Hamilton Sexual Misconduct Policy

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I. 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 experiencing Sexual Misconduct. When such actions are brought to its attention, the College is committed to providing prompt and thorough responses to actions that adversely impact, or have the potential to adversely impact, the educational or workplace environment of any member of the Hamilton community.

The College strongly encourages all members of its community to report any prohibited act of Sexual Misconduct which they experience (including sexual assault, dating violence, domestic violence, stalking, sexual harassment, sexual exploitation and/or related retaliatory behavior, as more fully defined in Article IV) to the College and to immediately seek appropriate support and health care. In addition, many College employees are considered Responsible Employees who are required to report instances of Sexual Misconduct that they are made aware of to the Title IX Coordinator (see Article IV, Responsible Employees). The College also encourages all community members to contribute to the creation of a safe, welcoming, and respectful environment on campus. This includes taking reasonable and prudent actions to prevent or stop an act of Sexual Misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to positively intervene will be supported by the College and protected from retaliation.

This Policy has been developed to provide recourse for individuals who believe their rights have been violated, and serves as a means to determine, after the fact and with fairness to all involved, if specific behaviors constitute violations of this Policy.

Any individual who has experienced Sexual Misconduct has the right to make a report to local law enforcement, and/or the New York State Police, or choose not to report; to report the incident to the Title IX Coordinator; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College.

This Policy describes support resources and accommodations available to members of the Hamilton community who experience Sexual Misconduct, whether or not that individual decides to pursue a formal report on campus. See Article VIII, Supportive Measures, and Article XXI, Options for Immediate Assistance.

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 Sexual Misconduct involving another community member, Hamilton will use the procedures outlined below (see Articles X and XI) to take reasonable, prompt, equitable, 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 in Article XII 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 (though the procedures to be utilized will depend on the status of the Respondent(s) at the time the report is processed).

II. Scope of Polices

A. Relevant Laws

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §1681, *et seq.*, a federal law, prohibits discrimination on the basis of sex in education programs and activities:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal funds must comply with Title IX. Title IX mandates that colleges and universities create an environment free from sexual discrimination and harassment for all community members. The College recognizes its obligation under Title IX to take steps to prevent the recurrence of sexual harassment and to correct its discriminatory effects.

Under Title IX, discrimination on the basis of sex includes sexual harassment, gender-based harassment, sexual assault, dating violence, domestic violence, and stalking. Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, New York State Law 201-g, and other applicable statutes.

Pursuant to the Violence Against Women Reauthorization Act, the College also prohibits sexual assault, domestic violence, dating violence, and stalking.

This Policy also reflects the requirements of New York Education Law Article 129-B, relating to sexual assault, domestic violence, dating violence and stalking.

The College's Title IX Coordinator is responsible for ensuring that the College responds to such complaints in a manner that treats all parties equitably, is effective, and eliminates the harassment through remedies designed for the individual and, as needed, the entire College community.

B. Scope of Policies

All College community members are responsible for their actions and behavior, and for adhering to College policies and local, state, and federal law.

The Sexual Misconduct Policy applies to all members of the Hamilton College community who participate in any of Hamilton's educational programs or activities, including students, employees, contractors, and visitors. Those who conduct business with the College on College property must also adhere to this Policy.

One or more of the College's personnel policies or faculty and staff handbook policies may overlap with this Policy in a particular situation. This Policy applies to any situation where a student is the Complainant or Respondent. In all other situations, the College reserves the right to apply this Policy or another applicable College policy or process to address potential violations of the behavioral standards described in this Policy. The College will apply this Policy to any situation where the College determines that Title IX requires the application of this Policy.

This Policy sets forth conduct expectations for the College community and provides a process for the reporting, investigation, and adjudication of alleged violations. This Policy applies to alleged conduct violative of Title IX as defined in Article IV ("Title IX Prohibited Conduct"), and also applies to a broader range of contexts and behaviors inconsistent with the College's commitment to equal opportunity as defined in Article IV ("Non-Title IX Prohibited Conduct"). The designation of conduct or allegations as either "Title IX Prohibited Conduct" or "Non-Title IX Prohibited Conduct" is not a function of the seriousness of the alleged conduct but rather a function of the scope and coverage of Title IX versus the College's broader jurisdiction to prohibit and discipline a larger scope of inappropriate behavior. For example, whereas Title IX Prohibited Conduct is limited to conduct that occurs when the Complainant is in the United States at the time of the alleged conduct and in the context of the College's education program or activity, and requires that the Complainant be participating in or seeking to participate in the College's education program or activity at the time of the complaint, Non-Title IX Prohibited Conduct encompasses a broader range of conduct and contexts, and among other things applies to off-campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the Hamilton College community, conduct that occurs in study abroad and internship programs, and conduct other than that regulated by Title IX.

The protections of this Policy apply regardless of a person's race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, pre-disposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

III. Title IX Coordinator

The Title IX Coordinator is:

- responsible for oversight of the investigation and resolution of all reports of Sexual Misconduct;
- knowledgeable and trained in relevant state and federal laws and the College's policies and procedures;
- available to advise any individual, including a Complainant (defined below), a

Respondent (defined below), or a third party, about the courses of action and resources available at the College, both informally and formally, and the courses of action and resources available externally, including reports to law enforcement;
- available to provide assistance to any Hamilton community member regarding how to respond appropriately to reports of Sexual Misconduct;
- responsible for monitoring full compliance with all requirements and timelines specified in this Policy; and
- responsible for compiling and maintaining required reports.

Hamilton's Title IX Coordinator is Debbie Owens (dowens@hamilton.edu, 315-859-4896 or after hours for emergencies through Campus Safety at 315-859-4000).

IV. Definitions

The following definitions outline the types of Sexual Misconduct prohibited under this Policy and identify the individuals and processes involved in the investigation of and response to allegations of those prohibited acts. The term "Sexual Misconduct" is an umbrella term used in this Policy to more conveniently refer to any form of conduct prohibited by this Policy. To be covered under this Policy, the conduct, or its effects, must have a connection to the College and/or the College community. Prohibited Sexual Misconduct includes conduct that falls within the definition of Title IX Prohibited Conduct or Non-Title IX Prohibited Conduct.

A. Title IX Prohibited Conduct

In accordance with Title IX as interpreted by the United States Department of Education, the College recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX, including but not limited to that the Complainant was in the United States at the time of the alleged conduct, that the Complainant is participating in or seeking to participate in the College's education program or activity at the time of the complaint, and that the conduct occurred in the context of the College's education program or activity:

Title IX Sexual Harassment includes conduct on the basis of sex, including gender, sexual orientation, or gender identity or expression, that falls within one of the two following categories:

Quid pro quo - An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.

Hostile environment - Unwelcome conduct of a sexual nature that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity.

Sexual Assault - The term "sexual assault" means an offense classified as a forcible or nonforcible

sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, as described below.

Title IX Sexual Assault is prohibited under this Policy. Sexual assaults can take a number of forms, including:

- Non-Consensual Sexual Contact is defined as the intentional touching of the clothed or unclothed body parts of another person for the purpose of sexual gratification, sexual degradation or sexual humiliation, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity. This also includes the forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- Non-Consensual Sexual Act is defined as penetration of the vagina or anus, however slight, with any body part or object, or oral penetration by a sex organ of another person, without affirmative consent.
- Incest is defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape is defined as non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

Title IX Retaliation - means any adverse action taken against a person for making a good faith report under this Policy, for testifying, assisting, or participating or refusing to participate in any manner in an investigation, proceeding, or hearing under this Policy, or for the purpose of interfering with any right or privilege under this Policy. Retaliation includes threatening, intimidating, harassing, coercing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy. Retaliation may be present even where there is a finding of "no responsibility" on the allegations of a violation of this Policy. Retaliation does not include good faith actions pursued in response to a report under this Policy. Complaints of retaliation in connection with reports made under this Policy may be addressed under the procedures provided in this Policy.

Title IX Domestic Violence is defined as a felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the person against whom the violence is committed;
- a person with whom the person against whom the violence is committed shares a child in common;
- a person who is cohabiting with, or has cohabited with, the person against whom the violence is committed as a spouse or intimate partner;
- a person similarly situated to a spouse of the person against whom the violence is committed under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- 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 jurisdiction in which the crime of

violence occurred.

This definition does not apply to roommates who have not expressed interest in entering into, or who have not entered into, a dating or sexual relationship.

Title IX Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the violent act is/acts are committed. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Title IX Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, on the basis of sex (including gender, sexual orientation, or gender identity or expression), under circumstances that would cause a reasonable person to fear for personal safety or the safety of others or suffer substantial emotional distress.

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

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

B. Non-Title IX Prohibited Conduct

For purpose of Non-Title IX Prohibited Conduct, the below conduct is prohibited even if the conduct occurs off-campus, outside the United States, the Complainant is not participating or seeking to participate in the College's education program or activity, or otherwise in circumstances over which the College does not have influence or control, including but not limited to during academic breaks. The College retains discretion to not respond to, investigate or adjudicate circumstances in which no College interest is implicated.

Non-Title IX Sexual Harassment is defined as unwelcome action, language or visual representation of a sexual nature that has the effect of unreasonably interfering with an

individual's work or academic performance or that creates a hostile working, educational, or living environment, but that does not constitute Title IX Sexual Harassment.

Sexual harassment:

- may be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- does NOT have to include intent to harm, be directed at a specific target or involve repeated incidents;
- may be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context;
- may be committed by a stranger, an acquaintance, or someone with whom the individual has an intimate or sexual relationship;
- may be committed by or against an individual or may be a result of the actions of an organization or group;
- may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation;
- may occur in the classroom, in the workplace, in residential settings, or in any other setting;
- may be a one-time event or can be part of a pattern of behavior;
- may be committed in the presence of others or when the parties are alone;
- may affect the subject of the harassment and/or third parties who witness or observe harassment and are affected by it.

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal or physical aggression or hostility based on gender, gender identity, gender expression, sexuality or sex- or gender- stereotyping, even if those acts do not involve conduct of a sexual nature.

Examples of conduct that may constitute sexual harassment include:

- Physical conduct:
    - unwelcome touching, sexual/physical assault, impeding, restraining or blocking movements
    - unwanted sexual advances
- Verbal conduct:
    - making or using derogatory comments, epithets, slurs or humor, not pedagogically appropriate
    - verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations, not pedagogically appropriate

    - objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes, which a reasonable peer would find offensive and which are not pedagogically appropriate
- Visual conduct:
    - leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons, or posters in a public space or forum, not pedagogically appropriate
- severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images, not pedagogically appropriate
- Written conduct:
    - letters, notes, or electronic communications containing comments, words, or images described above, not pedagogically appropriate
- Quid pro quo conduct:
    - direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists
    - offering employment benefits in exchange for sexual favors
    - making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose
    - making or threatening reprisals after a negative response to sexual advances

The determination of whether an environment is "hostile" is based on a reasonable person standard, considering all the circumstances. These circumstances could include, but are not limited to:

- the frequency or pervasiveness of the speech or conduct;
- the nature and severity of the speech or conduct;
- whether the conduct was physically threatening;
- whether the speech or conduct was humiliating;
- the effect of the speech or conduct on the recipient's mental and/or emotional state;
- whether the speech or conduct was directed at more than one person;
- whether the speech or conduct arose in the context of other discriminatory conduct;
- whether the speech or conduct unreasonably interfered with the recipient's educational opportunities or performance (including study abroad), College-controlled living environment, work opportunities, or performance;
- whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness;
- and/or whether the speech or conduct deserves the protections of academic freedom.

Sexual Exploitation occurs when a person takes non-consensual sexual advantage of another, and that behavior does not otherwise constitute another form of Sexual Misconduct. Examples of sexual exploitation include, but are not limited to, non-consensual video or audio-recording of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe consensual sexual activity, or making a consensual intimate video or audio recording of another but then distributing the recording to others without the person's consent or in a way that exceeds the bounds of consent), compelling another person to sexually touch themself or another person without consent of all parties to the touching, intentional sexual transmission of bodily fluids (including seminal fluid, vaginal fluid, blood, urine or feces) onto a clothed or unclothed individual without affirmative consent, engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted diseases (STD) and without informing the other person of such infection, or administering any of the so-called "date rape" drugs (including Rohypnol, Ketomine, GHB, Burundanga, and others) for the purpose of engaging in sexual activity.

Non-Title IX Sexual Assault is prohibited under this Policy. Non-Title IX sexual assault includes conduct defined as follows, but that does not constitute Title IX Sexual Assault Prohibited Conduct as defined above because of the nature of the conduct or the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity):

- Non-Consensual Sexual Contact is defined as any intentional sexual touching, however slight, either directly or through clothing, with any body part or object without affirmative consent.
- Non-Consensual Sexual Act is defined as penetration and/or oral contact, however slight, with any body part or object of or with the genitals or anus of another person, without affirmative consent.

Non-Title IX Retaliation means any adverse action taken against a person for making a good faith report under this Policy, for testifying, assisting, or participating or refusing to participate in any manner in an investigation, proceeding, or hearing under this Policy, or for the purpose of interfering with any right or privilege under this Policy. Retaliation includes threatening, intimidating, harassing, coercing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy. Retaliation may be present even where there is a finding of "no responsibility" on the allegations of a violation of this Policy. Retaliation does not include good faith actions pursued in response to a report under this Policy. Complaints of retaliation in connection with reports made under this Policy may be addressed under the procedures provided in this Policy.

Non-Title IX Domestic Violence is defined as a felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the person against whom the violence is committed;
- a person with whom the person against whom the violence is committed shares a child in common;
- a person who is cohabiting with, or has cohabited with, the person against whom the violence is committed as a spouse or intimate partner;
- a person similarly situated to a spouse of the person against whom the violence is committed under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- 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 jurisdiction in which the crime of violence occurred;

if the conduct does not constitute Title IX Domestic Violence as defined above because of the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity).

This definition does not apply to roommates who have not expressed interest in entering into, or who have not entered into, a dating or sexual relationship.

Non-Title IX Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the violent act is/acts are committed, but that does not constitute Title IX Dating Violence as defined above because of the context in which it occurs (for example, because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity). The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Non-Title IX Stalking means a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that would cause a reasonable person to fear for personal safety or the safety of others or suffer substantial emotional distress, but that does not constitute Title IX Stalking as defined above because of basis on which it occurs or the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the

Complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity).

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

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass or to make unwelcome contact with another person in an unsolicited fashion.

C. Related Terms

The terms defined below apply to Title IX Prohibited Conduct and Non-Title IX Prohibited Conduct.

Affirmative Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

a) Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
b) Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
c) Consent may be initially given but withdrawn at any time.
d) Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
e) When consent is withdrawn or can no longer be given, sexual activity must stop.
f) Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

Coercion: Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear a decision not to participate in a particular form of sexual activity, a decision to stop, or a decision not to go beyond a certain sexual activity, continued pressure can be coercive. In evaluating whether coercion was used, the College will consider: (i) the nature of the pressure; (ii) the frequency of the application of the pressure, (iii) the intensity of the pressure, (iv) the degree of isolation of the person being pressured, and (v) the duration of the pressure.

Capacity to give consent: Incapacitation is a state where an individual lacks the ability to knowingly choose to engage in sexual activity. In assessing capacity, the College will consider whether the individual had the ability to understand the nature of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) and/or was physically helpless. Incapacitation may result from the use of alcohol and/or drugs, but consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affect an individual's:

- decision-making ability;
- awareness of consequences;
- ability to make informed judgments; and
- capacity to appreciate the nature and the quality of the act.

Persons who engage in sexual activity with someone who lacks the mental or physical capacity to consent (including being incapacitated by alcohol or other drug use or unconscious) are in violation of this Policy, and any consent perceived to have been obtained is invalid. Possession, use and/or distribution of any of the so-called "date rape" drugs (including Rohypnol, Ketomine, GHB, Burundanga, and others) is prohibited, and administering any of these drugs to another and engaging in sexual activity with that person is a violation of this Policy.

Individuals and Processes

Complainant: This term refers generally to an individual who has allegedly been subjected to Sexual Misconduct 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 Title IX Coordinator) accordingly. In some cases, the Title IX Coordinator may file a formal complaint and thereby initiate an investigation and adjudication process pursuant to this policy. In that instance, the Title IX Coordinator is not the "Complainant"; the Complainant remains the person who allegedly experienced the Sexual Misconduct.

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 Title IX Coordinator) accordingly.

Responsible Employees: Responsible Employees who receive information or a report about any act that potentially constitutes Sexual Misconduct must further report that information to the Title IX Coordinator. The following employees of the College are Responsible Employees: faculty, staff (except staff in the Counseling Center, the Health Center, and the Chaplains), and Resident Advisors. In addition, Responsible Employees are expected to make every effort to explain their duty to report to anyone disclosing, or about to disclose, information to them.

A College supervisor or manager who receives a complaint or information about workplace Sexual Harassment is required to take appropriate action. In all instances, appropriate action must include reporting the situation to the Director of Community Standards (Title IX Coordinator). Appropriate action may also include immediately intervening if the harassment is witnessed by the supervisor or manager. In addition to being subject to discipline if they themselves engage in sex discrimination, sexually harassing conduct, or retaliation, persons with supervisory authority over other College employees will be subject to discipline for knowingly allowing Sexual Harassment to continue.

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 Chair), appointed by the Title IX Coordinator 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 community may also nominate individuals for Board membership, provided the nominees are willing to serve if appointed. The Title IX Coordinator, 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 normally will be limited to members of the faculty who have attained the rank of associate or full professor, and full-time staff members. The Title IX Coordinator shall arrange for the Board members to receive annual training as required by this Policy. Members of the HSMB are required to maintain the privacy of all information they acquire in this role, unless disclosure is authorized by the Title IX Coordinator. Members of the HSMB can be removed prior to the end of their term by the Title IX Coordinator, with the agreement of the Chair of the HSMB (unless the member to be removed is the Chair), for good reason (e.g., dereliction of duty, failure to abide by the provisions of the Policy, etc.). The Title IX Coordinator may appoint, and train, additional Board Members as necessary.

Investigator(s): Individual(s) assigned by the Title IX Coordinator to conduct investigations following notice of alleged Sexual Misconduct. The Investigator(s) may be an appropriately

trained College employee or an external investigator(s) as deemed appropriate by the Title IX Coordinator. Upon receipt of a formal complaint, the Title IX Coordinator will assign the investigator(s) to begin the investigation. If the Title IX Coordinator determines that a legitimate conflict of interest exists between an Investigator(s) and a party to a complaint, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement. The Investigator(s) issues a report of the investigation to Title IX Coordinator, but does not make a recommendation with respect to responsibility for violating the Policy.

Harassment and Sexual Misconduct Review Panel (Review Panel): In each investigation involving student Respondents, the Title IX Coordinator will appoint a three person Review Panel to review the investigative report, attend the hearing, determine whether this Policy was violated, and, if so, impose a sanction. This Review Panel will ordinarily be comprised of two members of the HSMB and the Hearing Officer, but the Title IX Officer has the discretion to appoint other, appropriately trained, individuals to serve as necessary. If the Title IX Coordinator determines that a legitimate conflict of interest exists between a member of the Review Panel and a party to a complaint the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement from those members of the Board eligible to serve.

Hearing Officer: The individual assigned by the Title IX Coordinator to preside over the hearing process. In matters involving students, the Hearing Officer will moderate the hearing and deliberate with the members of HSMB appointed to serve on the Review Panel. In matters involving employees, the Hearing Officer will determine whether the Policy has been violated. The Hearing Officer may be an appropriately trained College employee or an external Hearing Officer as deemed appropriate by the Title IX Coordinator. If the Title IX Coordinator determines that a legitimate conflict of interest exists between a Hearing Officer and a party to a complaint, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement

Senior Staff Member: The Vice President who has supervisory authority over the area of the College with which the Respondent is affiliated, and who will (as outlined in this Policy) make a final decision on sanction following the Hearing Officer's recommendation. 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.

Appeals Board: The Sexual Misconduct Appeals Board shall be composed of the faculty members of the College Appeals Board. This is the group of individuals that considers appeals that are permitted under this Policy. The Sexual Misconduct Appeals Board will receive annual training on relevant state and federal law (including Title IX) and this Policy.

V. Protection from Retaliation

Hamilton prohibits Retaliation against individuals who pursue complaints or who are otherwise involved in any of the processes outlined in this Policy. The College views Retaliation as a serious

violation of this Policy that is subject to the same range of sanctions and responsive action as Sexual Misconduct. (Retaliation is defined in Article IV).

VI. Privacy and Confidentiality

Hamilton encourages the reporting of acts of Sexual Misconduct in order to help the College respond effectively to conduct that negatively impacts the safety of the community. The College also recognizes the importance of privacy and confidentiality. The following section describes how the College will maintain privacy while pursuing a complaint of Sexual Misconduct, and how it will respond to requests for confidentiality. (Information about confidential resources can be found in Article XXI)

A. General

In all cases of alleged Sexual Misconduct covered by this Policy, Hamilton will treat information as private and will, to the extent permitted by law, limit the disclosure of information to only those non-party individuals who are responsible for handling the College's response, and to those parties entitled to knowledge of the information in connection with processes undertaken pursuant to this Policy. Certain College administrators (e.g., the College President and Director of Campus Safety) may also be provided information on a need to know, private basis. In accordance with the Clery Act and other state and federal mandates, the College must also report information concerning the occurrence on campus of certain crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include any personally identifiable information. The College may issue a timely warning if a report of Sexual Misconduct presents information that there is an ongoing threat to the community. The announcement will include the nature of the violation and the action(s) being taken.

The College will normally not inform students' parents or guardians of their involvement in a complaint of Sexual Misconduct without their consent, but the Title IX Coordinator will speak with each party about their decision to personally inform their parents or guardians. College officials will directly inform a student's parents or guardians when requested to do so by the student, and may do so in emergency circumstances when necessary to prevent imminent harm or as otherwise permitted by law.

B. Requests for Confidentiality

If the Title IX Coordinator receives notice of an alleged incident of Sexual Misconduct under this Policy but the individual impacted requests confidentiality or otherwise asks that an investigation not be pursued, the Title IX Coordinator will make every effort to balance this request with Hamilton's policy of providing a safe and non-discriminatory environment for all members of the community. Honoring such a request may limit Hamilton's ability to conduct a thorough investigation and take appropriate disciplinary action. The Title IX Coordinator will consider many factors when determining whether the College can honor the request for confidentiality and/or

the request that the College take no investigatory or disciplinary action, including but not limited to whether:

- the Respondent has a history of violent behavior or is a repeat offender;
- the incident represents escalation in unlawful conduct on behalf of the Respondent from previously noted behavior;
- the individual impacted is a minor;
- the information provided suggests an increased risk that the Respondent has committed prior acts or will commit additional acts;
- the alleged misconduct was perpetrated with a weapon or force;
- the alleged misconduct was committed by multiple perpetrators;
- the information provided suggests that the act is part of a larger pattern at a specific location or by a particular group; and/or
- information can be obtained by means other than from the impacted individual (e.g., by personnel or security cameras, witnesses, or through physical evidence).

If confidentiality cannot be maintained, the impacted individual will be informed of the decision prior to the start of an investigation. In appropriate cases, the course of action may include steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

In the event that the College proceeds with an investigation and is unable to maintain confidentiality, the College will continue to evaluate methods and measures to protect the reporting individual or Complainant from retaliation or harm. The Title IX Coordinator will work with the Complainant to create a safety plan. Retaliation against the reporting individual or Complainant, whether by students or College employees, will not be tolerated.

Regardless of a request for confidentiality and the College's decision with respect to that request, the College will also:

- assist the Complainant in accessing other available advocacy support, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus, as appropriate;
- provide other supportive measures, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the Respondent pending the outcome of an investigation) or adjustments for assignments or tests (see Article VIII); and
- inform the Complainant of the right to report a crime to local law enforcement and provide assistance if the reporting individual wishes to do so.

VII. Rights of Parties

A. Common Rights

Each party has the right to:

- be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available;
    - In the case of students, medical and emotional support from the Student Health Service, the Counseling Center, and/or trained advocates;
    - In the case of employees, medical and emotional support through the College's Employee Assistance Program (1-800-834-3947);
- have disclosures of Sexual Misconduct treated seriously;
- make a report to local law enforcement and/or state police;
- make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
- describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- preservation of privacy, to the extent possible and allowed by law;
- receive 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 depending on their status as a student or an employee):
    - placement of limitations on contact between the parties 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/or 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;
- be protected from Retaliation by the College, any student, the other party, and/or the other party's friends, family, and acquaintances within the jurisdiction of the College;
- participate in a process that is fair, timely, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College;
- be informed of campus judicial rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- be informed in advance of any meeting they are required or eligible to attend, the purpose of the meeting and the rules allegedly violated and potential sanctions (if not previously advised);
- receive the counsel and support of an advisor (as more fully described below) throughout the investigation and resolution processes;
- provide information at any step of the procedures outlined in this Policy outside the

physical presence of the other party;

- have their own irrelevant mental health diagnosis and/or treatment excluded from consideration by the Review Panel for purposes of determining responsibility;
- have other irrelevant information concerning character or incidents not directly related to the complaint excluded from the investigation and resolution proceedings (the HSMB Chair, Title IX Coordinator, or other appropriate person may determine that information about unrelated incidents demonstrating a pattern of behavior directly related to the alleged violation is relevant, and therefore admissible, information);
- be informed of the names of any additional individuals who have provided information to be considered in determining responsibility and/or sanctioning (as applicable);
- have the College request the presence of individuals at investigative and resolution proceedings (as appropriate);
- petition the Title IX Coordinator for removal of any Investigator(s) or member of the Review Panel (where applicable) on the basis of demonstrated bias or conflict of interest;
- have complaints investigated and adjudicated in a timely, impartial, and thorough manner, by individuals who have received annual training in conducting investigations and/or adjudication (as applicable) of allegations of sexual violence, the effects of trauma, impartiality, the rights of the Respondent (including the right to a presumption that the Respondent is "not responsible" until a responsibility determination has been made), and other issues relating to Sexual Misconduct;
- review all documentary information obtained during the investigation that is directly related to the allegations in the complaint, subject to the confidentiality limitations imposed by state and federal law and College policy;
- submit a personal impact statement prior to the consideration of any sanction;
- have College policies and procedures followed without material deviation;
- an outcome based solely on information obtained by the Investigator(s) and during the Review Panel hearing or other applicable proceeding;
- be notified of the findings as to responsibility and sanction (where applicable); and
- appeal determinations as to responsibility and sanction, in accordance with the standards for appeal established by this Policy.

B. Additional Rights of the Complainant

A Complainant has the right to:

- be informed by College officials of options to notify appropriate law enforcement authorities and the option to be assisted by campus officials in notifying such authorities whether or not the individual intends to pursue on-campus complaint resolution procedures;
- be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such

crimes or violations;

- have their own past sexual history with persons other than the other party precluded from consideration for purposes of determining responsibility, except as specifically provided in this Policy;
- file a report of Sexual Misconduct and consult the Title IX Coordinator and other appropriate College personnel for information and assistance;
- receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court (e.g. orders of protection), such assistance to consist of facilitation in contacting appropriate local agencies (e.g., YWCA), who can provide direct assistance with court proceedings; and
- withdraw a complaint or involvement from the College processes at any time, with the understanding that in appropriate cases, the College may nonetheless be required to proceed even if the reporting individual does not wish to do so (see Article VI, Privacy and Confidentiality).

C. Additional Rights of the Respondent

A Respondent has the right to:

- receive written or electronic notice, prior to any meeting the Respondent is required to or eligible to attend, of the date, time, location and factual allegations made, the specific provisions of the Policy allegedly violated, and the possible sanctions;
- a presumption that the Respondent is "not responsible" until a finding ofresponsibility has been made;
- review the complaint made;
- have their own irrelevant past sexual history with persons other than the other party precluded from consideration for purposes of determining responsibility;
- waive Review Panel or other proceedings by admitting responsibility (in which case, the Senior Staff Member, in consultation with the Title IX Coordinator and Chair of the HSMB, will determine a sanction) (see Article XI, Section E); and
- withdraw from the College, subject to Article XI, Section F, of this Policy.

VIII. Supportive Measures; Emergency Removal

Supportive Measures

Upon receipt of a report pursuant to this Policy, the College will evaluate and if warranted implement reasonable and appropriate supportive measures designed to restore or preserve, to the extent practicable, equal access to the College's educational programs and activities and protect the safety of all parties without unreasonably burdening the other party or parties. Supportive measures may be imposed at any time regardless of whether formal disciplinary action is sought by the Complainant or the College and may be imposed prior to the commencement of, during, or upon conclusion of an investigation. When the College receives a

report of potential Sexual Misconduct, the College will inform the individual(s) who may have experienced Sexual Misconduct that they may receive supportive measures whether or not they pursue a formal complaint. Once the Respondent is informed of a report or a formal complaint, the Respondent will be contacted by the Title IX Coordinator and informed that they may receive supportive measures. Supportive measures will be kept confidential to the extent that maintaining confidentiality will not impair the ability of the College to provide the interim measures.

As required by federal regulation, supportive measures must be non-disciplinary and non-punitive to the parties. A party may request of the Title IX Coordinator some form of supportive measure, or the College may choose to impose supportive measures at its discretion to enhance the safety of all parties, the broader College community, and/or the integrity of the investigative and/or complaint resolution process.

Possible supportive measures include (but may not be applicable depending on the parties' status as students or employees):

- mutual "No Contact" orders and, in certain cases, one-way no contact orders;
- changing class schedules, including the ability to transfer course sections orwithdrawal from a course without penalty;
- changing work schedules or job assignments;
- changing a student's College owned housing;
- rescheduling of exams, papers, or other assignments;
- taking an incomplete in a class;
- transferring class sections;
- alternative course completion options;
- access to counseling services on- and off-campus and assistance in setting up an initial appointment;
- limiting an individual's or organization's access to certain Colleges facilities or activities pending resolution of the matter;
- voluntary leave of absence;
- providing an escort between classes and activities;
- providing medical services;
- providing academic support services, such as tutoring;
- any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy.

The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various College departments and offices that may be involved. Supportive measures will be offered free of charge.

All individuals are encouraged to report concerns about the failure of another individual or organization to abide by restrictions imposed by a supportive measure. The College will take prompt and responsive action to enforce a previously implemented measure.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. In addition, an individual may also seek a prompt review of the need for and/or terms of any supportive measure that directly affects said individual, by submitting a written request for review to the Title IX Coordinator, providing the basis for that request and any evidence in support. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measure under review affects that party. Information about how to request a review will be included in a written communication to each party that will outline the supportive measures offered and any that were requested by the party but denied.

Emergency Removal

When a student accused of Sexual Misconduct is determined to be an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct, the College may undertake an emergency removal of the student from some or all College programs or activities pending the outcome of any proceedings under this Policy. Prior to effectuating an emergency removal of a student, the College will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student, including the student Respondent, or other individual justifies removal, then a student Respondent will be removed. This is the case regardless of the severity of the allegations and regardless of whether a formal complaint was filed. Both the Complainant and the Respondent will, upon written request, be afforded an opportunity for a review of the need for and/or terms of an emergency removal, including potential modification, by the Vice President and Dean of Students. Parties desiring such a review should by submit a written request to the Title IX Coordinator, providing the basis for that request and any evidence in support.

The emergency removal process applies only to student Respondents. Employee Respondents are not subject to this section and may be placed on administrative leave pursuant to the College's employment policies and practices (including applicable collective bargaining agreements).

IX. Amnesty Related to Other Policy Violations

The health and safety of every student at the College is of utmost importance. Hamilton recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to sexual harassment, sexual exploitation, sexual assault, domestic violence, dating violence, or stalking, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Hamilton strongly encourages students to report incidents of sexual harassment, sexual exploitation, sexual assault, domestic violence, dating violence, or stalking to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that

discloses any incident of sexual harassment, sexual exploitation, sexual assault, domestic violence, dating violence, or stalking to College officials or law enforcement will not be subject to College code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the sexual harassment, sexual exploitation, sexual assault, domestic violence, dating violence, or stalking.

Persons cooperating by furnishing information in good faith in connection with College processes under this Policy (whether as Complainants, Respondents, or witnesses), or in connection with law enforcement proceedings arising out of reported incidents of Sexual Misconduct, will not be subject to College code of conduct action for violations of alcohol and/or drug use policies, or other minor conduct offenses (i.e., those that can be expected to result in sanctions no more than probationary status) based on their conduct occurring at or near the time of a reported incident of Sexual Misconduct.

X. Informal Resolution

In cases where a formal complaint (as described in Article XI) has been filed, but where the Title IX Coordinator and HSMB Chair determine that mediation or a restorative justice process may be appropriate, the Title IX Coordinator will first consult with the Complainant about the option to pursue one of these alternative processes. If the Complainant is agreeable, then the Title IX Coordinator will consult with the Respondent to discuss the mediation or restorative justice process. If both parties are agreeable to the proposed informal resolution process, mediation or a restorative justice process will be coordinated by the Title IX Coordinator. Either party or the College may discontinue the informal resolution process at any time. The mediator or restorative justice facilitator will report to the Title IX Coordinator and the HSMB Chair the results of the process, which are subject to the acceptance of the Title IX Coordinator.

In implementing an informal resolution the College will:

- Provide to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- Obtain the parties' voluntary, written consent to the informal resolution process.

The College will not use informal resolutions to resolve allegations that an employee sexually harassed a student.

XI. Formal Resolution Procedures

In cases of alleged Sexual Misconduct under this Policy, where an informal resolution is not used or if used is not successful, the following process will apply. This process may involve the Chair of the HSMB, the appropriate Senior Staff Member, the Title IX Coordinator, an Investigator(s), and a Hearing Officer and/or the Review Panel. In the event the Complainant, Respondent, Chair of the HSMB, or Title IX Coordinator identifies a conflict of interest involving the Chair or the Title IX Coordinator, the appropriate Senior Staff Member will appoint another member of the HSMB to oversee the process.

A. Formal Complaint

Reports of Sexual Misconduct may be made orally or in writing, and may come from the report of a Responsible Employee, directly from a Complainant, or from a third party. This will be considered "notice" that an act of Sexual Misconduct is alleged to have occurred. In order to proceed with a formal resolution the Complainant, or in certain instances the Title IX Coordinator, must file a formal complaint. The formal complaint must contain information about the alleged Sexual Misconduct by the Respondent and request that the College conduct an investigation into the alleged Sexual Misconduct. The formal complaint may be provided to the Title IX Coordinator by mail, electronic mail, or delivered in person. The formal complaint must include the Complainant's physical or electronic signature or otherwise indicate that the Complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party under this Policy.

Based on the formal complaint, the College will issue a Notice of Complaint. The Notice of Complaint will include, to the extent known, the identities of the parties involved in the alleged incident(s), the conduct allegedly constituting a violation of the Policy, the Policy provisions allegedly violated, and the date, time and location of the alleged incident(s). The Notice of Complaint will also include the following:

- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A description of the investigation and adjudication process.
- A statement informing the parties that they may have an advisor of their choice as provided by this Policy, who may be, but is not required to be, an attorney.
- A statement that the parties may inspect and review evidence in accordance with this Policy.
- A description of potential sanctions.
- A statement, where applicable, that the College's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the processes contemplated by this Policy.

If, in the course of the investigation, the College decides to investigate allegations that are not

included in the notice initially provided to the parties, the Title IX Coordinator will provide notice of the additional allegations to the parties.

The Title IX Coordinator will meet with the Complainant, provide a copy of the Notice of Complaint, and explain the investigation and hearing procedures that will be followed. The Title IX Coordinator will meet separately with the Respondent to provide a copy of the Notice of Complaint, explain that Hamilton is investigating the possibility that the Respondent may have violated this Policy, and explain the investigation and hearing procedures that will be followed. Both parties will also receive a copy of this Policy. The parties will receive the Notice of Complaint with sufficient time to prepare a response before any initial interview.

Dismissal of Complaint or Specific Allegations

In order to comply with Title IX regulations, the Title IX Coordinator must "dismiss" allegations of Title IX Prohibited Conduct if at any time the College learns that the allegations do not meet the definition of Title IX Prohibited Conduct set forth in Article IV, due to factors such as the nature of the alleged conduct, because the alleged conduct did not occur in the College's education program or activity, because the alleged conduct did not occur against a person in the United States, or because the Complainant is not participating in or attempting to participate in an education program or activity of the College when the complaint is filed. Even if Title IX Prohibited Conduct allegations are subject to dismissal, the College reserves the right to continue to process the allegations as Non-Title IX Prohibited Conduct allegations if the allegations, if true, would constitute Non-Title IX Prohibited Conduct, or to proceed under another applicable College policy.

The College may also (but is not required to) dismiss the complaint, or specific allegations within the complaint, under the following circumstances:

- the Complainant notifies the Title IX Coordinator, in writing, that the Complainant would like to withdraw the formal complaint or any allegations therein;
- the Respondent is no longer enrolled or employed by the College; or
- specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the College dismisses the complaint in whole or in part and/or discontinues the formal resolution process, the College will inform both parties of the decision, the reason for the action, and whether the College intends to proceed under this Policy or another College Policy. A decision to dismiss a complaint, or an allegation of Title IX Prohibited Conduct in a complaint, is immediately appealable pursuant to the applicable process specified in Section I.

B. Overall Time Frame for Investigation and Complaint Resolution

1. Formal Resolution Process

The College has established time frames with the goal of addressing and reaching a determination about all complaints in a timely and efficient manner. In general, the College will endeavor to conclude all reports of Sexual Misconduct within ninety (90) days (exclusive of any appeal) and, in general, parties can expect that the process will proceed according to this and other time frames provided in this Policy. However, because circumstances may arise that require the extension of time frames—including possibly beyond the overall ninety (90) day timeline— all time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break, or vacation or other unforeseen circumstances. The College will provide written notice to all parties of the reason for any delay and the expected adjustment in time frames. The College will make its best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

2. Appeals

The College will seek to resolve any appeals within a reasonably prompt time frames as appropriate for the nature of the appeal. The College will endeavor to complete the appeals process in two (2) weeks, subject to extension based on the complexity of the investigation and/or appeals materials.

3. Informal Resolutions

The College will seek to resolve informal resolution processes within a reasonably prompt time frames as appropriate for the resolution process. The College will provide written notice to all parties of the reason for any delay and the expected adjustment in time frames.

C. Advisors

Each party in a formal or informal resolution process may have their advisor of choice present at any interview or other meeting related to the investigation and resolution process in which the party participates. Except as provided in the hearing procedures described in Section H, advisors can only advise the Complainant or Respondent privately and cannot act as speaking advocates in the investigation, adjudication, or informal resolution process. If an advisor does not adhere to these or other applicable ground rules, the advisor will be dismissed from the interview or other meeting or proceeding, which will continue without opportunity for the advisee to secure a new advisor (except as provided in the hearing procedures described in Section H). If an advisor is going to accompany a party, that party must advise the Title IX Coordinator of the identity of the advisor upon making that decision. Neither members of the HSMB nor the Appeals Board may serve as advisors. The College will determine its own schedule for interviews and other meetings, and it is incumbent upon each party to ensure that the party's advisor is available.

The role of an advisor in the Hearing Process is discussed in detail below.

D. Multiple Parties/Charges

When multiple charges and/or parties are involved, including charges by and against individuals with different statuses (e.g. faculty and student), the Title IX Coordinator, in consultation with the HSMB Chair, will determine the appropriate procedures to be used, including varying from these procedures as may be necessary. Normally, multiple contemporaneous charges against the same Respondent, even when brought by multiple Complainants, will be investigated by a single Investigator(s). Absent the consent of the Respondent, the Title IX Coordinator will convene separate Review Panels to hear complaints by different Complainants against the same Respondent. Otherwise, the Title IX Coordinator may determine that cases where the allegations arise out the same set of facts should be consolidated for purpose of the investigation and/or adjudication. Instances where consolidation of complaints may occur include but are not limited to cross-complaints filed by the parties against each other, multiple complaints by a single Complainant against a Respondent, or multiple complaints by a single Complainant against multiple Respondents.

E. Respondent Acceptance of Responsibility

The Respondent, with the Senior Staff Member's agreement, may accept responsibility for alleged conduct. A Respondent choosing this path must provide the Senior Staff Member and the Title IX Coordinator a written statement accepting responsibility for the alleged conduct and waiving any further process under this Policy. In such cases, the appropriate Senior Staff Member – in consultation with the Chair and Title IX Coordinator – will determine a sanction, which may range from a warning to permanent separation from the College. The full range of sanctions is listed in below in Section H. By accepting responsibility, the Respondent waives any right to appeal the finding of Responsibility. The Respondent may appeal the imposed sanction pursuant to the process in below in Section I. If the Respondent does not agree to accept responsibility and disputes the description of alleged conduct, the process below will proceed.

F. Respondent Withdrawal

Should a student Respondent choose to withdraw from the College with knowledge that a formal complaint against the Respondent has been made under this Policy and prior to the Hearing Panel's final decision, the Respondent's transcript will note that a complaint had been made at the time of withdrawal as described below in Section H. The College reserves the right, notwithstanding a withdrawal, to proceed with consideration of any complaint to completion and, if appropriate, impose a sanction.

G. Investigation of Formal Complaint

1. General

Hamilton College uses an investigation and hearing model to resolve complaints of Title IX and Non-Title IX Sexual Misconduct that are not appropriate for voluntary mediation or a restorative

justice process, or where either party does not want to pursue an informal resolution process.

A trained Investigator(s) will interview the parties and witnesses and collect relevant information. The Investigator(s) is authorized to contact any relevant people and to access any relevant and available records not otherwise prohibited by legal protections of privilege or confidentiality. It is the responsibility of the Investigator(s) to take custody of, and arrange safekeeping for, any physical or electronic records, documents, or other tangible items obtained during the investigation.

The Investigator(s) will make every effort to conclude a thorough investigation, including submission of the written report, within sixty (60) days (absent circumstances such as school breaks and examination periods) of delivery of the notice of investigation. 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.

The Complainant and Respondent may have an advisor of choice present at any interview or other meeting related to the investigation and resolution process in which the party participates. In all cases, except to the extent provided in the hearing procedures described below in Section H, advisors can only advise the Complainant or Respondent privately and cannot act as speaking advocates. If an advisor does not adhere to these or other applicable ground rules, the advisor will be dismissed from the interview or other meeting, which will continue without opportunity for the advisee to secure a new advisor (except as provided in the hearing procedures).

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

The Complainant and Respondent will be invited to offer and/or identify all information they would like the Investigator(s) to review, and both may recommend witnesses and submit information for consideration, including proposed questions to be posed by the Investigator(s) to parties and witnesses. Decisions about interviews and collection and evaluation of relevant information, physical or electronic documents, and other tangible items, however, are ultimately at the discretion of the Investigator(s) in the context of impartial treatment of both parties. In the course of conducting interviews, the Investigator(s) will ask the interviewed individual to sign a statement attesting to, or otherwise verifying, the veracity of the information provided.

Once the investigation is complete, the Investigator will prepare a draft investigation report. The Complainant and Respondent will then be provided an equal opportunity to review the draft investigation report and to inspect and review any evidence obtained in the investigation that is directly related to the allegations, and regardless of whether the information will be relied on in reaching a determination. The parties and their advisors will be provided a copy (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform) of the draft investigation report and the evidence, subject to redaction permitted and/or required by law. Both parties will have an opportunity to respond to this information, in

writing, within ten (10) days, and the Investigator(s) will consider the parties' responses prior to completion of the final investigative report. If following the submission of these responses the Investigator(s) determine(s) that additional investigation is necessary and new information is gathered that is directly related to the allegations, it will be shared with the Complainant and Respondent and their advisors, and the parties will again have the opportunity to submit a written response as described above.

Following the review and response process described above, the Investigator(s) will complete their final written report and meet with the Chair and Title IX Coordinator to deliver that final written report. The Investigator(s) need not include information in the investigative report that the Investigator(s) determine(s) not relevant or otherwise excludable. The Title IX Coordinator will notify the Complainant and Respondent of the completion of the investigative report. The Complainant and Respondent, and their respective advisors, will be provided a copy of the final investigative report (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform), subject to redaction permitted and/or required by law, for review and (if desired) written response.

H. Hearing Procedures

General

A hearing will be convened not less than ten days after the parties have been provided access to the final investigative report, for the purpose of determining whether the Respondent is responsible or not responsible for the charge(s). In matters involving student Respondents, a Hearing Officer will preside over the hearing and the Review Panel, comprised of HSMB members and the Hearing Officer, will determine whether the Respondent is responsible or not responsible. In matters involving employee Respondents, a Hearing Officer will preside over the hearing and determine whether the Respondent is responsible or not responsible.

The Title IX Coordinator will notify the parties in writing of the date, time, and location of the hearing, the name[s] of the Review Panel members and/or Hearing Officer, and how to challenge participation by any Review Panel member and/or Hearing Officer for bias or conflict of interest.

Participants in the hearing will include the members of the Review Panel, where relevant, the Hearing Officer, the Complainant and the Respondent, their respective advisors, the HSMB Chair, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability. The hearing will be recorded by the College. Cell phones and recording devices may not be used by the parties or their advisors in the hearing room(s).

The parties and their advisors will be required to participate in a pre-hearing conference, convened by the Hearing Officer, to review applicable procedures and ground rules and to address any questions in advance of the hearing.

Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling the Review Panel, where relevant, Hearing Officer and the parties to simultaneously see and hear any party or witness providing information or answering questions. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence.

The Title IX Coordinator may postpone the hearing for good cause as determined by the Title IX Coordinator. Good cause may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

Procedural Matters

The Hearing Officer is in charge of organizing the presentation of information to be considered at the hearing. Generally, the hearing will proceed in the following order:

1. Opportunity for Opening Statement by the Complainant
2. Opportunity for Opening Statement by the Respondent
3. If requested by the Hearing Officer, the Investigator may provide a summary of the results of the investigation by the investigator(s)
4. If the investigator is called as a witness, q-uestions for the investigator(s) by the Review Panel and/or Hearing Officer and, if desired, on behalf of Complainant and the Respondent (as described below)
5. Questions for the Complainant by the Review Panel and/or Hearing Officer and, if desired, on behalf of the Respondent (as described below)
6. Questions for the Respondent by the Review Panel and/or Hearing Officer and, if desired, on behalf of the Complainant (as described below)
7. Questions for each witness by the Review Panel and/or Hearing Officer and, if desired, on behalf of Complainant and the Respondent (as described below)
8. Opportunity for Closing Statement by the Complainant
9. Opportunity for Closing Statement by the Respondent

Formal rules of evidence will not apply. Except as otherwise expressly prohibited by this Policy, any information that the Hearing Officer determines is relevant may be considered, including hearsay, history and information indicating a pattern of behavior, and character evidence. All evidence previously made available to the parties for inspection and review prior to completion

of the investigative report as described above in Section G will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of questioning. Absent extraordinary circumstances as determined by the Hearing Officer, no party may seek to introduce at the hearing any evidence not previously made available in accordance with the preceding sentence, other than the investigative report itself and any responses to the investigative report submitted by the parties pursuant to Section G.

The Hearing Officer will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant information. Subject to the terms of this Policy, the Hearing Officer will have discretionary authority to determine all questions of procedure, to determine whether particular questions, evidence or information will be accepted or considered, to call breaks or temporary adjournments of the hearing, to alter the order of the proceedings from that described above, and/or to recall parties or witnesses for additional questions as the Hearing Officer deems necessary or appropriate. The Hearing Officer may impose additional ground rules as the Hearing Officer may deem necessary or appropriate for the orderly and efficient conduct of the hearing, which will apply equally to both parties.

Advisors

The Complainant and the Respondent may each have present with them during the hearing an advisor of their choice (at the party's expense, if the advisor is a paid advisor). If a party does not have an advisor present at the hearing, the College will provide, without fee or charge to that party, an advisor of the College's choice. Where the College provides the advisor, the College will do so in advance of the hearing in order to provide the party and their advisor a reasonable opportunity to prepare for the hearing. The advisor will work with the party throughout the hearing and then after the hearing as necessary (i.e. in the appeal process).

Except with respect to questioning as described below, the advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, address the Review Panel, where relevant, or the Hearing Officer during the hearing, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in a quiet nondisruptive manner or in writing. The advisor may consult with the advisee verbally outside the hearing during breaks, when such breaks are granted by the Hearing Officer. An advisor's questioning of the other party and any witnesses must be conducted in a respectful, nonintimidating, and non-abusive manner. If the Hearing Officer determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor; provided, however, that the College will assign an advisor of the College's choosing, without charge, for the purpose of conducting questioning on behalf of the party as provided below.

Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation. The Hearing Officer, and the Review Panel in matters involving the Review Panel, may be advised by and/or consult with the College's legal counsel as the Hearing Officer deems necessary or appropriate.

Questioning Procedures

The Hearing Officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility; provided that questions that seek disclosure of information protected under a legally recognized privilege will not be permitted unless the person or entity holding the privilege has waived the privilege in writing. Questioning must be conducted by the party's advisor in a respectful, nonintimidating, and non-abusive manner, and never by a party personally. If a party does not have an advisor present at the hearing, the Title IX Coordinator will arrange for the College to provide without fee or charge to that party, an advisor of the College's choice to conduct questioning on behalf of that party.

Only relevant questions may be asked by a party's advisor to a party or witness. Before the party or witness answers a question posed by an advisor, the Hearing Officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The advisor posing the question may request that the Hearing Officer reconsider any decision to exclude a question and the Hearing Officer, after soliciting the other party's advisor's opinion, will render a final determination. Such decisions by the Hearing Officer are final and not subject to further objection or reconsideration during the hearing.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, other than questions and evidence about the Complainant's prior sexual behavior that (a) are offered to prove that someone other than the Respondent committed the alleged misconduct, or (b) concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a party or witness does not submit to questioning by a party's advisor at the hearing, the hearing panel may nevertheless rely on statements of that party or witness, during the hearing or otherwise, in reaching a determination regarding responsibility, but may also determine what (if any) significance to afford those statements in view of the lack of cross examination (for example, the hearing panel may determine whether the statements are sufficiently reliable in the absence of cross examination). The hearing panel will not, however, draw an inference as to responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions posed by the other party's advisor.

Hearing Determinations

Following conclusion of the hearing, the decision maker(s) (either the Review Panel including the Hearing Officer or, in matters involving employees, the Hearing Officer individually) will deliberate and render a determination (by majority vote, if the decision is made by the Review Panel) as to whether the Respondent is responsible or not responsible for the alleged violation(s). The decision maker (either the Review Panel or Hearing Officer) will use "preponderance of the evidence" as the standard of proof to determine whether each alleged violation of the Policy

occurred. “Preponderance of the evidence” means that the decision maker (either the Review Panel or Hearing Officer) must determine whether, based on the evidence presented, it is more likely than not that the Respondent engaged in the conduct charged.

If the decision maker (either the Review Panel or Hearing Officer) determines that the Respondent is responsible for one or more violations, the Complainant and Respondent will be invited by the Title IX Coordinator to submit a personal impact statement that will be provided to the decision maker (either the Review Panel or Senior Staff Member) for consideration in determining appropriate recommended sanctions. The Title IX Coordinator will set the time frame for the submission of personal impact statements which normally will be no less than 3 days. The Title IX Coordinator will provide each of the parties an opportunity to review any statement submitted by the other party.

In addition to the impact statement(s), if any, factors considered when determining sanctions may include:

- the nature and severity of, and circumstances surrounding, the violation(s);
- the Respondent’s state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.);
- the Respondent’s previous disciplinary history;
- the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct;
- the need to remedy the effects of the conduct on the Complainant and/or the community;
- the impact of potential sanctions on the Respondent;
- sanctions imposed by the College in other matters involving comparable conduct; and
- any other lawful factors deemed relevant by the decision maker.

In cases involving student Respondents, the Review Panel will assess sanctions for any violations. The following are the sanctions that may be imposed upon students or organizations singly or in combination:

- Warning: Notice, orally or in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- Mandatory educational workshop or service.
- Loss of status in housing lottery.
- Status of probation: To be assigned for a specified period of time. Terms of the probation shall be specified, and may include denial of specified social or other campus privileges, exclusion from extracurricular activities, exclusion from study abroad or other off campus programs, and other measures deemed appropriate. Violation of this Policy or the College’s Code of Conduct during the period of probation may result in suspension or expulsion from the College.
- Suspension: Separation from the College, and exclusion from College premises, and from other privileges and activities. Readmission to the College after the term of suspension is

not automatic, but requires application to the Dean of Students.

- Expulsion: Permanent termination of student status, and exclusion from College premises, privileges, and activities. An application for readmission shall not be considered. Students who have been expelled are expected to leave the campus within 48 hours unless the Dean of Students grants a special extension.
- Other Actions: In addition to or in place of the above actions, the Review Panel may recommend, and/or the Senior Staff Member may assign, such other penalties as deemed appropriate.

Transcript Notation: For those crimes of violence that the College is required by federal law to include in its Annual Security Report, the transcripts of suspended or expelled students found responsible after a hearing and appeal, if any, will include the notation "Suspended after a finding of responsibility for a code of conduct violation" or "Expelled after a finding of responsibility for a code of conduct violation." A student who has been suspended may request to have the notation removed no sooner than one year after the conclusion of the suspension. Requests should be submitted in writing to the Dean of Students. Transcript notations for expulsion may not be removed. In pending cases that could result in suspension or expulsion, the Dean of Students will normally place a temporary encumbrance on a student's transcript. If a student withdraws with such charges pending and does not participate through completion in any College process, the notation "Withdrew with code of conduct charges pending" will appear on the student's transcript.

In cases involving faculty or staff Respondents, the Hearing Officer will share the finding of responsibility with the Senior Staff Member, who will impose the sanction. The following are the sanctions that may be imposed upon faculty or staff:

- Warning
- Required counseling as a condition of continued employment or return to employment
- Implementation of a performance improvement plan
- Loss of annual pay increase
- Demotion
- Suspension with pay
- Suspension without pay
- Termination

- Other lawful actions deemed appropriate.

Notice of Outcome

The decision maker (either the Review Panel or Hearing Officer) will issue a written determination including the following information:

- A description of the charges that were adjudicated;

- A description of the procedural steps taken from the submission of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

- Findings of fact supporting the determination;

- Conclusions regarding the application of the Policy to the facts;

- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the College's educational programs or activities will be provided to the Complainant; and

- The procedures and permissible bases for the Complainant and Respondent to appeal.

The Senior Staff Member, and the Title IX Coordinator, will provide the written determination, and final sanction if relevant, to the parties simultaneously.

I. Appeals

1. 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 Title IX Coordinator and Chair of the HSMB that an appeal request has been made. The Title IX Coordinator 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 H-SMB, the Hearing Officer, and the Title IX Coordinator 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 Title IX Coordinator 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 Title IX Coordinator and the HSMB Chair may redact information that is irrelevant or otherwise violative of this Policy.

The Chair of the Appeals Board will schedule meetings for consideration and disposition of the appeal after all materials are received, which should be within one week of the Board's decision, or as soon as practicable thereafter, to hear the appeal. In considering the appeal, the Appeals Board may request additional information from the Title IX Coordinator, the Hearing Officer, or the Chair of the HSMB. Normally, the parties, Title IX Coordinator, the Hearing Officer, and Chair of the HSMB will not appear before the Appeals Board, though they may be summoned at the discretion of the Chair of the Appeals Board.
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 Title IX Coordinator 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 Title IX Coordinator 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 Title IX Coordinator, 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 Title IX Coordinator.

Decisions of the Appeals Board are final.

2. When the Respondent is a Faculty Member

Either party may request an appeal of 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 appeal are limited to:

- a sanction inconsistent with the severity of the violation or otherwise inappropriate;
- procedural irregularity that affected the Hearing Officer's or Senior Staff Member's determination or the determination regarding dismissal (the President's and Vice President's judgment on the merits should not be substituted for that of the Hearing Officer and Senior Staff Member);
- 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 Senior Staff Member that affected the Hearing Officer's or Senior Staff Member'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 Hearing Officer's or Senior Staff Member's determination or the determination regarding dismissal.

The appeal will be considered by the President and a Vice President not otherwise involved in

the matter, as selected by the Title IX Coordinator. On appeal, the President and Vice President may uphold the original determination, remand the matter for either further consideration by the Hearing Officer, the Senior Staff Member and/or Investigator(s), or modify or reject the determination. The President and Vice President's decision is final, subject to the rights of the parties to appeal any proceedings ordered on remand. In the event the President and Vice President do not agree, the Title IX Coordinator will appoint to the panel another Vice President not involved in the matter.

3. When the Respondent is a Staff Member

Either party may request an appeal of 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;
- a procedural irregularity that affected the Hearing Officer's or Senior Staff Member's determination or the determination regarding dismissal (the President's and Vice President's judgment on the merits should not be substituted for that of the Hearing Officer and Senior Staff Member);
- 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 Senior Staff Member that affected the Hearing Officer's or Senior Staff member'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 Hearing Officer's or Senior Staff Member's determination or the determination regarding dismissal.

The appeal will be heard by the President and a Vice President not otherwise involved in the matter, as selected by the Title IX Coordinator. On appeal, the President and Vice President may uphold the original determination, remand the matter for either further consideration by the Hearing Officer, the Senior Staff Member and/or Investigator(s), or modify or reject the determination. The President and Vice President's decision is final, subject to the rights of the parties to appeal any proceedings ordered on remand. In the event the President and Vice President do not agree, the Title IX Coordinator will appoint to the panel another Vice President not involved in the matter.

XII. Guests and Non-College Community Members

The College expects all guests to be able to participate in its programs and offerings (to the extent otherwise appropriate) without experiencing Sexual Misconduct related to those programs and offerings. 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 guests or other non-community members believe they have been subjected to Sexual Misconduct by a member of the College community in connection with a College program or offering, they may request that the conduct be addressed pursuant to the applicable process under this Policy.

If College community members believe they have been subjected to Sexual Misconduct by a guest or other non-community member in connection with a College program or offering, they should make a report to the Title IX Coordinator, who will work with Campus Safety or other College officials to conduct an appropriate investigation. The officials will report their findings to the Title IX Coordinator for action. The decision of the Title IX Coordinator in such matters will be final.

XIII. Conflicts

If the Title IX Coordinator determines that a legitimate conflict of interest exists between an Investigator(s), Hearing Officer, or a member of the Review Panel and a party to a complaint, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement. In the event the Complainant, Respondent, Chair of the HSMB, or Title IX Coordinator identifies a conflict of interest involving the Chair or the Title IX Coordinator, the appropriate Senior Staff Member will appoint another member of the HSMB to oversee the process.

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 of Trustees (or the Vice Chair of the Board of Trustees if the charge is against the Chair), who may appoint different individuals to any role under this Policy as the Chair (or Vice Chair) deems appropriate to ensure a fair and appropriate process.

XIV. Coordination with Other Policies

A particular situation may potentially invoke one or more College policies or processes. The Title IX Coordinator, in consultation with other College officials, reserves the right to determine the most applicable policy or process and to utilize that policy or process.

XV. Records

The Title IX Coordinator shall keep on file in the Title IX office for seven years the following written documentation:

- Each Sexual Misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript made in connection with a formal resolution, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
- Any appeal and the result therefrom;

- Any informal resolution and the result therefrom; and
- Any materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. The College will make these training materials publicly available on its website.

For each report of potential Sexual Misconduct made to the Title IX Coordinator, the College will create records of any actions, including any supportive measures, taken in response to a report or formal complaint of Sexual Misconduct. In each instance, the College will document the reason for actions taken, and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity. If the College does not provide a party with requested supportive measures, then the College will document the reasons for that decision. The College will maintain these records for seven (7) years.

XVI. Training

The College will ensure that Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the following aspects of the Policy:

- The definitions of prohibited conduct;
- The scope of the College's education program or activity;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable;
- The effects of trauma;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- The rights of the Respondent (including the right to a presumption that the Respondent is "not responsible" until a finding of responsibility is made).

The College will ensure that decision-makers receive training on

- any technology to be used at a live hearing, and
- issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

The College will ensure that investigators receive training on:

- conducting investigations of Sexual Misconduct, and
- issues of relevance to create an investigative report that fairly summarizes relevant evidence.

XVII. Annual Report

At the end of each academic year, the Title IX Coordinator shall prepare a report that will include the number of notices of alleged Sexual Misconduct, the kinds of behaviors that gave rise to complaints during that academic year, and the final resolution of those complaints. The Title IX Coordinator will make the annual report public at the beginning of the next academic year. The report shall not mention the name of any individual or contain identifying details of any case.

XVIII. 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, etc.) may seek the advice of, and share information with, the College's legal counsel through the Title IX Coordinator.

XIX. Policy Amendment

Members of the community may suggest Policy changes to members of the HSMB or the Title IX Coordinator. 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.

XX. Inquires Related to This Policy and Title IX

The College encourages members of the Hamilton community to bring any and all questions or concerns about this Policy and/or Title IX to the Title IX Coordinator: Debbie Owens (dowens@hamilton.edu, 315-859-4896 or after hours for emergencies through Campus Safety at 315-859-4000).

Members of the Hamilton community may submit inquiries or complaints concerning Title IX to the U.S. Department of Education's Office for Civil Rights:

U. S. Department of Education, Office for Civil Rights New York Office
32 Old Slip, 26th Floor
New York, New York 10005-2500
Phone: 646-428-3800
Fax: 646-428-3843
Email: OCR.NewYork@ed.gov

OCR National Headquarters
U. S. Department of Education
Office of Civil Rights, Customer Service Team
Mary E. Switzer Building
330 C. Street, S.W.
Washington, D. C. 20202
Phone: 800-421-3481
Fax: 202-205-9862

Inquiries involving employees may also be referred to:

New York State Division of Human Rights
Office of Sexual Harassment
55 Hanson Place, Suite 347
Brooklyn, New York 11217
Phone: 718.722.2060 or 1.800.427.2773
Fax: 718.722.4525

U.S. Equal Employment Opportunity Commission National Headquarters
131 Main Street NE Fourth Floor Suite 4NW02F
Washington, D.C. 20507
Phone: 202.663.4900
Fax: 202.663.4912

U.S. Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004
Phone: 1-800-669-4000
Fax: 212-336-3790
TTY: 1-800-669-6820

XXI. Options for Immediate Assistance

On Campus Support Resources

The **Counseling Center** (315-859-4340) is a **confidential** resource, available 24-hours a day/7 days a week, whose staff can provide students emotional support and information about reporting options.

The **Health Center** (315-859-4111) is a **confidential** resource for students whose staff provides medical assistance, and can share information about reporting options. After hours, **Emergency Medical Technicians** (EMTs) are available (reached through Campus Safety at 315-859-4000).

The **Chaplains** (315-859-4130) are **confidential** resources for students and employees whose staff can provide pastoral counsel, emotional support, and information about reporting options. Visit the Chaplaincy site (http://www.hamilton.edu/chaplain/office-hours) to learn how to contact individual staff in the Chaplaincy.

Employee Assistance Program (EAP) (1-800-834-3947) through BRiDGES is 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.

Campus Safety (315-859-4000) is available to students and employees 24 hours a day, 7 days a week to respond to any community concern. Campus Safety will notify the Title IX Coordinator after responding to a call related to alleged Sexual Misconduct. Campus Safety is not a confidential resource; however, every effort will be made to maintain privacy.

The College's Title IX Coordinator, Debbie Owens, is also available to students and employees as a resource. Talking with the Title IX Coordinator about a specific incident of Sexual Misconduct constitutes a report under this Policy to which the College must respond, although this does not necessarily mean that the College will take action if the Complainant does not wish for action to be taken (see Article IV, Privacy and Confidentiality). However, general conversations or questions about Hamilton's processes can remain private. The Title IX Coordinator can provide information about all resources available to individuals who have experienced Sexual Misconduct, including where to obtain emergency mental health services and health care. The Title IX Coordinator can review and determine the immediate academic and administrative accommodations that can be made to protect a Hamilton community member who has experienced Sexual Misconduct. The Title IX Coordinator can also advise about options for reporting, including the option to report to local law enforcement, to initiate the on-campus resolution procedures, to do both, or to do neither. The Title IX Coordinator will provide guidance and assistance through the process of reporting on- and/or off-campus. She can be reached at 315-859-4896 or after hours for emergencies through Campus Safety at 315-859-4000.

Off Campus Support Resources

YWCA Rape Crisis Services (315-797-7740) is an anonymous hotline available to provide counsel as well as in-person assistance getting to a hospital or the police. If requested, YWCA Rape Crisis Service may also provide victim advocacy services.

Help Restore Hope Center (855-966-9723) coordinates Sexual Assault Nurse Examiner (SANE) services for medical attention (injuries from a sexual assault are not always immediately apparent) and collecting physical evidence (a "rape kit") at a regional hospital. The College

strongly encourages any individual who has experienced sexual violence to obtain a rape kit, which is critical: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. There is a limited window of time (typically up to 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does *not* commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SANE nurse or other health care provider.

Hospitals are confidential resources and are not required to report any non-identifying information to the College or to anyone else. However, hospitals providing care to individuals reporting sexual assault are required to:

- collect and maintain the chain of custody of sexual assault evidence for not less than 30 days *unless* the patient signs a statement directing the hospital not to collect it;
- advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;
- contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and
- provide emergency contraception upon the patient's request.

Even if an individual who has experienced sexual violence does not have injuries requiring emergency attention, the College encourages that individual to seek medical care as soon as possible, whether at the Health Center or another health care provider or hospital. A medical evaluation is still important to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

In most instances, any health care provider will encourage an individual reporting Sexual Misconduct to authorize collection of evidence. For individuals who seek initial medical treatment at the Health Center and decide to proceed with evidence collection, the individual may be escorted to Oneida Health or Community Memorial Hospital (as designated by Help Restore Hope) by Campus Safety or may choose to travel by taxi (the College will provide a voucher) to any chosen medical provider. A Complainant can receive follow-up health care at the Health Center or the chosen health care provider or hospital.

Law Enforcement

The College encourages anyone who is a victim of Sexual Misconduct to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. The New York State Police Campus

Sexual Assault Victim Unit's 24-hour Hotline (1-844-845-7269) or the Oneida County Sheriff (315-736-0141) can assist with pressing criminal charges following an incident in New York.