written documentation: notice of complaint and related no contact orders, the investigation report and supporting materials, Review Panel summary and recommendation, the Senior Staff member's written finding and sanction notification (if applicable), and the appeals record.

POLICY AMENDMENT

Members of the community may suggest changes to members of the HSMB or the Director of Title IX & Civil Rights Compliance, who shall bring them to the Board for discussion. Final policy changes, other than updates to contact information included in this policy, are to be approved by the President of the College. Unless otherwise provided in the amendment, amendments to this Policy will become effective upon approval.