Sex Discrimination and Sex-Based Harassment Policy

Adopted

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# Purpose

Southwestern Illinois College (“SWIC” or “the College”) prohibits discrimination on the basis of sex, which includes sex-based harassment, in its education and employment programs and activities. The prohibited offenses outlined in this policy may also be prohibited by Title IX of the Higher Education Amendments of 1972, 20 U.S. C. § 1681 et seq. (“Title IX”), by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and Section 304 of the Violence Against Women Reauthorization Act of 2013 (“VAWA”), Title VII of the Civil Rights Act of 1964, and other applicable statutes, including the Illinois Human Rights Act, and the Illinois Preventing Sexual Violence in Higher Education Act (“ILPSVHE Act,” 110 ILCS 155). This policy prohibits a broad continuum of harassment on the basis of sex, some of which are not prohibited under Title IX or other laws. Their inclusion in this policy reflects SWIC’s standards and expectations for a working and learning environment where everyone is free to work and learn safely.

Nothing in this policy shall affect the right of an individual to file a complaint with external law enforcement agencies, if applicable. A complaint may be filed concurrently with external law enforcement agencies and the College without jeopardizing an individual’s rights to an investigation or other process.

Inquiries regarding the application of this policy and the respective resolution process and procedures used to resolve complaints may be referred to the recipient’s Title IX Coordinator, to the U.S. Department of Education’s Office for Civil Rights or both.

# Scope

This policy covers how SWIC will respond to instances or allegations of sex discrimination as defined by this policy, including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. The policy also covers instances and allegations of sex-based harassment including sexual assault, dating violence, domestic violence, and stalking.

In addition to harassment on the basis of sex, the College prohibits discrimination in its employment practices and its educational programs and activities on the basis of race, color, religion, national origin, age, disability, genetic information, and veteran status. The College’s full Non-Discrimination Policy may be found at [swic.edu/students/swic-cares-about-you](https://www.swic.edu/students/swic-cares-about-you/).

Alleged harassment and discrimination not identified under this policy, including harassment that is not on the basis of sex, may be addressed under Student Rights and Code of Conduct policy located under the Student Services Page as included in the Student Rights and Conduct Policy.

This policy governs the conduct of SWIC students, faculty, staff, and third parties (e.g., non-members of the College community, such as applicants, volunteers, vendors, alumni/ae, trustees, visitors, or local residents). Third parties may be protected by and subject to this policy depending on their relationship with the College. A third-party may make a report or complaint of an alleged violation of this policy by a member of the College community. A third-party may also be permanently barred from the College or subject to other restrictions for failing to comply with this policy.

This policy applies to conduct that occurs within the College’s premises, which includes land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, either solely or in conjunction with another entity. This includes the College’s computing and networking resources whether accessed on the College’s physical property or remotely. On-line and/or social media conduct may violate this policy if it meets the definition of Prohibited Conduct and may also be a violation of other College policies including the SWIC Terms of Use page which can be found at https://www.swic.edu/knowledgebase/swic-terms-of-use/.

This policy also applies to conduct not on the College’s premises that is associated with a College-sponsored program or activity, such as travel, research, or internship programs. The College may apply this policy to any off-campus conduct that contributes to a hostile environment on campus or within the educational setting. The Title IX Coordinator or designee will reasonably determine when an alleged off-campus incident falls within the jurisdiction of this policy.

All aspects of this policy will be carried out in a fair and impartial manner.

# Policy Definitions

## Advisor of Choice

For resolutions involving students or for employee reports involving dating violence, domestic violence, sexual assault or stalking, the parties may be accompanied to any meeting or resolution proceeding by the advisor of their choice. An advisor of choice is any individual who provides the complainant or respondent support, guidance, or advice and is not also a witness in the case. The advisor may not participate in the meetings or speak on behalf of the party except as outlined in this policy. The College will not limit the choice of advisor but may remove an advisor that violates the College’s established rules of decorum. An advisor should be chosen whose schedule allows attendance at the scheduled dates and times because delays typically will not be allowed due to the scheduling conflicts of an advisor. An employee may serve as an advisor but is not required to do so even if requested. In cases that meet the threshold for Title IX Sexual Harassment, the parties must have an advisor of choice for the hearing. If a party does not have an advisor, the College will appoint one for the hearing free of charge.

## Appeals Officer

The “Appeals Officer” is the person or persons that will make the determination on any appeal submitted under this policy including appeals of dismissals and determinations of responsibility. The Appeals Officer may be an employee or a contracted service provider.

## Complainant

“Complainant” means a person who is alleged to have been subject to conduct that could constitute sex discrimination.

## Confidential Support Person

A “Confidential Support Person” is designated by the College to provide student complainants emergency and ongoing support and to advise the complainant on options for reporting alleged violations of this policy. Confidential support persons have information on resources and supportive measures, will advise individuals on reporting options, and may serve as a liaison where appropriate. Confidential support persons have received 40 hours of training on sexual violence, attend a minimum of 6 hours of ongoing education training annually, and receive periodic training on the campus administrative processes, supportive measures, and the College’s resolution processes.

## Decision-maker

The “Decision-maker” is the person or persons that will make the determination of responsibility at the conclusion of a formal resolution process under this policy. The decision-maker may be an employee or a contracted service provider.

## Investigator

The “Investigator” is the person or persons assigned to conduct an investigation of a complaint. The investigator may be an employee or a contracted service provider.

## Party

“Party” means either the complainant(s) or respondent(s) in an investigation or proceeding relating to a report of alleged Prohibited Conduct. A respondent becomes a “party” to the action upon receipt of notice of the complaint.

## Respondent

“Respondent” means a person who is alleged to have violated the College’s prohibition on sex discrimination. A respondent is presumed not responsible for alleged conduct until a determination whether sex discrimination occurred is made at the conclusion of a resolution process outlined in this policy. When a sex discrimination complaint alleges that a College policy or practice discriminates on the basis of sex, the College is not considered a respondent as it relates to the respondent’s rights in this policy.

## Title IX Coordinator

The “Title IX Coordinator” is responsible for overseeing the College’s response to reports of sex discrimination and to ensure compliance with Title IX and VAWA, including oversight of all recordkeeping and training. The Title IX Coordinator is also responsible for coordinating the effective implementation of supportive measures and remedies. The Title IX Coordinator may delegate responsibilities under this policy to a Deputy Title IX Coordinator or other designee, who will be appropriately trained per the requirements of Title IX and VAWA. For purposes of this policy, any reference to the Title IX Coordinator should be read as the “Title IX Coordinator, Deputy Title IX Coordinator, or other designee.”

## Title IX Personnel

“Title IX Personnel” include all individuals whose duties include receipt, referral, and implementation of the resolution process and procedures for reports and complaints of student and employee alleged violations of this policy. All Title IX personnel shall receive annual training as required by Title IX, VAWA, and Illinois state law. Persons falling under this description include without limitation the Title IX Coordinator(s), investigators, decision-makers, appeals officers, alternative dispute resolution facilitators, members of public safety, and any contracted service providers of SWIC or student workers, with any of the responsibilities outlined herein. Title IX Personnel will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

## Witness

“Witness” means any individual who has direct knowledge of an incident or is considered an expert witness in an area relevant to the allegation. Character witnesses are not part of the investigation and resolution processes.

# Privacy and Confidentiality

Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. Privacy and confidentiality are related but distinct terms. “Confidentiality” refers to the circumstances under which information will or will not be disclosed to others. “Privacy” refers to the discretion that will be exercised by the College in the course of any investigation or resolution processes under this policy.

Individuals involved in the resolution process under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, complainants and respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting their case.

In some circumstances, the reporting responsibilities of College employees, or the College’s responsibility to investigate, may conflict with the preferences of the complainant and/or respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities. In all such proceedings, the College will take into consideration the privacy of the parties to the extent possible.

Any additional disclosure of information related to the Complaint or report may be made if consistent with the College’s privacy policy, the Family Educational Rights and Privacy Act (FERPA) or Title IX requirements.

# Prohibited Conduct

For purposes of this policy, the following definitions constitute conduct to be “on the basis of sex” which includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Attempts to commit any Prohibited Conduct are prohibited and will be considered the same as completed acts.

## Sex Discrimination

“Sex Discrimination” means discrimination on the basis of sex and includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

## Quid Pro Quo Harassment

“Quid Pro Quo Harassment” occurs when an employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.

## Hostile Environment Harassment

“Hostile Environment Harassment” is unwelcome sex-based conduct that is sufficiently severe or pervasive, that, based on the totality of the circumstances and evaluated subjectively and objectively, denies or limits a person’s ability to participate in or benefit from the College’s education program or activity (i.e., creates a hostile environment).

## Sexual Assault—Non-Consensual Sexual Penetration

“Non-Consensual Sexual Penetration” is penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without consent.

## Sexual Assault—Non-Consensual Sexual Contact

“Non-Consensual Sexual Contact” is the touching of the private body parts, including but not limited to breasts, buttocks, or groin, of another person for the purpose of sexual gratification, without consent.

## Sexual Assault—Incest

“Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Illinois, this includes sexual contact between persons who are brothers and sisters, parents and children, including stepparents, stepchildren, and adopted persons, as well as aunts/uncles with nieces/nephews and between grandparents and grandchildren.

## Sexual Assault—Statutory Rape

“Statutory Rape” is sexual intercourse with a person who is under the statutory age of consent, which in Illinois is 17 years of age.

## Domestic Violence

“Domestic Violence” means acts of violence committed by a person who (A) is a current or former spouse or intimate partner of the victim under Illinois law or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shares a child in common with the victim or (D) commits acts against a youth or adult victim who is protected from those acts under Illinois family or domestic violence laws. For purposes of this policy, Domestic Violence does not include acts that meet the definition of domestic violence under Illinois laws that are based solely on cohabitation (e.g. roommates) or family relationship (e.g. parent/child). While non-relationship violence would not be addressed using this policy, it may be addressed under other College policies.

## Dating Violence

“Dating Violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

## Stalking

“Stalking” is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others; or suffer substantial emotional distress.

## Sexual Exploitation

“Sexual Exploitation”isany act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute another offense as defined above. Examples may include acts such as recording, photographing, streaming or otherwise transmitting, viewing, or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved; voyeurism (i.e., spying on others who are in intimate or sexual situations), knowingly transmitting a sexually transmitted infection to another, or facilitating the sexual harm of another person.

## Retaliation

“Retaliation” means intimidation, threats, coercion, or discrimination against any person by a student, employee, or college-authorized person for the purpose of interfering with any right or privilege under this policy. This may include retaliation against a person for reporting information, making a complaint, or participating in or refusing to participate in an investigation, proceeding, or hearing. The Title IX Coordinator will determine the applicable policy and resolution process when an allegation of retaliation is made.

## Definition of Consent

For purposes of the definitions of Prohibited Conduct, “Consent” is defined as a freely given agreement to sexual activity. A person can withdraw consent at any time.

A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation an of the following:

* The person is incapacitated due to the use or influence of alcohol or drugs.
* The person is asleep or unconscious.
* The person is underage.
* The person is incapacitated due to a mental disability.

The following also does not constitute consent:

* a person’s lack of verbal or physical resistance or submission resulting from the use or threat of force
* a person’s manner of dress
* a person’s consent to past sexual activity
* a person’s consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another

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# Reporting

Any person may report an allegation of prohibited conduct defined by this policy. Reports may be made by the person who experienced the harm or by a third-party, including, but not limited to, a friend, family member, advisor, staff member, or professor.

A person has the right to report or not report the alleged incident to the College, law enforcement, or both and may pursue some or all of these reporting options at the same time. When initiating a report, a person does not need to know whether they wish to request any particular course of action, nor how to label what happened.

Contact information for medical and advocacy resources can be found in Appendix A.

## Title IX Coordinator

Any individual who may have been subjected to Prohibited Conduct as defined in this policy, should contact the Title IX Coordinator. Additionally, the Title IX Coordinator will be informed of all reports of potential violations of this policy that are received by employees that are mandated to report under this policy or by federal or state law.

The Title IX Coordinator can be contacted by telephone, email, or in person.

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| **Title IX Coordinator (Students)** |
| **Danielle Chambers**, Chief Student Services Officer and Title IX Coordinator618-235-2700, ext 5566Belleville Campus, ISB Room 11522500 Carlyle Ave.Belleville, IL 62221danielle.chambers@swic.edu |
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## Public Safety and Law Enforcement

Any student or employee who has experienced domestic violence, dating violence, sexual assault, or stalking may report the incident to the Department of Public Safety or local law enforcement. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that poses a threat to safety or physical well-being or following a potential criminal offense. Individuals also have the right to decline to notify law enforcement authorities. A report to law enforcement is not a formal complaint for purposes of the College’s formal resolution process.

At an individual’s request, a College representative or confidential support person will assist in contacting local law enforcement and will cooperate within the extent permitted by law with law enforcement agencies if an individual decides to pursue the criminal process.

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| **Immediate Help** |
| **Call 911** |

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| **SWIC Public Safety** |
| Belleville Campus |
| **Address** | **Emergency Contact** | **Non-Emergency Contact** |
| 2500 Carlyle Ave. Belleville, Il 62221-5899Main Complex, Rm 1240 | 618-222-5555Call boxes throughout campusEmergency Hours: 24/7 | 618-235-2700, Ext.5221M-F: 6:30 a.m. – 10:30 p.m.SAT: 6:30 a.m. – 6:00 p.m.SUN: ClosedHOLIDAYS: Closed |
| Sam Wolf Granite City Campus |
| **Address** | **Emergency Contact** | **Non-Emergency Contact** |
| 4950 Maryville Road Granite City, Il 62040 | 618-797-7372Call boxes throughout campusEmergency Hours: 24/7 | 618-931-0600, Ext.7372M-TH: 6:00 a.m. – 10:00 p.m.FRI: 6:00 a.m. – 4:00 p.m.SAT: 6:00 a.m. – 4:00 p.m.SUN: ClosedHOLIDAYS: Closed |
| Red Bud Campus |
| **Address** | **Emergency Contact** | **Non-Emergency Contact** |
| 500 W. South Fourth St.Red Bud, Il 62278 | In case of an emergency at this campus, please call 9-1-1 or the Red Bud Police Department 618-282-2363 | *For Assistance, call Belleville.*M-TH: 7:30 a.m. – 10:00 p.m.\*FRI: 7:30 a.m. – 4 p.m.SAT & SUN: ClosedHOLIDAYS: Closed\*If classes are not in session, closing is 8:30 p.m. |

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| **Local Law Enforcement** |
| **Belleville** | Belleville Police Department618-234-1212  | St. Clair County Sheriff’s Department618-277-3500 |
| **Granite City** | Granite City Police Department 618-877-6111 | Madison County Sheriff’s Department 618-692-4433 |
| **Red Bud** | Red Bud Police Department 618-282-6118/618-282-2363 | Randolph County Sheriff’s Department 618-826-5484 |
| **East St. Louis Higher Ed Center** | SIU-E Police Department618-482-8717 |  |
| **Scott AFB** | 375th Security Forces Squadron618-256-2223/2224 |  |

An Order of Protection may be sought through the court system and a campus representative may provide assistance upon request in obtaining and enforcing an order. A complainant interested in a no-contact order at SWIC may contact the Title IX Coordinator or Public Safety.

Reports of Prohibited Conduct under this Policy may also constitute violations of state and local law. College officials are required to document certain reports of interpersonal violence for Clery Act reporting purposes. There will be no personally identifiable information about the complainant shared in that report. If the College is required to notify the community of the incident, including recording the assault in the Daily Crime Log or through the issuance of a Timely Warning Notice, no identifying information will be included to the extent permissible by law.

## Confidential Reporting Options

An individual who is not prepared to make a report, or who may be unsure how to label what happened but still seeks information and support, may contact a confidential support person. An individual can contact a confidential support person before and during any College or criminal process. Contacting a confidential support person does not constitute filing a report with the Title IX Coordinator. Unless specifically identified as confidential, staff and faculty are not considered confidential.

At an individual’s request, a confidential support person will assist a complainant in contacting local law enforcement and will cooperate within the extent permitted by law with law enforcement agencies if an individual decides to pursue the criminal process.

When requested and to the extent permitted by law, the confidential support person may liaise with campus officials, community-based sexual assault crisis centers, or local law enforcement and, if requested, assist the complainant with contacting and reporting to campus officials, campus law enforcement, or local law enforcement.

Confidential support persons may provide confidential and privileged communications as permitted under Illinois law. Information shared with confidential support persons (including information about whether an individual has received services) will only be disclosed with the individual’s express written permission, unless there is an imminent threat of serious harm to the individual or to others, or a legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor). Confidential support persons may submit non-identifying information about violations of this policy to the Department of Public Safety for purposes of anonymous statistical reporting under the Clery Act.

Upon receipt of a report, a confidential support person will provide information on the following:

* possible next steps regarding the individual’s reporting options and possible outcomes, including without limitation reporting pursuant to the College resolution processes and local law enforcement;
* student services available on campus and through community-based resources, including without limitation sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services; and
* the College’s responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by the College or a criminal or civil court

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| **Confidential Support Persons: SWIC Wellness Services** |
| Belleville Campus | 618-235-2700, ext. 5290 |
| Red Bud Campus | ext. 5290 |
| Sam Wolf Granite City Campus | ext. 5290 |

## U.S. Department of Education, Office for Civil Rights

All members of the College community may also contact the Office for Civil Rights (a division of the United States Department of Education) to file a complaint pertaining to Title IX.

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| **U.S. Department of Education: Office for Civil Rights** |
| **Headquarters**400 Maryland Avenue, SW, Washington, DC 20202-1100Customer Service Hotline #: 800-421-3481 | Facsimile: 202-453-6012TTY#: 800-877-8339 | Email: OCR@ed.gov | Web: [http://www.ed.gov/ocr](https://www2.ed.gov/about/offices/list/ocr/index.html) |
| **Chicago Office**John C. Kluczynski Federal Building, 230 S. Dearborn Street, 37th Floor, Chicago, IL 60604Telephone: 312-730-1560 | Facsimile: 312-730-1576Email: OCR.Chicago@ed.gov |

## Anonymous and Online Reporting Options

An individual may report an incident without disclosing the individual’s name or requesting any action. Please note that choosing to make an anonymous report can significantly limit the ability of the College to respond. This information will be used for statistical purposes as well as for enhancing the understanding of the campus climate so that the College may strengthen sexual misconduct response and prevention efforts. An anonymous report may be made by leaving a message at following number (222-5566).

An individual may report an incident to the Title IX Coordinator directly or via an online reporting [form](https://www.swic.edu/students/public-safety/report-concerning-threatening-behaviors/)). The online form will not be considered a complaint that would trigger a full investigation. An online report will result in electronic communication of resources or outreach from the Title IX Coordinator within 12 hours of receipt if contact information is provided.

## Reporting to Other College Employees

In light of the College’s obligation to make reasonable efforts to investigate and address conduct prohibited by this policy, College community members who are not designated confidential support persons may be required to notify the Title IX Coordinator of suspected Prohibited Conduct and cannot guarantee the confidentiality of a report under this policy. Employees may report the information to the Title IX Coordinator directly or by using the online reporting [form](https://www.swic.edu/students/public-safety/report-concerning-threatening-behaviors/). A report to a faculty or staff member does not automatically result in a complaint for the purpose of initiating an investigation or resolution process.

Additionally, all employees of the College are mandatory reporters of Child Abuse under the Illinois Abused and Neglected Child Reporting Act. This means that all employees have a duty to immediately report whenever they have “reasonable cause to believe that a child known to them in their professional or official capacity may be abused or neglected,” regardless of the wishes of the reporter. Immediate reports should be made to the Illinois Department of Children and Family Services (DCFS) at (800) 25-ABUSE (800-252-2873).

Consistent with the Clery Act, certain college administrators, faculty, and staff are designated as Campus Security Authorities and required to report information on sexual assault, dating violence, domestic violence, and stalking to the College’s Department of Public Safety.

# College Response to a Report

Upon receiving a report alleging Prohibited Conduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, provide a written explanation of rights and options, and explain to the complainant the option of making a complaint initiating a resolution process when appropriate.

The Title IX Coordinator will take appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the educational setting. This may include utilizing the College resolution process.

If a report is submitted to the Title IX Coordinator that does not identify or describe Prohibited Conduct, the Title IX Coordinator will inform the reporting party that the matter is not within the jurisdiction of this policy and will forward the matter to the appropriate College department, if needed.

## Supportive Measures

Upon receipt of a report alleging Prohibited Conduct, the College will provide reasonable and appropriate supportive measures. Supportive measures mean individualized services offered as appropriate, as reasonably available, without unreasonably burdening a party, and without fee or charge. Such measures are designed to restore or preserve equal access to the College’s educational program or activity, to protect the safety of all parties or the College’s educational environment, deter future harassment or discrimination, and to provide support during any resolution process. Supportive measures will be offered upon receipt of a report, whether or not the resolution processes are utilized. Supportive measures may be modified or terminated as needed.

Supportive measures may include:

* Counseling services and assistance in arranging an initial appointment
* Extensions of deadlines, rescheduling of exams, and other course-related adjustments
* Change in class schedule, including transferring course sections or course withdrawal
* Change in work schedule or job assignment
* Campus escort services
* Changes to academic, living, dining, and transportation when applicable
* Increased security and monitoring of certain areas
* Leave of absence
* Imposition of a “no contact order” and/or honoring a court-issued order of protection
* Any other remedy that can be used to achieve the goals of this policy

SWIC will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. Supportive measures are non-disciplinary and non-punitive and should not disproportionately impact the complainant.

In cases involving students, the Title IX Coordinator may notify other College employees of the existence of the Complaint for the purpose of overseeing compliance with this policy and addressing any concerns related to educational and College sponsored events. While not bound by confidentiality, these individuals will be discreet and will respect the privacy of those involved in the process.

Supportive measures that burden a respondent may be imposed only during the pendency of resolution processes under this policy and will terminate at the conclusion of the resolution process. These measures will be no more restrictive of the respondent than is necessary to restore or preserve the complainant’s access to the education program or activity. A respondent may appeal a supportive measure that the respondent considers unreasonably burdensome using the appeals process outlined in this policy.

Requests for supportive measures may be made by or on behalf of the complainant to the Title IX Coordinator.

For a full list of resources both on and off campus, see Appendix A.

## Interim Removal

In connection with this policy, in circumstances seriously affecting the health or well-being of any person, or where physical safety is threatened, or where the ability of the College to carry out its essential operations is significantly threatened or impaired, an authorized representative may temporarily suspend, dismiss, or bar any person from the College until a final determination is made. Prior to taking action with a student, the College will undertake an individualized safety and risk analysis and provide written notice to the party. In all such cases involving students, the respondent may appeal the removal using the appeal process outlined in this policy.

## Alternative Dispute Resolution

An informal resolution is a process where the parties and the College mutually agree to forgo the formal resolution process and engage in an alternative dispute resolution (ADR). Such resolutions may include a mutual agreement on responsibility and sanctions, mediation, or other conflict resolution methods as offered by the College.

The Title IX Coordinator will determine, based on the totality of the circumstances, whether an alternative dispute resolution process is appropriate given the facts and participants. If appropriate, the Title IX Coordinator may offer an alternative dispute resolution as an option to the parties. Prior to proceeding, the Title IX Coordinator will obtain written voluntary consent from the parties.

The Title IX Coordinator will assign a person as the facilitator who would not be the investigator or decision-maker in the assigned case. Any party may withdraw from the alternative dispute resolution process prior to agreeing to the resolution.

Any documents or materials obtained or created by the College during the alternative dispute resolution process are considered education records and will be maintained in accordance with FERPA, the College’s record retention policy, and this policy, if applicable. This includes but is not limited to records documenting the process, any actions taken by the College, and the outcome of the alternative dispute resolution process.

Once the parties agree to the resolution, the resolution is final.

# College Response to a Complaint

A formal resolution involves an investigation followed by a determination of responsibility by a decision-maker. SWIC utilizes different formal resolution processes based on the alleged behaviors and the status of the parties with the goal of evaluating the allegations and assessing the credibility of the parties and witnesses.

To initiate a SWIC formal resolution process, a complaint must be filed. A complaint means a written request made by a complainant or a Title IX Coordinator to initiate the formal resolution process. A complaint may be completed by the complainant in person or submitted by email, mail, or by phone to the Title IX Coordinator.

Within three business days of receiving the complaint, the Title IX Coordinator will make an initial assessment to determine whether to investigate or dismiss a complaint of sex discrimination.

In limited cases, the Title IX Coordinator may initiate a complaint without a request by the complainant. The Title IX Coordinator has the discretion to initiate the complaint when it is necessary to address conduct that may constitute sex discrimination. A complainant retains standing as a complainant even in cases where the Title IX Coordinator initiates the complaint.

## Notice of Allegation

Prior to the start of the investigation, the Title IX Coordinator will provide notice of the allegations of Prohibited Conduct, including sufficient details known at the time. The parties will receive written simultaneous notification of additional allegations or changes to the allegations as appropriate.

Throughout the resolution process, the Title IX Coordinator will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of any meetings or proceedings. Either party may request that the parties not to be in the same room for any meetings or proceedings in which both may attend. The College will determine the appropriate use of technology to satisfy the request.

## Dismissals

If at any time the Title IX Coordinator determines that the alleged conduct, even if proven, would not constitute sex discrimination as defined in this policy, the Title IX Coordinator may dismiss the complaint or refer the complaint to another office for review. A complaint may also be dismissed if the College is unable to identify the respondent after taking reasonable steps to do so or if the respondent is not a student, employee, or otherwise participating in the College’s educational programs or activities.

Upon a dismissal, the College will send written notice of the basis for the dismissal simultaneously to the parties. Any dismissal may be appealed by a party using the appeal process outlined in this policy. The College will continue to offer supportive measures as appropriate.

## Complaint Withdrawal

If at any time during any resolution process a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the complaint, the College may dismiss the complaint and end the resolution process. The decision as to whether to dismiss the complaint will be determined by the Title IX Coordinator based on the stated goals of this policy to address conduct that may constitute sex discrimination.

Upon a dismissal, the College will send written notice of the basis for the dismissal simultaneously to the parties. Either party may appeal the dismissal using the appeal process outlined in this policy. The college will continue to offer supportive measures as appropriate.

## Consolidations

The Title IX Coordinator has the discretion to consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

If a case involves alleged violations of other SWIC policies, the Title IX Coordinator, in consultation with other school officials, will determine which resolution process to use or if different resolution processes for each alleged violation would be more appropriate.

## Participation

Exclusive of the complainant and respondent, SWIC expects all members of the College community to cooperate fully with any resolution processes.

It is understood that there may be circumstances in which parties wish to limit their participation. The complainant and respondent retain this right and will not be subject to adverse College actions, although the College may be obligated to conduct an investigation. If a party chooses not to participate in an investigation for any reason, the College process will continue with respect to the alleged conduct.

## Amnesty

In order to encourage reports of sex discrimination prohibited under this policy, the College may offer leniency with respect to other violations which may come to light as a result of such reports, depending on the circumstances involved. This includes instances of underage drinking or possession or use of a controlled substance, that is revealed in the course of such a report. The Title IX Coordinator will make the determination on behalf of the College as to whether amnesty should apply taking into account factors such as egregiousness and risk of harm to others.

# Investigations

## Assignment to an Investigator

For resolution processes requiring an investigation, the Title IX Coordinator will assign one or more investigators to the case. The Title IX Coordinator may serve as an investigator. A party will be given an opportunity to request the removal and replacement of an investigator based on bias or conflict of interest. Any request for a change in an investigator must be accompanied by supporting information.

## Investigation

During the investigation, the parties will have an equal opportunity to be heard, to submit information and other inculpatory and exculpatory evidence, to identify witnesses and to submit questions that they believe should be directed by the investigator to the other party or to any witness. Any requested questions the investigator excludes due to relevancy will be documented and explained to the party proposing the question. The investigator will gather other relevant and available information including, without limitation, electronic or other records of communications between the parties or witnesses, photographs, and written documentation.

The College will not access, consider, disclose or otherwise use the following: a) any evidence that is protected under a privilege as recognized by Federal or Illinois law, unless the person holding such privilege has waived the privilege voluntarily; b) a party’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party, unless the party provides voluntary, written consent for use in the College’s resolution processes; and (iii) evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is offered to prove consent with evidence concerning specific incidents of the complainant’s prior sexual conduct with the respondent.

The College will not restrict either party from discussing allegations under investigation or from presenting relevant evidence.

The investigator will seek to complete the investigation within 45 business days after receipt of the complaint. There may be circumstances that require the extension of timeframes for good cause. The College will notify the parties in writing of any extension of the timeframes for good cause, and the reason for the extension. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide supportive measures for the complainant.

## Evidence and the Investigative Report

At the conclusion of the initial investigation, the parties and their advisors will receive timely and equal access to all relevant evidence that will be used to make a determination. The parties will be provided an opportunity to respond to the evidence. The investigator will consider any responses and then create an investigative report that is a summary of the relevant evidence. The investigator has the discretion to determine the relevance of any proffered evidence.

# Formal Resolution

## Assignment to a Decision-maker and Resolution Process

Upon conclusion of the investigation, the Title IX Coordinator will decide as to the appropriate resolution process that will be used. The complainant and respondent will receive a copy of the resolution procedures that will be used prior to start of the resolution process. The Title IX Coordinator may recommend to the parties an Alternative Dispute Resolution as described above.

The Title IX Coordinator will assign one or more decision-makers to the complaint. The Title IX Coordinator may serve as a decision-maker when permitted under this policy. A party will be given an opportunity to request the removal and replacement of a decision-maker based on bias or conflict of interest. Any request for a change in a decision-maker must be accompanied by supporting information.

The decision-maker is responsible for maintaining an orderly, fair, impartial, and respectful process. The resolution process is not a re-investigation of the allegations. Relevant evidence and witnesses should be provided during the investigation.

A complainant, respondent, or witness may decline to participate in the formal process. The decision-maker will not draw any adverse inference from a party’s silence or stated desire to not participate. All conferences and hearings are closed to the public and only the advisors of choice may accompany their respective party.

SWIC offers three different formal resolution processes described below: Administrative Conference, Student Hearing, and Title IX Sexual Harassment Hearing.

## Administrative Conference

For sex-discrimination cases and sex-based harassment cases that do not meet the threshold for Title IX Sexual Harassment, the determination regarding responsibility will be made by the decision-maker at an administrative conference. The decision-maker may pose additional questions to the parties or to witnesses in writing or individually in person if needed to adequately assess credibility.

## Student Hearing

For sex-based harassment cases involving a student respondent and/or student complainant that does not meet the threshold for Title IX, a student may request a hearing utilizing the process outlined in this section. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in these proceedings.

Prior to the hearing, the parties will be notified of the identity of the witnesses who will be called by the decision-maker to attend the hearing. The decision-maker may elect not to permit one or more witnesses to participate in the hearing if the information they are expected to provide is not relevant to any material issue or is deemed unnecessarily redundant of other information already in the investigative report.

The parties may submit a written response to the investigative report no later than two business days prior to the hearing. The parties may include in their response a request for specific witnesses to attend and relevant questions to be asked at the hearing. Those questions, along with any questions requested at the hearing, are limited to those assessing credibility and relevant questions and follow up questions that have not previously been asked and answered in the final investigative report. Prior to a question being asked, the decision-maker will determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The decision-maker will determine the method for questioning at the hearing; however, all questions posed by the parties will be asked exclusively by the decision-maker. The decision-maker has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding any offending person including an advisor.

A recording will be made by the College. All other recordings are prohibited.

## Title IX Sexual Harassment Hearing

For cases that have been determined by the Title IX Coordinator to meet the threshold for Title IX Sexual Harassment, the determination regarding responsibility will be made at a hearing utilizing the process outlined in this section. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in these proceedings.

Prior to the hearing, the parties will be notified of the identity of the witnesses who will be called by the decision-maker to attend the hearing. The decision-maker may elect not to permit one or more witnesses to participate in the hearing if the information they are expected to provide is not relevant to any material issue or is deemed unnecessarily redundant of other information already in the investigative report.

The parties may submit a written response to the investigative report no later than two business days prior to the hearing. The parties may include in their response a request for specific witnesses to attend and relevant questions to be asked at the hearing. Those questions, along with any questions requested at the hearing, are limited to those assessing credibility and relevant questions and follow up questions that have not previously been asked and answered in the final investigative report. Prior to a question being asked, the decision-maker will determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The advisor is responsible for conducting the cross-examination—questions may not be asked by the parties. The decision-maker has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding any offending person, including an advisor.

A recording will be made by the College. All other recordings are prohibited.

# Determination of Responsibility

## Standard of Evidence

The decision-maker shall use a preponderance of the evidence standard to determine whether the alleged violation of the policy occurred. The preponderance of the evidence means a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it; given the totality of information the version of events that is more likely than not. Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a policy violation (51% or greater).

## Written Determination

The complainant and respondent will simultaneously receive a written determination whether Prohibited Conduct occurred. The determination will be provided within three business days of the conclusion of the conference or hearing. If there is a delay for good cause, the parties will be notified.

The written determination letter will include:

* the allegations constituting sexual harassment;
* a description of the procedural steps taken during the resolution process;
* findings of fact supporting the determination;
* conclusions regarding the application of the policy to the facts;
* a statement, and rationale for the result of each allegation including findings, sanctions, and remedies; and
* options for appeal.

The determination of responsibility becomes final either on notification of the results of the appeal, or the date on which an appeal would no longer be considered timely.

## Sanctions and Remedies

Sanctions are intended to provide educational opportunities and accountability while also reducing the likelihood of future prohibited conduct. Sanctions may include administrative, educational, and restorative components. Some conduct, however, is so egregious in nature or so damaging to the educational environment that it requires more serious sanctions, including suspension or dismissal.

Remedies are designed to restore or preserve equal access to the College’s education program or activity for the complainant. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

If there is a finding of responsibility for a policy violation, the determination of sanctions and remedies will be made by the decision-maker.

The following are types of sanctions which may be imposed, individually or in various combinations, on any **student** found in violation of the policy:

* Disciplinary Reprimand: An oral conference that is documented or a written reprimand, both noting the seriousness of the violation of the Student Conduct Code
* Probation: A status for a specific period of time which places the student on notice that further misconduct may result in more serious penalty
* Social Probation: Probationary status that also restricts the student from specified activities, equipment, or facilities
* No Contact Order: May be issued to prohibit contacting (staying away from) the complainant, to include no physical or non-physical contact whether direct or indirect (including but not limited to, telephone calls, text messages, mail, email, faxes, written notes or through other electronic means [social media], or through third parties who may know or may not know about the restriction)
* Suspension: Involuntary separation from the college for a stated period of time or until stated conditions are met; days on suspension are unexcused absences from class
* Expulsion: Permanent removal from SWIC
* Assessment for Restitution: Payment for restoration of property or to resolve financial obligations to the college; failure to pay assessed amounts will prevent the student from obtaining records and registering for classes
* Educational Initiatives: Projects; participation in educational program; seminars; and other assignments as warranted

The following are types of disciplinary action may be imposed, individually or in various combinations, on any **employee** found in violation of the policy:

* Verbal Warning: An oral conference that is documented identifying the violation of the policy, the seriousness of the violation, and the expected behavior.
* Probation: A status for a specific period of time which places the employee on notice that further misconduct may result in more serious penalty.
* Written Warning:  Specific documentation that identifies the violation of the policy, the seriousness of the violation, and the expected behavior to ensure there is no ambiguity or uncertainty about the rules or expectations.
* Paid Administrative Leave/Suspended With Pay:  A specific paid time period in which the employee is not permitted to perform any duties or tasks on behalf of SWIC.
* Unpaid Administrative Leave/Suspended Without Pay: A specific unpaid time period in which the employee is not permitted to perform any duties or tasks on behalf of SWIC.
* Termination/Recommendation for Termination
* No Contact Order: May be issued to prohibit contact with (staying away from) the complainant, to include no physical or non-physical contact whether direct or indirect (including but not limited to, telephone calls, text messages, mail, email, faxes, written notes or through other electronic means [social media]), or through third parties who may know or may not know about the restriction.

# Appeals

The complainant and the respondent have equal rights to a fair and impartial appeal. All appeals will be referred to an appeals officer. The appeals officer will not have served as an investigator or decision-maker in the previous steps of the process for the applicable case. The deadline for filing a written appeal is three business days from the date the parties are provided the written determination. If either party files an appeal, the Title IX Coordinator will notify the other party in writing and provide both parties the opportunity to submit a written statement.

A complainant or respondent may file a written appeal with the Title IX Coordinator. The appeal must be on one or more of the following grounds:

* procedural irregularity that would change the determination
* new evidence that was not reasonably available at the time of the determination
* a conflict of interest or bias by the Title IX Personnel for or against complainants or respondents generally or the individual complainant or respondent that would change the determination

The purpose of an appeal is not to initiate a review of substantive issues. The appeals officer may decide to uphold the original determination or to return the case for additional proceedings or other action based on the process under appeal and the ground.

Both parties will be notified simultaneously in writing of the outcome of the appeal and the rationale for each result.

# Policy Information

## Record-Keeping and Annual Reports

The College will keep for seven years the following:

* all information obtained as part of each investigation under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any sanctions and/or remedies; any appeal, including the result of the appeal; and any alternative dispute resolution and the result therefrom
* all information regarding any action taken, including supportive measures, and a rationale as to why a complaint was not filed. If a complainant was not provided supportive measures, a rationale must be provided as to why supportive measures were not provided
* all training materials used to train Title IX Coordinators, investigators, decision-makers, and those who facilitate the alternative dispute resolution process

Generally, information from a student’s conduct file is not released without the written consent of the student. However, certain information may be provided to individuals within or outside the College who have a legitimate legal or educational interest in obtaining it. Please refer to the College’s privacy policy and the federal Family Educational Rights and Privacy Act of 1974 (FERPA).

Personnel files are the property of the College and will not be shared without a subpoena.

In addition to any other state or federal reporting requirements related to this policy, as of November 1, 2017, in accordance with 110 ILCS 205/9.21(b), the College shall report the following to the Illinois Attorney General’s Office:

* Training conducted
* Prevention programs
* Incidents reported
* Complaint resolution outcomes

## Disability Accommodations and Interpretive Services

Southwestern Illinois College (SWIC) makes every reasonable effort to accommodate individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 (504) and the Americans with Disabilities Act Amendments Act of 2008 (ADAAA). In compliance with this commitment, the Disability & Access Center determines reasonable and appropriate accommodations and auxiliary aides for access and participation in college sponsored classes, services, and programs. Students with a documented disability who desire an accommodation regarding this Policy must request an accommodation with the Disability & Access Center and inform the Title IX Coordinator that such a request has been made. Disability & Access Center will make a determination after consultation with the Title IX Coordinator. The appropriate parties will be notified in accordance with the Disability & Access Center’s procedures.

Employees with a disability who desire an accommodation regarding this policy must request an accommodation with Human Resources.

Students or employees who require interpretive services should make the request for translation services to the Title IX Coordinator.

## Revision and Interpretation

The policy is maintained by the Title IX Coordinators and was most recently approved by the College President and the Board of Trustees on **Wednesday December 21, 2022.** SWIC reserves the right to review and update the policy in accordance with changing legal requirements and specific needs of the College.

Any questions of interpretation regarding the Policy shall be referred to the Title IX Coordinator. The Title IX Coordinator’s determination is final.

All reports received by the College after this date will be administered in accordance with the procedures described under this policy.

# Appendix A – Medical and Advocacy Resources

## Medical Assistance

Individuals are encouraged to seek medical treatment following a physical or sexual assault regardless of the time elapsed since the incident. College officials or campus safety can assist in transporting and navigating health services upon request.

It is important to preserve any physical evidence when possible, in case of future reporting to law enforcement or if seeking a court-issued Order of Protection. It is recommended that the individual not shower and all clothing (including underwear) should be put into a paper bag and brought to the hospital. Additionally, preservation of any related or electronic communications (e.g., pictures, videos, texts, social media posts, etc.) is recommended.

Pursuant to the Illinois Sexual Assault Survivors Emergency Treatment Act, an individual may have a medical forensic examination and/or medical treatment related to the sexual assault completed in Illinois at no cost to them. Please note that the availability of an evidence collection kit may be limited after the passage of time, ranging from 72 hours to seven days depending on the provider.

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| **Closest Forensic Medical Exam** |
| **HSHS Elizabeth’s Hospital** 1 Saint Elizabeth Blvd.O’Fallon, Il 62269618-234-2120 |

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| **Medical Facilities** |
| **Memorial Hospital Shiloh**1404 Cross St.Shiloh, Il 62269618-607-1000**HSHS Elizabeth’s Hospital**1 Saint Elizabeth Blvd.O’Fallon, Il 62269618-234-2120 |

## Off-Campus Sexual Assault and Domestic Violence Services

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention, and assistance in interfacing with the criminal justice system. Campus officials may provide assistance, upon the individual’s request, in accessing and navigating campus and local health and mental health services, counseling and advocacy services. If accessing these resources, individuals are encouraged to clarify whether the resources are confidential.

The Title IX Coordinator or other college officials may also provide assistance connecting an individual with additional resources including legal assistance, financial aid services, and immigration/visa assistance that is needed following a report of prohibited conduct under this policy.

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| **Local Sexual Assault and Domestic Violence Services** |
| **Violence Prevention Center of Southwestern Illinois***Services for victims of domestic violence including advocacy, counseling, emergency shelter, and referrals.*P.O. Box 813Belleville, IL 62222Email: information@vpcswi.orgWebsite: [vpcswi.org](http://www.vpcswi.org/)618-235-253124 Hour Crisis Line: 618-235-0892 |
| **Call for Help***Assistance for sexual assault survivors and others in crisis. Supports survivors through counseling, medical and legal advocacy*24-hour Confidential Sexual Assault Crisis Line: 618-397-0975 |
| **Main Office**28 North Bronze Pointe, Suite BSwansea, IL 62226618-397-0975 | **Alton**235 East Delmar AvenueAlton, IL 62202618-462-0552 |
| **East St. Louis**3129 State StreetEast St. Louis IL 62205618-271-8990 | **Troy**535 Edwardsville Road, Suite 120Troy, IL 62294618-667-3350 |

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| **National Sexual Assault and Domestic Violence Services** |
| **National Sexual Assault Hotline**Connects to the nearest RAINN (Rape, Abuse & Incest National Network)-affiliated crisis center. 24-hour Hotline: 1-800-656-HOPE |
| **National Domestic Violence Hotline**1-800-799-SAFEwww.thehotline.org |

# Appendix B – Complainant and Respondent Rights

The following provides an overview of the rights afforded to complainants and respondents under the Sex Discrimination and Sex-Based Harassment policy. Individuals should review the entire policy for a thorough understanding of their rights.

Both the complainant and respondent have the right to:

* A prompt, fair, and impartial process from the initial investigation to the final result.
* Be offered supportive measures upon receipt of a report, whether or not the resolution processes are utilized.
* Be accompanied to any meeting or resolution proceeding by the advisor of their choice in cases involving students or for employee reports involving dating violence, domestic violence, sexual assault, or stalking.
* Be notified of reasonably prompt timeframes for the major stages of the resolution and a process that is completed within the timeframes with written notice of any extension with good cause.
* Submit an appeal if the decision is made to dismiss the complaint.
* Be informed of the range of sanctions and remedies that may be imposed if there is a finding of responsibility.
* Proceedings that are conducted in a manner that is consistent with College policies and transparent to the parties.
* Title IX Personnel who are annually trained per Title IX and the Clery Act and do not have a conflict of interest or bias against the parties.
* Request the removal and replacement of the investigator(s), decision-maker(s), or informal resolution facilitator(s) based on bias or conflict of interest.
* Receive written notice of the allegations prior to the start of the investigation and written simultaneous notification of additional allegations or changes to the allegations as appropriate.
* Receive written notice of the date, time, location, participants, and purpose of any meetings or proceedings where the party is expected to attend.
* Option of not being in the same room for any meetings or proceedings with the other party.
* Receive an equal opportunity to be heard, to submit information, including inculpatory and exculpatory evidence, and to identify relevant fact witnesses.
* An equal and timely opportunity to inspect, review, and respond to any relevant evidence obtained.
* Review and respond to the final investigative report.
* Request relevant questions be asked of the parties and witnesses by the decision-maker.
* Receive simultaneously a written determination of responsibility.
* The option of submitting an appeal of a determination of responsibility.

The complainant also has the right to:

* Information on the importance of preserving physical and documentary evidence that may assist in proving that the alleged offense occurred or may be helpful in obtaining a protection order.
* Speak to a confidential reporting option.
* Report or not report to law enforcement and will be assisted by the College if requested.
* Report or not report to the College’s Title IX Coordinator in person or via email or phone.
* Have the report kept private including not having any personally identifying information shared in any campus alerts or public crime logs with information only shared about supportive measures as needed to provide them.
* File a formal complaint alleging sexual harassment and request that the recipient investigate the allegation of sexual harassment.
* When a respondent has been found responsible, be provided with remedies designed to restore or preserve equal access to the College’s education program or activity.

The respondent also has the right to:

* Right to notice and an opportunity to challenge if the respondent is removed from the College’s education program or activity on an emergency basis and pending the final resolution.
* Right to be presumed not responsible for the alleged conduct until a determination whether sex discrimination occurred is made at the conclusion of the resolution process.