

## **EUREKA COLLEGE TITLE IX POLICY:**

### **SEXUAL ASSAULT/MISCONDUCT AND SEXUAL HARASSMENT**

#### **I. General Policy**

Sex discrimination, including sexual assault, sexual misconduct and sexual harassment infringe on the rights of others, violate the standards of acceptable behavior at Eureka College and may be illegal in the State of Illinois. Eureka College expects all members of the College community and their guests to conduct themselves in a responsible manner, showing respect for others and for the community. Eureka College is subject to, abides by, and supports Illinois statutes and local ordinances regarding criminal sexual assault and sexual contact.

Students, staff, faculty, volunteers or guests who experience, witness or have information about sex discrimination of any kind (e.g., assault, misconduct or harassment) are required to report, within 24 hours, the information to the College's Title IX Coordinator and urged to report sexual assault to the Eureka City Police Department as well.

Unequal pay based on gender, discrimination on the basis of pregnancy, unequal distribution of athletic funds, unequal admissions and financial aid are also forms of sex discrimination and students, staff, faculty, volunteers, or guests who have concerns about those issues are likewise urged to report those concerns to the College's Title IX Coordinator. Such persons should not wait to report conduct of concern until the discrimination or harassment becomes sufficiently serious (i.e., severe, pervasive or persistent) to create a hostile environment. The Title IX Coordinator and other College officials can take proactive steps to prevent harassment from escalating and to protect or otherwise assist the person being harassed.

Eureka College will do all that is reasonably possible to offer safety, privacy, sensitivity, and support to persons reporting sexual assault and sexual misconduct, as well as require training and educational programming to decrease the risk of sexual assault and sexual misconduct on campus. The College urges all campus constituents to learn about the steps that can be taken to prevent all forms of sex discrimination. Should the College believe that a threat exists to the safety or security of a person filing a complaint, or to others, it will take reasonable steps to attempt to mitigate that threat.

Conduct that violates this policy, but occurs off-campus, may nonetheless be the subject of a complaint if it occurred in the context of one of the College's programs or activities, has continuing effects that create a hostile environment on campus, or would reasonably interfere with a person's ability to access the College's programs or activities.

Because this policy and many of its procedures are required by regulations adopted by the United States Department of Education Office for Civil Rights, this policy and its procedures supersede any conflicting provisions of the Student Handbook, Faculty Handbook or Employee Handbook.

## **II. Definitions**

### **A. Sexual Harassment**

Sexual harassment can include unwelcome (1) sexual advances, (2) requests for sexual favors, or (3) other verbal or physical conduct of a sexual nature, including sexual assault. Sexual harassment, including sexual assault, can involve persons of the same or opposite sex. Specific examples of sexual harassment include, but are not limited to: sexually-oriented jokes, flirtation, obscene letters or notes, inappropriate compliments, sexual propositions or advances, "cat calls" or whistling, possession or display of sexually-explicit objects or pictures, exchange of sexual "gag" gifts, inappropriate discussion of one's sexual experiences or desires, comments about an individual's body or appearance, sexual gestures, physical contact such as patting, pinching, or purposely rubbing up against another's body, demands or pressures (actual or implied) for sexual favors, continuing to express sexual or romantic interest after being informed the interest is not welcomed, making promises or suggestions (actual or implied) of preferential or adverse treatment as a result of one's acceptance or rebuttal of sexual advances, and retaliating against an individual for refusing sexual advances.

Consistent with the law, this policy prohibits two types of sexual harassment:

#### **1. Tangible Employment or Educational Action**

This type of sexual harassment occurs when (a) the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a College activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or (b) such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a College program or activity. Generally, perpetrators will be agents or employees holding some position of authority from the College.

#### **2. Hostile Environment**

Hostile environment harassment exists when the harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities.

A hostile environment can be created by anyone involved in a College program or activity (e.g., administrators, faculty members, students, and even campus guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as a sexual assault, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be given not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

### **B. Sexual Assault**

Sexual assault means actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

1. Any sexual contact when the victim is unable to consent.
2. Any intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch, a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast).
3. Any sexual penetration (including oral, vaginal or anal), however slight, without consent, including acts commonly referred to as "rape."

### **C. Consent**

Consent must be informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used there is no consent. If a person is mentally or physically incapacitated or impaired such that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. Only a non-intoxicated, verbal, mutually understood "Yes" is sufficient for sexual contact or intercourse to be considered consensual.

Non-verbal actions should not be considered invitations for intercourse or sexual contact. Consequently, returning to an individual's room or office, being physically aroused, removing clothing, stroking, assenting to dancing or cuddling, obtaining contraception, etc. are not the same as a non-intoxicated, verbal, mutually understood "Yes" and therefore do not constitute consent.

Silence does not constitute consent. Past consent to sexual activities does not imply ongoing future consent. Persons with a known mental illness or deficiency that impairs their ability to think or reason, or who are physically unable to communicate, are assumed to be incapable of giving consent.

### **D. Sexual Misconduct**

Sexual misconduct includes inducing incapacitation for sexual purposes, sexual exploitation, and relationship violence.

## **1. Inducing incapacitation for sexual purposes**

Inducing incapacitation for sexual purposes includes using drugs, alcohol, or other means for the purpose of affecting the ability of an individual to consent or refuse to consent (as “consent” is defined in this policy) to sexual contact.

## **2. Sexual exploitation**

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for the advantage, benefit or arousal of anyone other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity;
- Non-consensual distribution of photos, videos, audio recordings or details of an individual’s sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in non-consensual voyeurism;
- Knowingly transmitting a sexually transmitted disease to a sexual partner without first disclosing your STD status;
- Exposing one’s genitals to persons who have not consented to such exposure, or inducing another to expose his or her genitals; or
- Possessing, distributing, viewing or forcing others to view illegal pornography.

## **3. Relationship Violence**

Relationship violence is abuse or violence between partners or former partners involving one or more of the following elements:

- Intentional and unwelcome physical contact that is reasonably likely to cause bodily injury or property damage;
- Purposely or knowingly causing the reasonable apprehension of bodily injury or property damage; or
- Repeated telephonic, electronic, or other forms of communication -- anonymously or directly -- made with the intent to intimidate, terrify, harass, or threaten.

#### **4. Stalking**

“**Stalking**” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others’ safety, or to suffer substantial emotional distress.

- For the purpose of this definition:
  - “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;
  - Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim; and
  - “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

#### **E. Retaliation**

Retaliation is any intimidation, threat, coercion or discrimination by an accused individual or a third party against any person because that person has opposed any actions prohibited by this policy, or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop any actions forbidden under this policy.

## **F. Complainant Party**

The Complainant is the person who initiates a complaint under this policy. The Complainant need not necessarily be the victim of conduct alleged to violate this policy.

## **G. Respondent Party**

The Respondent is the person alleged to have violated this policy.

### **III. Mandatory Employee Reporting of Sexual Assault, Sexual Misconduct and Sexual Harassment**

Any employee or volunteer of the College who learns of a sexual assault, sexual misconduct or sexual harassment must, within 24 hours of receiving the information, report it to the Title IX Coordinator. Employees who are statutorily prohibited from reporting such information, such as licensed health-care professionals, licensed clinical counselors, and the Chaplain/Ombudsperson are exempt from this requirement.

### **IV. Amnesty for Drug or Alcohol Possession and Consumption Violations**

Eureka College strongly encourages students to report instances of sexual assault, sexual misconduct or sexual harassment involving students, and to cooperate in investigations of such incidents. Therefore, students reporting such incidents, or who provide information during the investigation of an alleged incident, will not be disciplined for any violation of the College's drug or alcohol policies which they acknowledge in the course of such a report or investigation.

### **V. Free Speech and Academic Freedom**

Eureka College has a long tradition of, and a deep commitment to, academic freedom. To that end, the College recognizes and protects the full freedom of inquiry, teaching, research, discussion, study, publication and (for artists) the creation and exhibition of works of art.

In the spirit of a true university environment, individuals are encouraged to invite, rather than discourage, legitimate discourse on ideas without fear that their point of view will result in a violation of this policy. Therefore, while the College will vigorously protect students' and employees' rights against sex discrimination, this policy shall not be construed to interfere with the legitimate exchange of ideas that are the hallmark of a university setting, nor to prohibit or abridge the use of particular textbooks or curricular materials.

### **VI. Title IX Coordinator**

The President of Eureka College shall appoint a member of the College community to serve as the Title IX Coordinator, to serve indefinitely until he or she resigns that position or is replaced in

accordance with this policy. Removal of the Title IX Coordinator during the term of appointment may be initiated by the President in collaboration with the President's Council.

The Title IX Coordinator oversees the College's centralized review and investigation of sexual assault/misconduct/harassment complaints. The coordinator also oversees the College's compliance with Title IX.

Eureka College's Title IX Coordinator can be used by any community member as a resource for understanding and navigating the investigative and judicial process. This includes explaining policies and procedures, providing contact information for internal and external support resources, answering procedural questions from the Investigation Team, etc. However, reports or complaints to the Title IX Coordinator may not necessarily remain confidential, if the matter is one upon which the Title IX Coordinator is required by law to act.

### **Deputy Title IX Coordinator**

The Deputy (s) Title IX Coordinator assist the College's Title IX Coordinator with various Title IX implementations activities that include students, staff, and faculty. Deputy(s) Title IX Coordinator receive reports of sexual assault/sexual misconduct, sexual harassment, and sexual violence. The Deputy(s) Title IX Coordinator also serves as a designated Title IX Investigator, with responsibilities to lead investigations complaints of sexual assault/ sexual misconduct, sexual harassment, and sexual violence.

## **VII. Investigation Board and Investigation Team**

The President shall appoint by July 1 of each year ten members of the Investigation Board, to serve one-year terms, from which each Investigation Team shall be drawn. The Title IX Coordinator should be consulted in all appointments to the Investigation Board. Members of the Investigation Board may be re-appointed to one or more additional one-year terms.

Each Investigation Team shall consist of three persons selected from the Investigation Board by the Title IX Coordinator. Each Team must have members of both sexes, and must include a minimum of one faculty member. If the term of a Team member will expire while the investigation or appeal of a complaint is in progress, that member's term shall ordinarily be extended solely for the purpose of completing the investigation or appeal of that particular complaint. Unless that member of the Team is reappointed for another one-year term, his or her successor's term shall commence on July 1, but the successor shall be involved only in investigations or appeals initiated after the commencement of his or her term.

Criteria for appointment to the Investigation Board shall include demonstrated impartiality, integrity, and respect for confidentiality. Removal from the Investigation Board during the term

of appointment may be initiated by the President in collaboration with the President's Council and the Title IX Coordinator.

Because of the potential that the Investigation Board may adjudicate alleged sexual assaults, students should not ordinarily be appointed to the Investigation Board.

Any member of the Investigation Board shall recuse himself or herself from serving on an Investigation Team for a particular case if reasonable grounds exist to show that the member has a conflict of interest, or was directly involved (as a party or a witness) to the incident in question. In such a case, the Title IX Coordinator shall appoint a replacement member for that case only.

### **VIII. Support Resources and Reporting Sexual Assault/Misconduct/Harassment to Eureka College**

#### **A. Support Resources**

Eureka College provides support to all individuals who have been involved with a sexual assault/misconduct incident.

The following resources are not required by law to report sexual assault, sexual misconduct or sexual harassment, unless the sexual assault victim is under the age of 18, so any reports to them may remain confidential at the option of the Complainant:

The Campus Ombudsperson	Tazwood Center for Wellness
Chaplain	1831 S. Main Street
Cerf Center	Eureka, IL 61530
309-467-6420	309-347-5522 or 309- 694-6462

Other licensed health-care professionals and licensed clinical counselors are also confidential options if the Complainant so chooses.

The following resources are required to report, within 24 hours, sexual assaults, sexual misconduct and sexual harassment to the Title IX Coordinator, regardless of the age of the victim, but will otherwise maintain confidentiality:

- Eureka College Security Officers (309-339-0331)
- Eureka College Faculty and Staff
- Eureka College Student Employees (including Resident Advisors)
- Eureka College Volunteers



## **B. Reporting to College Staff**

If you are a victim of sexual assault, sexual misconduct or sexual harassment, Eureka College urges you to report it. Completing a report entails communicating verbally or in writing to the Title IX Coordinator, or another trusted College official (e.g., Resident Assistant, Professor, Coach or Advisor) who will provide information as required to the Title IX Coordinator. Any report should include a summary of what happened, detailing the name(s) of those involved, and the date, time, and location of the alleged event, if known.

The Title IX Coordinator will consult with the Complainant Party about his/her wishes regarding how the investigation should proceed; in limited circumstances, the College may investigate even if the Complainant Party decides not to participate, when necessary to provide a safe and nondiscriminatory environment for all members of the College community, including the Complainant Party. If a Complainant Party does not wish to pursue a complaint, the Title IX Coordinator will inform the individual that the College is limited in the actions it can take without the cooperation of the individual. The Title IX Coordinator will also explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be immediately reported and will be promptly addressed.

The Title IX Coordinator accepts anonymous and third-party reports of conduct alleged to violate this Policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator to investigate and respond as appropriate. However, the Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable a meaningful and fair investigation.

There is no statute of limitations for complaints under this policy, but the College strongly encourages any complaints to be initiated within 180 days of the alleged misconduct. It is important to note that the passage of time can negatively affect the College's ability to effectively investigate and ensure resolutions to a given situation.

All reports of sexual assault are kept on file in the Student Programs and Services Office for use in reports required by the Clery Act. Reported incidents will show up in campus crime statistics without identifying the person filing the report.

## **C. Criminal Reporting**

You should contact local law enforcement if you are uncertain whether particular conduct is a crime. The police will help you to obtain emergency medical care, assist in preventing the escalation of a problem into more severe criminal behavior, assist you with victim advocate services, initiate a criminal investigation if warranted, and answer questions about the criminal justice process.

#### **D. Right to Advisor/Legal Counsel**

At any point during the complaint/investigation/appeal process, both the Complainant Party and the Respondent Party have the right to have the support of any willing member of the Eureka College community, friend, or family member of her/his choice. The support person has the right to attend any function at which either party's presence is permitted. However, the support person may not be a licensed attorney nor associated with law enforcement (unless the support person is the parent/legal guardian or spouse/legal partner of a party), and may not question parties or witnesses.

### **IX. Investigation Processes and Procedures**

#### **A. Immediate Action and Interim Measures**

Following every report of sexual assault, sexual misconduct or sexual harassment, the Title IX Coordinator will make an immediate assessment of any potential risk to individuals or to the campus community while the complaint is being adjudicated. After consulting with the Complainant Party, the Title IX Coordinator must consider steps to eliminate these risks. These steps may include interim protective measures to provide for the safety of the Complainant Party and the campus community, such as: arranging for changes in class schedules or living arrangements, issuing no-contact orders, obtaining counseling, and modifying test schedules or other class requirements on a temporary basis. A College employee alleged to have violated this policy may also be temporarily reassigned or placed on administrative leave.

#### **B. Confidentiality of Complaints and Reports**

Parties to a complaint, including the Complainant Party, the Respondent Party, and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this policy. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality.

The Title IX Coordinator, Investigation Team and Appellate Authority will keep confidential the complaint, report, witness statements, and any other information provided by the Complainant Party, Respondent Party, or witnesses and will disclose the information contained in them only to the Complainant Party, Respondent Party, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation or the appeal; to law enforcement consistent with state and federal law; to other College officials as necessary for coordinating interim measures or for health, welfare, and safety reasons; and to government agencies who review the College's compliance with federal law.

Any investigation report generated by the Investigation Team will be disclosed only to persons who are responsible for imposing sanctions against any person found in violation of this policy, and to College officials as necessary to prepare for subsequent proceedings (e.g., Appellate

Authority, College President and College Legal Counsel). Members of the Investigation Team have the same strict obligations to keep all information they learn confidential. Information about complaints and reports, absent personally identifiable information, may be reported to College officials, and external entities for statistical and analysis purposes pursuant to federal and state law and College policy.

The outcome of any investigation or appeal will be communicated to the Complainant Party and the Respondent, but this does not necessarily mean that they will be entitled to review the entire investigation report or written decision. Generally, the Complainant Party will be notified whether the alleged conduct was found to have occurred, whether it was found to have violated this policy, any individual remedies offered or provided to the Complainant Party or any sanctions imposed on the Respondent Party that directly relate to the Complainant party, and other steps taken to eliminate the effects of any misconduct on the Complainant Party and to prevent its recurrence. The Respondent Party will be notified whether the alleged conduct was found to have occurred, whether it was found to have violated this policy, and any remedies or sanctions that are being imposed against the Respondent Party. The Respondent Party will not be notified of the individual remedies offered or provided to the Complainant Party.

Compliance with the above provisions regarding confidentiality does not constitute a violation of section 444 of the General Education Provisions Act, commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

### **C. Role of the Title IX Coordinator**

The Title IX Coordinator is not an advocate for either the Complainant Party or the Respondent Party. The Title IX Coordinator shall have the following duties when a complaint is filed:

- Explain to both parties the informal and formal processes outlined below and the confidentiality provisions as outlined above.
- Provide a copy of this policy to both the Complainant Party and Respondent Party.
- Provide to both parties information about options for obtaining medical and counseling services, information about making a criminal report, information about receiving advocacy services, and information about other helpful campus and community resources.
- Offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures such as no-contact orders, rearrangement of living arrangements, or academic accommodations.
- Describe to the Complainant Party and the Respondent Party the investigatory process of a fair and impartial investigation, including (1) the right of the Respondent Party to learn

about the allegations and evidence against him or her; (2) the right of both parties to have a person of support present during their interviews and during the hearing stage of these procedures.

- Answer procedural questions raised by members of the Investigation Team or Appellate Authority.
- Explain to a Complainant Party who does not wish to pursue a complaint that while the College may be limited in the actions it can take without the cooperation of the Complainant Party, the College may nonetheless be obligated to investigate the complaint.
- Explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be immediately reported and will be promptly addressed.

#### **D. Resolution Procedures**

If a Complainant Party chooses to file a complaint, there are two avenues for resolution of an alleged policy violation: formal and informal resolution. The Complainant Party has the option to proceed informally, when permissible. In cases involving allegations of sexual assault, informal resolution is not appropriate, even if both the Complainant Party and Respondent Party indicate a preference for informal resolution.

At the request of law enforcement, Eureka College may agree to defer its investigation until after the initial stages of a criminal investigation. The Title IX Coordinator will nevertheless communicate with the Complainant regarding his or her Title IX rights, procedural options, and the implementation of interim measures to ensure safety and well-being pending the criminal investigation. Eureka College will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

##### **1. Informal Resolution Process**

If the Complainant Party, the Respondent Party, and the Title IX Coordinator all agree that an informal resolution should be pursued, the Title IX Coordinator shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Under the informal process the Title IX Coordinator shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College and the community. Typically, an informal resolution will be completed within 60 calendar days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

If at any point during the informal process, the Complainant Party, the Respondent Party, or the Title IX Coordinator wishes to cease the informal resolution process and to proceed through the formal resolution process, the formal process outlined below will be invoked.

Any resolution reached through the informal process shall be documented and agreed to in writing by the Complainant Party, the Respondent Party, and the Title IX Coordinator. The informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent Party and the overall objective of the College to stop, remedy and prevent policy violations. Informal actions might include, but are not limited to: targeted or broad-based educational training or programming; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination or a hostile environment, harassment; or having a confidential conversation with a supervisor or instructor. In cases that do not involve sexual assault, mediation and other restorative justice programming may be an appropriate form of informal resolution; provided, however, that a Complainant Party may not be required to directly confront a Respondent through that process.

## **2. Formal Resolution Process**

**Step 1:** The complaint is referred to the Investigation Team, which determines, in collaboration with the Title IX Coordinator, whether it has jurisdiction to investigate the matter. The Investigation Team only has jurisdiction to investigate complaints alleging sex discrimination, sexual harassment, sexual misconduct, sexual assault, and retaliation.

**Option 1:** If the Investigation Team determines that there is no jurisdiction, it shall refer the matter back to the Title IX Coordinator, who will offer to assist the Complainant Party and, as appropriate, the Respondent Party, in finding appropriate campus and off-campus resources for addressing the issue of concern.

**Option 2:** If the Investigation Team determines that it has jurisdiction over the complaint, it will proceed to Step 2.

**Step 2:** The Investigation Team conducts a fair and impartial investigation of the alleged policy violation and proceeds to Step 3. Typically an investigation will be completed within 60 days of receipt of referral to the Investigation Team. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe. The following process will generally be used in conducting the investigation:

- Complainant Party provides a verbal or written account of the event, and any documents relevant to the complaint, to the Investigation Team. Complainant Party identifies any potential witnesses.

- Investigation Team meets with Respondent Party, reviews rights, and obtains a verbal or written account of the incident, along with any documents relevant to the complaint. Respondent Party identifies any other potential witnesses.
- Investigation Team meets with any witness(es) believed to have knowledge about the incident, and obtains any documents they may have that are relevant to the complaint.
- If necessary, Investigation Team conducts follow-up meetings with Complainant Party and Respondent Party, or witnesses, to clarify information gained through the investigation, and to determine if Complainant Party or Respondent Party wish to offer any additional witnesses or evidence.
- No fewer than two members of the Investigation Team shall be present during any interviews of the Complainant Party, Respondent Party or witnesses. Preferably though, all members of the Investigation Team will be present for all interviews.
- Investigation Team proceeds to Step 3.

**Step 3:** The Investigation Team determines whether a “preponderance of the evidence” shows that that an individual violated the policy. This means that it is more likely than not that the alleged conduct occurred and that it violated the policy. It is *not* proof beyond a reasonable doubt.

**Option 1:** If the Investigation Team finds that this policy was not violated, the decision is documented through a written summary.

**Option 2:** If the Investigation Team finds that this policy was violated, that decision shall be documented in a written report that summarizes the basis for the decision, and which shall include recommendations for steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the violation and sanctions against the Respondent.

## **X. Remedies for Violations of Policy**

If a Respondent Party is found to have violated this policy, any written report will be provided to the appropriate disciplinary authority for a determination of appropriate sanctions. Typically a decision by the disciplinary authority will be rendered within 10 days of receipt of receiving the findings and recommendations from the Investigation Team. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

If the Respondent Party is a student, the disciplinary authority will be the Dean of Students. If the Respondent Party is an employee of the College, the disciplinary authority is the Vice President of the department to which the employee is assigned. If the Respondent Party is the

Vice President of a department, the Provost, or the Title IX Coordinator, the disciplinary authority is the College's President. If the College's President is the Respondent Party, the disciplinary authority is the Chair of the College's Board of Trustees, acting in consultation with the Board's officers. If the Respondent Party does not fall into any of these categories, the disciplinary authority shall be determined by the Title IX Coordinator, who may consult with any of the disciplinary authorities listed above in making that determination.

The designated disciplinary authority must inform the Respondent Party and the Title IX Coordinator of the ultimate sanctions imposed upon a Respondent Party. The Title IX Coordinator will inform the Complainant Party of the sanctions imposed to the extent permitted by applicable Title IX regulations and privacy laws.

Disciplinary sanctions possible for students found to have violated this policy include, but are not limited to, expulsion from the College, suspension, probation, counseling/training, deferred suspension, removal from student housing, reprimand, or any combination of these.

Disciplinary sanctions possible for employees found to have violated this policy include, but are not limited to, termination, suspension without pay, demotion, probation, counseling/training, deferred suspension, reprimand, or any combination of these.

Disciplinary sanctions possible for other persons found to have violated this policy may include, but are not limited to, permanent or temporary bans from College property or events (whether on or off-campus), a requirement of written pre-clearance from a College employee before attendance at a College event, no-contact orders with one or more members of the College community, termination of contracts between the College and the Respondent or businesses associated with the Respondent, or any combination of these.

When determining appropriate disciplinary action, the disciplinary authority will consider the disciplinary background of the Respondent Party, and the totality of the circumstances surrounding the complaint, including the nature of the conduct and the context in which it occurred.

In addition to disciplinary sanctions against the Respondent Party, the Title IX Coordinator shall have the authority to implement any other measures necessary to remedy the effects of the misconduct on the Complainant Party or other members of the College community, to prevent its recurrence, and/or to improve or protect the educational climate of the College. The Title IX Coordinator shall not impose any additional disciplinary sanction against the Respondent Party beyond those determined by the disciplinary authority.

## **XI. Appeal Process**

### **A. Limited Bases for Appeal**

Either the Complainant Party or Respondent Party may appeal the findings and/or sanctions, but such appeal rights are limited to one or more of the following bases:

1. “New Evidence.” Previously unavailable relevant evidence has been discovered that could significantly impact the outcome of the case. Information that was known or available during the investigation will not be considered.
2. “Procedural Error.” A procedural error occurred in the conduct of the investigation. Such error may include, but is not limited to, any conflict of interest by a member of the Investigation Team that warranted his or her recusal.
3. “Disproportionate Response.” The sanction is substantially disproportionate to the findings (either too severe or not severe enough).

### **B. Appellate Authority**

The individual responsible for reviewing and deciding an appeal, the Appellate Authority, shall be as follows:

1. If the basis for the appeal is the reason set forth in Section A.1 above (“New Evidence”), then the Appellate Authority shall be the Investigation Team that investigated the complaint.
2. If the basis for the appeal is the reason set forth in Section A.2 above (“Procedural Error”), then the Appellate Authority shall be the Title IX Coordinator. If the specific basis for the appeal is that the Title IX Coordinator had a conflict of interest, then the Appellate Authority shall be appointed by the President.
3. If the basis for the appeal is the reason set forth in Section A.3 above (“Disproportionate Response”), then the Appellate Authority shall be the immediate superior of the disciplinary authority (as set forth herein). If the disciplinary authority is the President, then the Appellate Authority shall be the Chair of the College’s Board of Trustees, acting in consultation with the Board’s officers.



### **C. Filing an Appeal**

An appeal is initiated by filing a written notice with the Title IX Coordinator and the Chair of the Investigation Team within seven calendar days after the appellant's receipt of the Investigation Team's findings. The notice of appeal must set forth the basis for the appeal, provide all details and evidentiary support (if applicable) for such appeal, and describe the appellant's desired outcome. As soon as practicable, the Title IX Coordinator will provide the non-appealing party and the Appellate Authority with a copy of the notice of appeal. The non-appealing party shall submit to the Appellate Authority within seven calendar days of such notice any response to the appeal.

### **D. Interim Measures Pending Appeal**

The imposition of any sanctions rendered by the disciplinary authority will be stayed, but any interim measures will remain in place (or will be reinstated), pending the outcome of the appeal. The Title IX Coordinator shall have the authority to modify the interim measures pending the appeal, as deemed appropriate in the Title IX Coordinator's discretion.

### **E. Decision of the Appellate Authority**

The Appellate Authority will independently review the appeal, any response to the appeal, as well as all information submitted with the same. The Appellate Authority will also review, as appropriate, the documentation relating to the complaint and the investigation.

If the basis for the appeal is the reason set forth in Section A.1 above ("New Evidence"), the Appellate Authority may approve, overturn or modify the findings. If the Appellate Authority decides that different sanctions may be appropriate in light of any revised findings, it shall refer the decision on the appropriate sanctions to the disciplinary authority.

If the basis for the appeal is the reason set forth in Section A.2 above ("Procedural Error"), the Appellate Authority may approve, overturn or modify the findings and sanctions, or require that a new Investigation Team make new findings and recommendations to the disciplinary authority.

If the basis for the appeal is the reason set forth in Section A.3 above ("Disproportionate Response"), the Appellate Authority may approve, overturn or modify the sanctions imposed by the disciplinary authority. Any such decision is final.

If the appeal is based on multiple grounds, each Appellate Authority identified above will decide the issues allocated to it under this policy. If the findings or sanctions are revised as a result of an appeal based on the reason set forth in Section A.1 ("New Evidence") and/or the reason set forth in Section A.2 ("Procedural Error"), then any subsequent appeal is limited to challenging the revised sanction for the reason set forth in Section A.3 ("Disproportionate Response").

The decision of the Appellate Authority shall generally be made within 21 calendar days after receipt of the appeal. Written notice of the decision of the Appellate Authority shall be provided to the Complainant, Respondent, and Title IX Coordinator.

## **XII. Retaliation**

Eureka College considers both retaliation and the malicious filing of false allegations to be serious ethical violations. A person bringing a complaint founded in good faith will suffer no recrimination. It is a violation of this policy to retaliate against a person for complaining of or reporting alleged misconduct covered by this policy, and for assisting, participating or cooperating in an investigation of such misconduct. Retaliation is a very serious violation which can subject the offender to sanctions independent of the merits of the underlying allegation. False and malicious accusations, however, are harmful to the personal and professional reputations of the accused person. Eureka College regards false and malicious complaints to be a very serious matter, and may subject the person bringing them to appropriate sanctions. Any such concerns will be adjudicated under the applicable provisions of the Student Handbook, the Faculty Handbook or the Employee Handbook.

## **XIII. External Complaints**

Any person who believes that (a) the College's response to a complaint was inadequate, (b) the College has discriminated against them on the basis of race, color, national origin, sex (including sexual harassment), disability, or age, or (c) that they have been retaliated against, may file a complaint with the Office for Civil Rights of the U.S. Department of Education based in Chicago, or the Educational Opportunities Section (EOS) of the Civil Rights Division of the U.S. Department of Justice. Complaints alleging discrimination on the basis of religion must be directed to the EOS.