

# Title IX Policy, Procedures, and Information

## *Addressing Sexual Discrimination, Sexual Misconduct, Dating and Domestic Violence, and Stalking*

### I. College's Nondiscrimination Statement

Davidson College expressly prohibits any form of discrimination or harassment based on race, color, ethnicity, national origin, religion, age, disability, sex (including pregnancy), gender or gender identity, sexual orientation, and any other status protected by applicable federal, state, or local law. (see Non-Discrimination, Non-Harassment, and Equal Employment Opportunity Policy).

Inquiries about Title IX may be referred to Davidson's Title IX Coordinator:

Carley Dix, Title IX Coordinator, Section 504 Coordinator and Compliance Officer,  
Chambers 1255, (704) 894-2591, [cadix@davidson.edu](mailto:cadix@davidson.edu).

External Reporting: Inquires about Title IX may also be made to the U.S. Department of Education's Office of Civil Rights, or both

Washington DC (Metro)  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475

Telephone: 202-453-6020    FAX: 202-453-6021    TDD: 800-877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

To report information about conduct that may not constitute discrimination or harassment or make a complaint of discrimination or harassment that is not covered by this policy, please reach out to

#### **DEAN OF STUDENTS**

**Main Phone** 704-894-2225  
**Main Email** [deanofstudents@gmail.com](mailto:deanofstudents@gmail.com)

The Dean of Students office has trained staff who can help students identify and explain resolution options and resources related to possible experiences of discrimination and harassment.

#### **HUMAN RESOURCES**

**Main Phone** 704-894-2213

The Human Resource office has trained staff who can help employee identify and explain resolution options and resources related to possible experiences of discrimination and harassment.

## II. INTRODUCTION

Davidson College is committed to creating and maintaining an environment that is free of sex discrimination and that promotes a healthy spirit of responsibility, dignity, and respect in matters of sexual conduct and interpersonal relationships. Sex discrimination includes sex-based harassment which encompasses sexual harassment, sexual assault, dating violence, domestic violence, and other harassing conduct on the basis of sex. The College does not condone and will not tolerate sex discrimination. This Policy provides recourse for students who have experienced sex discrimination and establishes a process for the College to determine whether specific behaviors constitute violations of this Policy.

**Sex Discrimination** is a term that encompasses a broad range of behavior, including mistreating people on the basis of sex, engaging in harassment, and engaging in sexual assault. Any individual who has been the target of sexual and interpersonal violence has the option to make a report to campus police or local law enforcement, to seek support and resolution through Davidson's internal procedure as outlined in this Policy, to do both, or to do neither.

The College strongly encourages all members of our community to report any sex discrimination in all forms and to seek appropriate care and support. All individuals are encouraged to report an incident even if the reporting person does not want to file a criminal report or initiate Davidson's internal resolution options. Sexual assault (including rape), physical violence, and stalking are serious criminal acts. The College urges students to report criminal acts to the police, though no student is required to do so.

When the College receives a report of sex discrimination the College will use the procedures outlined in this Policy to take reasonable, prompt, and appropriate action to respond.

This Policy has been developed consistent with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), its implementing regulations, 34 C.F.R. Part 106, and significant guidance documents published by the U.S. Department of Education Office for Civil Rights; and with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) ("The Clery Act") and its implementing regulations, 34 C.F.R. Part 668. Please note that the definitions and standard of review in this Policy differ from North Carolina criminal law.

**(Refer to the College's Annual Security Report for the North Carolina criminal law definitions for sex offenses, stalking, domestic violence, and dating violence.)**

## III. OPTIONS FOR IMMEDIATE ASSISTANCE

If you are in an emergency situation, go to a safe location and **call 911**.

If you have been the target of sex discrimination, including sexual harassment, sexual misconduct, dating violence, domestic violence, or stalking and are seeking immediate assistance, you have several on- and off-campus options. Students are not required to take any action when reporting sexual misconduct and seeking immediate assistance does not automatically launch a Complaint or investigation. Please note that all employees other than confidential employees must report sex discrimination they learn about or observe to the Title IX Coordinator. To access fully confidential resources, you should contact a medical professional at Student Health and Well-Being (doctor, nurse,

or counselor) or the Chaplain's Office. For more information on confidential reporting, see the Confidential and Protected Resources section.

### **On-Campus Immediate Assistance Options:**

#### **CAMPUS POLICE**

**Main Office Phone: 704-894-2178**  
**704-892-7773 (24 hour)**

The Davidson College Public Safety Office has staff trained in how to respond to reports of sexual misconduct, relationship abuse and violence, or stalking. If you prefer, you may request to speak to the Interpersonal Violence Officer. Campus Police can also contact other on- and off-campus resources to assist you including the Dean of Students On-Call representative.

#### **STUDENT HEALTH AND WELL-BEING**

**Main Phone: 704-894-2300 (24 hour)**

Student Health and Well-Being is a confidential resource for students seeking medical assistance or psychological counseling. The staff can assist you in seeking immediate emergency medical care at a local hospital and/or receive an exam from a sexual assault nurse examiner (SANE) at a local hospital. Any student can call the counselor on call to address a psychological emergency. Calls are fully confidential, as with all counseling services, with exceptions made only in the case of imminent harm or as required by law.

#### **HEALTH EDUCATOR**

**Main Phone: 704-894-2398**

The Health Educator is a confidential resource who can help you understand your options and resources. Additionally, the Health Educator can provide guidance and support.

#### **RESIDENCE LIFE STAFF**

The Residence Life staff can help connect you with on- and off-campus resources.

#### **CHAPLAINS' OFFICE**

**Main Phone: 704-894-2423**

The College chaplains are available to all members of the College community—those of any faith tradition, or none at all—to offer confidential spiritual direction and pastoral counseling. They can also assist individuals in determining whether additional counseling with a clinically trained therapist might be helpful.

### **Off-Campus Immediate Assistance Options:**

#### **TOWN OF DAVIDSON POLICE**

**Main Phone: 704-892-5131 (24 hour)**  
**Emergency: 911 (24 hour)**

The Davidson Police Department is available 24 hours a day, 365 days a year to meet with any victim of a sexual assault, domestic violence, any physical assault, or the crime of stalking. Officers are committed to conducting a full criminal investigation into these allegations if requested by the victim/survivor. The Davidson Police Department also provides a Victim-Witness Advocate who is trained to support and assist victims of domestic violence and sexual assault. This support is provided

as the case is investigated and where the evidence exists, prosecuted to the fullest extent of the law. There are no costs for these services.

**COMMUNITY RESOURCES FOR  
*CRISIS, EMERGENCY MEDICAL INTERVENTION, AND SHELTER SERVICES***

<b>Safe Alliance:</b> <b>(Victim Assistance and Rape Crisis)</b>	<b>704-332-9034</b> <b>980-771-4673 (24 hour)</b>
<b>Mecklenburg County Community Support Services</b>	<b>704-336-3210</b>
<b>Domestic Violence Healthcare Project:</b> <b>(Based at Carolinas Medical Center)</b>	<b>704-446-3999</b>
<b>Project Safe:</b> <b>(Based at Presbyterian Hospital)</b>	<b>704-614-7212</b>

**Preservation of Evidence** If you have experienced sexual assault, evidence of the assault may be left on your body. If it is safe for you to do so, you should take steps to preserve evidence of the assault even if you have not made a decision to file a criminal report. If the assault occurred within the past 96 hours, you are strongly encouraged to receive an exam from a sexual assault nurse examiner (SANE) at a local hospital. It is important that you do not bathe, wash, douche, smoke, or change clothing prior to the exam so that evidence may be preserved. If you do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infection(s). There may also be physical evidence of the assault at the location where you were assaulted. Campus Police can assist you in the collection and preservation of physical evidence even if you have not yet decided whether to file a criminal report. It is important that you do not clean the bed/linen/area where you were assaulted so that evidence may be preserved. In all cases of sexual misconduct, domestic violence, dating violence, or stalking, you are encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other documents, if any, that would be useful to the investigation, complaint resolution process, and/or to police.

**VI. Applicability and Jurisdiction**

This policy applies to reports of prohibited conduct where a student is a party (the Complainant or Respondent). This policy applies to complaints made against students by any members of the Davidson College community including but not limited to other students, employees, and other individuals associated with the College such as visitors, volunteers, or independent contractors. This policy also applies to students who have allegations against a Davidson college employee. This policy may pertain to instances in which the conduct occurred outside of the campus or College-sponsored activity if the College determines that the off-campus conduct affects a substantial College interest, including access to the educational program or activity, safety and security, compliance with applicable law, and meeting its educational mission.

The status of a party may impact which resources and remedies are available to them, as described in this policy. Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by the College, including to external professionals.

For reports where an employee is alleged to have engaged in sex discrimination against another employee, see the *Davidson College Employee Title IX Policy, Procedures, and Information*.

#### **IV. Prohibited Conduct**

The following conduct is prohibited under this Policy:

**Discrimination on the Basis of Sex** is defined as discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Discrimination is defined as treating members of a protected category less favorably because of their actual or perceived membership in that category or as having a policy or practice that adversely impacts the members of one protected category more than others.

**Retaliation** means intimidation, threats, coercion, or discrimination engaged in against any person, by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including an informal resolution process, grievance procedures, and in any other actions taken by the College in response to a report of sex discrimination.

**Sex-Based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that is:

Quid Pro Quo: 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;

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which conduct affected the complainant's ability to access the College's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the College's program or activity.

Sexual Assault is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

- 1) Rape – The 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 the consent of the victim.
- 2) Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- 3) Incest – Sexual intercourse between person who are related to each other within the degrees wherein marriage is prohibited by law.
- 4) Statutory Rape – Sexual intercourse with someone who is under the statutory age of consent.

**Dating Violence** Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence. Dating violence and Domestic violence are collectively referred to as Relationship Violence and Abuse.

**Domestic Violence** Any violence that may constitute felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the Complainant, (b) by a person with whom the Complainant shares a child in common, (c) by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, (d) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina, or (e) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of North Carolina.

**Stalking** Engaging in a "course of conduct," on the basis of sex, 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." Under this section, "course of conduct" is defined as 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; and "substantial emotional distress" is defined as a significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**Sexual Exploitation** "Sexual Exploitation" occurs when an individual takes non-consensual or abusive sexual advantage of another to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to: engaging in voyeurism; electronic transmission of pornographic or other sexually inappropriate material; exposing one's genitals or breasts in non-consensual circumstances or inducing another to expose genitalia or breasts; and any other sexual activity that goes beyond the boundaries of consent, such as recording of sexual activity, allowing another person to observe sexual activity without the other person's consent, or engaging in sexual

activity while knowingly infected with a sexually transmitted infection (STI) or Human Immunodeficiency Virus (HIV) without informing the other person of the infection.

## Related Terms

1. **Consent** "Consent" means the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter.
  - a. Consent can be communicated by either explicit verbal consent or overt action clearly expressing consent. Such signals of consent must be mutual and ongoing, as well as offered freely and knowingly.
  - b. Consent cannot be inferred under circumstances in which consent is not clear, including but not limited to the absence of "no" or "stop," or the existence of a prior or current relationship or sexual activity. As well, a verbal "no," even if it may sound indecisive or insincere, constitutes a lack of consent. If at any time during a sexual encounter any confusion or ambiguity should arise on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness to continue. Consumption of alcohol, in and of itself, does not relieve an individual of responsibility to obtain ongoing consent.
  - c. An individual who is asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, is not able to consent. An individual who is under the age of 16 is not able to consent. Indications of consent are irrelevant if the person is not able to consent.
2. **Sexual Coercion** The application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity." A person's words or conduct are sufficient to constitute coercion if they impair another individual's ability to choose whether or not to engage in sexual activity.
3. **Incapacitation** "Incapacitation" is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., the understand the who, what, when, where, why, or how of the sexual activity) and/or is physically helpless. Incapacitation can result from sleep, unconsciousness, mental or physical helplessness, ingestion of substances, or lack of awareness that sexual activity is taking place.
  - a. Incapacitation may result from the use of alcohol or drugs, but consumption of alcohol or drugs alone is not sufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's decision-making ability; awareness of consequences; ability to make informed judgements; and capacity to appreciate the nature and the quality of an act.
  - b. Evaluating incapacitation also requires an assessment of whether the Respondent knew or should have known that the Complainant was incapacitated. In determining whether the Respondent should have known that the Complainant was

incapacitated, the standard is whether a reasonable sober person should have known that the Complainant was incapacitated. Indicators of incapacitation may include the following: bloodshot or unfocused eyes; concern expressed by others about the individual; memory loss or disorientation; outrageous or unusual behavior; slurred speech; unsteady gait; vomiting, unconsciousness, and going in or out of consciousness.

4. **Preponderance of the Evidence** The Decisionmaker considers the greater weight of the credible evidence to determine whether a Policy violation occurred. Under this evidence review standard, the Decisionmaker, after considering all evidence, would find that a policy violation occurred if the alleged violation is more likely than not to be true than untrue.
5. **Education Program or Activity** Davidson's "education program or activity" includes all campus operations, including off-campus settings that are operated or overseen by the College, including, for example, field trips, online classes, and athletic programs; conduct subject to the College's disciplinary authority that occurs off-campus; conduct that takes place via College-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the College. Conduct that occurs outside of the education program or activity may contribute to a hostile environment within the program or activity.
6. **Bias** Bias is defined as an unfair prejudice in favor or against a party based on a party's race, ethnicity, national origin, sex, gender identity, sexual orientation, disability, age or religion and associated stereotypes.
7. **Reporting Party** An individual who reports an experience of sex discrimination.
8. **Complaint** A complaint means an oral or written request to the Title IX Coordinator that objectively can be understood as a request for the College to investigate and make a determination about alleged sex discrimination under this policy. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. Individuals who would like more information about initiating an investigation are invited to contact the Title IX Coordinator for additional information.
9. **Days** When computing time periods for actions in this Policy, the following rules apply: (a) Exclude the day of the event that begins the period (b) Exclude any intermediate Saturdays, Sundays, and college holidays (i.e., only business days are counted) (c) When an act must be done within a specified time, the act must be completed by 5 p.m. on the last day of the period.
10. **Complainant** The "Complainant" is the individual who initiates a Complaint of sex discrimination. In the case of complaints that are pursued when the affected individual is unable or unwilling to participate in the process, the College may pursue the complaint in which case the College shall be the Complainant.
11. **Respondent** The "Respondent" is the individual whose conduct is alleged to have violated this Policy and whose conduct is being investigated.
12. **Investigator** The "Investigator" is an individual who has received specialized training in conducting sex discrimination investigations and has been assigned by the Title IX Coordinator to investigate an alleged violation of this Policy. Investigators are neutral fact



finders who, during the course of the investigation, typically conduct interviews with the Complainant, the Respondent, and third-party witnesses; take custody of any physical or electronic records or documents to be included in an investigation report; and, where applicable, coordinate with Campus Police or other law enforcement agencies. Investigators prepare a written investigation report for the Dean of Students to use to determine whether to charge the Respondent with a violation of this Policy.

13. **Advisor** An "Advisor" is an individual who provides the Complainant or Respondent support, guidance, or advice. The Complainant and Respondent may have the Advisor of their choice present during any meeting or proceeding related to complaint resolution under this Policy. The College will provide a list of trained Advisors available to provide guidance and support to the student. Students are not required to choose an Advisor from the list of trained Advisors.
14. **Support Person** The Complainant and Respondent may each have one Support Person present at any meeting or proceeding related to a complaint resolution under this Policy, to provide support. A Support Person may be in addition to an Advisor. A Support Person cannot be a party to the complaint (i.e. a witness, co-complainant, or co-respondent). The Support Person has no formal role in the investigation process. The Support Person's role in any meeting or proceeding during the complaint resolution process is limited to requesting reasonable breaks to confer privately with the Complainant or Respondent. Support Persons may not record the meetings, take notes, ask questions, or otherwise actively participate in meetings. While the College will make reasonable efforts to accommodate the schedule of a party's Support Person in scheduling meetings, a Support Person's inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding. The College will provide a list of trained Support Persons available to provide guidance and support to the student. Students are not required to choose a Support Person from the list of trained Support Persons.
15. **Decisionmaker** Trained professional designated by the College to decide responsibility, sanction, or appeals. A Decisionmaker may be one person or a panel of multiple people as determined by the College. Consistent with applicable law, the investigator may be appointed as the Decisionmaker.
16. **Appeal Board** The "Appeal Board" is composed of five members, one of whom shall be the Chair. The members are appointed by the President or delegate and shall serve a renewable four-year term. Every effort will be made to maintain gender balance on the Appeal Board, and membership normally will be limited to full-time faculty and staff members. The Title IX Coordinator shall arrange for the Appeal Board members to receive annual training.
17. **Appeal Chair** The "Chair" of the Appeal Board shall preside over any meeting of the Appeal Board but shall not have a vote in the Appeal Board's deliberations. The Chair shall receive appeals, facilitate the appeal process for the Complainant and Respondent, and gather all relevant materials for the Appeal Board.
18. **Title IX Coordinator** As a recipient of Federal funds, Davidson College is required to comply with Title IX of the Education Amendments of 1972, 20 USC § 1681 et seq. ("Title IX"). Title IX prohibits discrimination on the basis of sex in Education Programs or Activities. The "Title IX Coordinator" is responsible for overseeing the College's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems

revealed by such reports and complaints. The Title IX Coordinator also has responsibility for weighing a student's request for confidentiality and determining whether supportive measures are appropriate. The Title IX Coordinator is available to advise all parties about the courses of action available at the College and action available externally, including reports to law enforcement. Davidson College's Title IX Coordinator is:

**Carley Dix, Title IX Coordinator, Section 504 Coordinator, and Compliance Officer Chambers 1255, (704) 894-2591, [cadix@davidson.edu](mailto:cadix@ davidson.edu).**

## **V. REPORTING**

Any individual who has been the target of sex discrimination is encouraged to report the incident.

**How to Report** The College provides the following options for reporting an act of sex discrimination. You are encouraged to report an incident even if you do not want to file a criminal report or initiate Davidson's internal complaint procedures. By reporting, the College can ensure you have access to counseling services, academic support services, and any other supportive measures that are appropriate. Incident reports also provide information to help the College provide a safe and non-discriminatory environment for all members of the College community.

All non-confidential reports made to College employees must be reported to the Title IX Coordinator, who will reach out to schedule a meeting with you to review your options and all available resources. The College will limit disclosure of information included in a non-confidential report to those individuals involved in the College's response to the report and to legally required or permitted disclosures. This means only people who need to know will be told.

- 1. Report to Title IX Coordinator** Davidson College has a designated Title IX Coordinator to oversee compliance with Title IX, which prohibits discrimination on the basis of sex in Education Programs or Activities. All reported incidents of sex discrimination involving students are reviewed by the Title IX Coordinator. The Title IX Coordinator will provide you with a written explanation of your rights and options under this Policy, including resources and services available to you, your option to request assistance or supportive measures, and an explanation of the College's internal resolution options and procedures, that retaliation is prohibited, the right to an advisor of choice, and where applicable, the right to notify law enforcement as well as the right not to notify law enforcement, and the importance of preserving evidence. The Title IX Coordinator also will report the alleged incident to Campus Police for Clery Act purposes but may refrain from disclosing personally identifiable information about you to Campus Police at your request.
- 2. Report to Campus Police** The Davidson College Public Safety Office has staff trained in how to respond to a report of sexual misconduct, relationship abuse and violence, or stalking. If you prefer, you may request to speak to the Interpersonal Violence Officer. Campus Police can assist you with personal safety, seeking medical attention, preserving evidence, or filing a police report. Campus Police also can contact other on-campus and off-campus resources to assist you. Campus Police will record the report for Clery Act purposes but shall do so without disclosing any personally identifiable information about the Complainant. Although the College strongly encourages all members of its community to report violations of this Policy to law enforcement, it is your choice

whether or not to make such a report and you have the right to decline involvement with the police.

**Campus Police Main Office Phone: 704-894-2178**

**704-892-7773 (24 hour)**

3. **Confidential and Protected Resources** Confidential Resources are those required to keep all information disclosed to them confidential within the legal and ethical bounds of their profession. At Davidson College, these individuals include:
  - a. The counselors, doctors, and nurses at Student Health and Well-Being
  - b. The College Chaplains

Reports made to these individuals are strictly confidential and will not be referred to the Title IX Coordinator or Campus Police without your consent.

Protected Resources include the Health Educator. Ordinarily, reports made directly to the Health Educator may be made in confidence, meaning these reports will be shared with the Campus Police (for Clery Act reporting purposes) without identifying information reported or if the Health Educator determines imminent health or safety concerns outweigh your request to keep the report in confidence. Disclosures made to these employees means that information will not be shared with the Title IX Coordinator or anyone within the College but may be released under legal action or court order with the permission of the individual disclosing the information.

Employees are required to report to the Title IX Coordinator information about sex discrimination they learn about at public awareness events such as "Take Back the Night." The Title IX Coordinator is not obligated to respond directly to any identified complainant in a report of sex-based harassment disclosed at a public awareness event that takes place on-campus or in a school-sponsored online platform unless there is an imminent and serious threat to someone's health or safety. The Title IX Coordinator must respond to reports of conduct that could constitute sex discrimination other than sex-based harassment if disclosed at public awareness events, wherever they occur. In all cases the College must use the information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment.

**Amnesty Related to Other Policy Violations** To encourage reporting of the acts prohibited by this Policy, the College will not subject an individual who reports an alleged incident of sex discrimination to disciplinary action for the individual's own minor Policy violation, such as personal consumption of alcohol or drugs, at or near the time of the alleged incident, provided that any such violations did not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or drug use. Further, the College may offer amnesty related to other Policy violations revealed in the process of pursuing a Complaint.

**Options for the Reporting Person ("Complainant")** You are not required to take any action when you report a Policy violation, but if you choose to take action, your options include:

1. Filing a criminal report of sexual violence, dating or domestic violence, or stalking with campus police or local police;
2. Initiating a Complaint with the Title IX Coordinator requesting that the College investigate the Complaint using the grievance procedures;
3. Seeking to engage in the adaptable resolution process;
4. Requesting supportive measures (e.g., a no communication order, alteration of class schedules or housing arrangements); and/or
5. Accessing available resources, including counseling.

Additional information about **initiating the College's internal complaint procedures** is set forth below.

If you do not want to pursue the College's internal complaint procedures, you may nonetheless:

1. Access support resources, such as counseling or, in appropriate cases, academic relief; and/or
2. Request supportive measures, including informal resolution options.

## **VI. COLLEGE RESPONSE TO REPORTS**

The College is committed to taking appropriate action to resolve incidents of sex discrimination, and to ensure a safe and non-discriminatory environment for all students.

The College will undertake an appropriate inquiry into all reports involving students, regardless of whether the Reporting Party wishes to pursue resolution of any kind. The specific steps in the College's inquiry will vary depending on the nature of the allegations; the information available to the College; whether the Reporting Party elects to pursue criminal charges, files a Complaint, or requests the College not to pursue actions; and other factors. A full investigation occurs only if a Complaint is filed.

As a general rule, the College will not conduct an investigation or take any action without first obtaining the Reporting Party's consent and will conduct any investigation and respond to a report consistent with the Reporting Party's request for confidentiality or request not to pursue action. The College's ability to respond to a report, to prevent its recurrence, or to address its effects may be severely limited if the Reporting Party requests confidentiality, does not provide the name of the Responding Party, or asks that the report not be pursued.

**Requests for Confidentiality** In cases where the Reporting Party requests confidentiality or requests the College not to take any action in response to a report, the Title IX Coordinator or designee will conduct a preliminary assessment into the alleged Policy violation and will balance this request with the College's commitment to providing a safe and non-discriminatory environment to all members of the College community. The Title IX Coordinator or designee will consider many factors when determining whether or not the College can honor the request for confidentiality or no action, including, but not limited to:

1. The information provided suggests that the Responding Party has committed prior acts and/or suggests an increased risk that Responding Party will commit additional acts that would violate this Policy or are otherwise violent acts;
2. The Reporting Party's reasonable safety concerns regarding initiation of a complaint;
3. The risk that additional acts of Prohibited Conduct would occur if the complaint is not initiated;

4. The severity of the alleged Prohibited Conduct, including whether the discrimination, if established, would require the removal of a Responding Party from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The information provided suggests that the act is part of a larger pattern at a specific location or by a particular group and thus there is an increased risk of future violations of this Policy under similar circumstances;
6. The alleged misconduct was committed by multiple perpetrators;
7. The alleged misconduct was perpetrated with a weapon;
8. The age and relationship of the parties, including whether the Respondent is an employee of Davidson;
9. The College has other means to obtain relevant evidence (e.g., security camera footage, physical evidence, additional witnesses);
10. Whether the College could end the alleged sex discrimination and prevent its recurrence without initiating its resolution procedures under this policy;
11. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the Reporting Party or other person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its education program or activity; and/or
12. The facts warrant issuance of a timely warning.

In appropriate cases, the College may be able to take steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against the Responding Party or reveal the identity of the Reporting Party.

However, the Title IX Coordinator or designee may determine that, in the interest of providing a safe and nondiscriminatory environment, it is necessary for the College to act on information it has received. In that event, the Reporting Party will be informed of this determination before the College takes action in response to the report. The College's response will depend on the circumstances of the report, but could include the College initiating an investigation on behalf of the affected individual.

The College cannot withhold the Reporting Party's name from the Responding Party once the College takes action that affects the Responding Party.

**Supportive Measures** Upon receipt of a report of an alleged Policy violation, the College may determine that supportive measures are necessary to ensure a safe and nondiscriminatory environment for students. The Title IX Coordinator will offer and coordinate supportive measures as necessary for parties to restore or preserve that person's access to the College's education program or activities or to provide support during complaint procedures or an informal resolution process. Supportive measures may include adjustments and informal resolutions. Adjustments are changes made to a Reporting Party's class or work schedule, academics, or housing. Informal Resolutions may include resources, conversations, and agreements that assist students with working through challenges and preventing future challenges. Adjustments and Informal Resolutions are voluntary and may be modified or discontinued at any time at the request of the Reporting or Responding Party.

Supportive measures are separate from any sanctions the Decisionmaker may impose during complaint resolution procedures and are not disciplinary in nature. They are imposed by the Title IX Coordinator in consultation with the Dean of Students and may be imposed at any time, regardless of whether formal disciplinary action is sought by the Reporting Party or the College. They may be extended beyond and/or imposed after complaint resolution procedures are completed.

The Title IX Coordinator has the discretion to implement or modify supportive measures.

**Requests for Supportive Measures** Students seeking the assistance of supportive measures should speak with the Title IX Coordinator, who will evaluate and, if warranted, will coordinate the request. Supportive measures may be requested by both the Reporting and Responding parties.

The specific supportive measures implemented and the process for implementing those measures will vary depending on the facts of each case. The Title IX Coordinator and the Dean of Students will consider, among other factors, the specific needs expressed by the Reporting Party; the severity or pervasiveness of the allegations; any continuing effects on the Reporting Party; whether the actions requested will be unreasonably burdensome on the Responding Party, and whether the Reporting Party and Responding Party share the same residence hall, class, or on-campus job location.

**Supportive Measure Options for Adjustments:**

1. Alteration of class schedules
2. Alteration of on-campus housing arrangements
3. Removal from on-campus housing
4. Changing work schedules or job assignments
5. Rescheduling of exams, papers, or other assignments
6. Taking an incomplete in a class
7. Authorized withdrawal from a class
8. Alternative course completion options
9. Voluntary leave of absence
10. Access to counseling services
11. Providing an escort to ensure safe movement between classes and activities
12. Providing academic support services
13. Any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy

**Supportive Measure Options for Informal Resolutions:**

1. **Conflict Coaching** – Students may seek guidance and resources from the Title IX Coordinator or trained staff person to navigate conflict productively and independently.
2. **No Communication Order** – A No Communication Order is an order sent to both the Reporting Party and Responding Party by the Title IX Coordinator restricting the parties from communicating with each other through any format. This order does not require that parties leave physical spaces on campus if the other person is present. The order only requires that parties refrain from communicating with each other. Failure to abide by a No Communication Order may be a violation of the Code of Responsibility and will be referred to the Dean of Students for further review.
3. **Shared Expectations Agreement** – A Shared Expectations Agreement is a voluntary agreement between two students specifying how the Reporting Party and Responding Party will navigate certain areas, organizations, or activities on campus. Shared Expectations Agreements may be put in place after the issuing of a No Communication Order. Shared Expectations

Agreements are facilitated by the Title IX Coordinator. Before an agreement is finalized the Title IX Coordinator must speak with the Responding Party to understand how the Responding Party engages with that area, organization, or activity in order to determine if it is reasonable to restrict the Responding Party's access. Requests or agreements that are unreasonably burdensome on either party will not be approved by the Title IX Coordinator. Additions and edits to the Shared Expectations Agreement may be requested by either party. Shared Expectation Agreements are agreements between two students, therefore, failure to abide by a No Contact Agreement may result in a renegotiation of the agreement or referral to the Dean of Students Office if actions violated the No Communication Order. Failure to abide by aspects of a Shared Expectation Agreement that are not part of a No Communication Order will not be referred to the Dean of Students Office.

4. **Educational Discussion** – Educational discussions are a meeting with the Title IX Coordinator or Dean of Students Office to discuss behavior concerns that have been reported to the Title IX Coordinator in which the Reporting Party has requested educational intervention. The purpose of the meeting is to provide the Responding Party with information and guidance allowing the Responding Party to move forward positively with individually identified support and resources.
5. **Facilitated Discussion** – Facilitated discussions are discussions mediated by the Title IX Coordinator between parties or group experiencing impact or harm related to sex discrimination. Facilitated discussion can occur in-person, through written communication, or any other communication method deemed appropriate by the Title IX Coordinator. Facilitated discussion can be utilized for understanding or as part of an informal resolution.

**Reporting Violations of Supportive Measures** All individuals are encouraged to report concerns about the failure of another individual to abide by restrictions imposed by a supportive measure. Failure to abide by restrictions imposed by a supportive measure may be a violation of the Code of Responsibility.

**Challenging Supportive Measures** A party may challenge the College's decision to provide, deny, modify, or terminate supportive measures when such measures are applicable to them. If a party is initiating a challenge, they must notify the Title IX Coordinator. The Title IX Coordinator will then designate an impartial employee to consider modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures. The party must provide the designated employee with their reasoning for challenging the supportive measure. The impartial employee will typically respond to the challenge within five (5) days.

Challenges to the College's decision to provide, deny, modify, or terminate supportive measures may include, but are not limited to:

- whether a supportive measure is unreasonably burdensome,
- whether a supportive measure is reasonably available,
- whether the supportive measure is being imposed for punitive or disciplinary reasons,
- whether the supportive measure is being imposed without fee or charge, and
- whether the supportive measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the education program or activity, provide safety, or provide support during the grievance procedures.

## VII. COMPLAINT RESOLUTION PROCESSES

To initiate the College's Investigation & Decision-Making Resolution, the Complainant must initiate a Complaint with the Title IX Coordinator. A Complaint does not need to be filed to engage in informal resolution procedures.

**Who May Initiate** Any individual may initiate a Complaint against a student for an alleged violation of this Policy. In addition, this policy may be used by a student to initiate a complaint against an employee. In the event the Title IX Coordinator determines the College must initiate a Complaint on behalf of an affected individual who has requested confidentiality or is otherwise unable or unwilling to participate in the process, the College shall be the Complainant and the affected individual shall be considered a witness. The affected individual will be entitled to receive all notifications due to a Complainant under this Policy, including notifications regarding the outcome of the complaint resolution procedures.

**Review of Complaint** Upon receipt of a Complaint, the Title IX Coordinator will first determine whether the allegations in the Complaint, if proven, would constitute a violation of this Policy.

Before dismissing a complaint, Davidson will make reasonable efforts to clarify the allegations with the complainant.

Davidson may dismiss a complaint if:

- Davidson is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in Davidson's education program or activity and is not employed by the College;
- The Complainant voluntarily withdraws their complaint in writing and the Title IX Coordinator declines to initiate a complaint;
- The Complainant voluntarily withdraws some but not all allegations in complaint in writing, and the College determines that the conduct that remains alleged in the complaint would not constitute Prohibited Conduct under this policy; or
- Davidson determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under this policy.

Upon dismissal, Davidson will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then Davidson will notify the parties simultaneously in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification. Davidson will notify the Complainant that the dismissal may be appealed on the basis outlined in the Appeals section. If the dismissal occurs after Respondent has been notified of the allegations, then the College will notify the Respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Davidson will follow the procedures outlined in the Appeals sections of these procedures.

**Role of an Advisor** The Complainant and Respondent may have the Advisor of their choice present during any meeting or proceeding related to complaint resolution procedures under this Policy, including meetings related to investigation of the Complaint. The Advisor's role is to provide support, guidance, or advice to Complainant or Respondent. Notices and information related to complaint resolution under this Policy will be provided to the parties and their Advisors. Advisors are required to keep such materials confidential unless the Advisor is otherwise authorized to disclose the information contained therein.



The Advisor has no formal role in the investigation process or adaptable resolution process. The Advisor's role in any meeting during the investigation is limited to requesting reasonable breaks to confer privately with the advisee. Advisors may not record the meetings, ask questions, or otherwise actively participate in meetings.

While the College will make reasonable efforts to accommodate the schedule of a party's Advisor in scheduling meetings, an Advisor's inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding.

The College will provide a list of trained Advisors available to provide assistance and support to the parties. Students are not required to choose an Advisor from the list of trained Advisors. Parties must provide the Title IX Coordinator with notice of the identity of their Advisor of choice prior to the Advisor attending a meeting or proceeding under this Policy, at least one (1) day in advance.

## **RESOLUTION OPTIONS**

### **A. Adaptable Resolution**

Adaptable resolution is a voluntary, structured process that facilitates communication between a Complainant and Respondent (in person or via shuttle negotiation) with the goal of addressing prohibited conduct through a resolution agreement agreed to by both parties. The format of adaptable resolution is tailored to meet the needs of the Complainant and Respondent. Adaptable resolution allows parties to create an agreement that meets the interests of both parties based on the harm experienced without formal disciplinary action against the Respondent. The time frame for completion of adaptable resolution will vary based on the issues that need to be addressed by the parties and the format that parties have chosen. The College will attempt to complete an adaptable resolution within thirty (30) days of the parties agreeing to engage in an adaptable resolution process.

The Title IX Coordinator has the discretion to determine if it is appropriate to use an adaptable resolution. The adaptable resolution will be facilitated by the Title IX Coordinator or a trained individual appointed by the Title IX Coordinator. If the Title IX Coordinator believes that they or the trained individual cannot fairly facilitate the process due to bias or a conflict of interest, the Title IX Coordinator will appoint another trained individual. Complainant and Respondent may report any concerns about bias or conflict of interest to the Title IX Coordinator who will determine whether another trained individual should be assigned. Requirements for Participation in an Adaptable Resolution Process:

1. Both Complainant and Respondent must consent in writing to engage in adaptable resolution, and either party may end the adaptable resolution process at any time, for any reason, prior to the signing of a resolution agreement.
2. Complainant and Respondent must agree that conduct or statements made during an adaptable resolution process may not be used in any other College process including a formal sex discrimination investigation.
3. If parties are unable to reach a resolution, the matter may be referred to investigation and adjudication of the Complaint.
4. If the adaptable resolution process results in a resolution agreed to by the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances, the parties will sign the agreement, the agreement will be finally dispositive of the complaint, and the Complaint will be closed.

Before initiating an adaptable resolution process, the parties will be provided the following information in writing:

- The allegations;
- The requirements of the adaptable resolution process;
- That any party has the right to withdraw from the adaptable resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the adaptable resolution process, the resolution is finally dispositive of the complaint, and the parties cannot appeal the resolution, nor can the parties initiate or resume grievance procedures arising from the same allegations unless Respondent fails to timely complete the obligations required by the resolution;
- The potential terms that may be requested or offered in an adaptable resolution agreement, including notice that an adaptable resolution agreement is binding only on the parties; and
- What information Davidson will maintain and whether and how Davidson could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

### **Adaptable Resolution Process**

The Title IX Coordinator will attempt to facilitate the parties' resolution to the complaint. The Title IX Coordinator will meet with each party to determine what information, resources, and support each party requires to participate in an adaptable resolution. Neither the College nor the other party may pressure the Complainant or Respondent into participating in adaptable resolution or a specific adaptable resolution format. Complainant and Respondent may have an Advisor present at any meetings related to the adaptable resolution process.

After both the Complainant and Respondent have met with the Title IX Coordinator to review the adaptable resolution process and discuss their options, the Complainant and Respondent may voluntarily consent to participate in adaptable resolution. The Complainant and Respondent must agree on the process option that best meets their needs and resolution goals. Parties may choose one or more of the following options:

1. **Shuttle Negotiation** - In a shuttle negotiation, the facilitator shuttles between parties to assist in negotiating an agreement. This process allows parties the space to discuss concerns, address conflict, and share their perspective without having to directly interact with each other.
2. **Facilitated Dialogue** - The purpose of a facilitated dialogue is to provide a space where parties can share their perspectives in structured manner with the assistance of a trained facilitator. Parties may engage in a facilitated dialogue with the intent of working towards an agreement, but this is not a required outcome.

### **Adaptable Resolution Agreement**

Measures that may be agreed to through a resolution process include:

- Training and education for the Respondent;
- Referral to substance abuse counseling;
- Alterations to campus class or work schedules;
- Education plan for Respondent including scheduled meetings with appropriate campus resources;
- Restriction from participation in certain clubs, organizations, athletics or College events;
- Respondent taking a personal leave from the College for a semester or more;
- Any other appropriate measures agreed to by the parties.

When the parties have determined the measures that will make up their resolution agreement, the Title IX Coordinator will review the agreement to determine whether the agreement is consistent with the College's Title IX Policy.

Once the agreement has been reviewed and approved by all parties, the agreement will be finalized, and the Complaint will be resolved. Once finalized, the Respondent is required to comply with the agreement and complete any actions required within the time period specified by the agreement. The complaint will be closed when the Respondent completes all actions stated within the agreement. If the Respondent completes all actions stated within the agreement in the agreed upon timeframe, the Adaptable Resolution Agreement will be finally dispositive of the Complaint and there will not be a student conduct record associated with the Complaint for the Respondent, unless otherwise agreed upon by the parties.

If the Respondent does not complete all actions stated within the agreement, the original Complaint may move forward with investigation and adjudication of the Complaint. In addition, if the Respondent does not comply with restrictions stated in the agreement, the Respondent will be referred to the Dean of Students to determine if there has been a violation of the Code of Responsibility.

If no agreement is reached or the parties are unable to create an agreement that is consistent with the College's Sexual Misconduct policy, the Title IX Coordinator may refer the matter to investigation and adjudication of the Complaint.

### **B. Respondent Acceptance of Responsibility or Voluntary Resignation**

The Respondent may choose to accept responsibility for the alleged violation prior to or during the course of an investigation. If the Respondent chooses this option, the Respondent must submit a written statement accepting responsibility for the alleged violation and waiving all rights to an investigation, determination of responsibility by the Decisionmaker, and appeal on the ground of procedural error. If a student Respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the Title IX Coordinator or designated sanctioning officer will issue an appropriate sanction or responsive action as to those violation(s) and continue processing any remaining allegations of Prohibited Conduct. If an employee Respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the case will be referred to the Chief Human Resources Officer, who will determine the next procedural steps for issuing disciplinary or responsive actions as to those violation(s), consistent with the policies in the Employee Guide and the Faculty Handbook. The Chief Human Resources Officer will notify Respondent and Complainant of the resolution in writing.

### **C. Investigation & Decision-making Resolution**

#### **Impermissible Evidence**

The following types of evidence, and questions seeking that evidence, are impermissible under both investigations and decision-making resolution processes. This means this information will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies. This information will not be disclosed or otherwise used, regardless of relevance:

- Evidence that is protected under privilege recognized by Federal or State law, unless the person whom the privilege of confidentiality is owed has voluntarily waived the privilege or confidentiality;

- Evidence provided to an employee designated by the College as exempt from internal reporting under this policy, unless the person who made the disclosure or otherwise provided evidence to that employee has voluntarily consented to re-disclosure;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized medical professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written consent for use in its resolution procedures; and
- 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 evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged sex-based harassment. The fact of prior consensual sexual conduct between the parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

### **Procedure for Sex Discrimination Complaint Investigation and Decision-Making**

The following describes the investigation and decision-making procedures for matter of sex discrimination in which a Davidson College student is either a complainant or respondent, regardless of the status of the other party.

- 1. Notice of Investigation** Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

1. Davidson's investigation procedures, including the applicable determination procedure that will be used in this investigation and resolution, and a link to the relevant policies;
2. Information about informal resolution and adaptable resolution, with a link to the full procedures.
3. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
4. A statement that retaliation is prohibited;
5. The identity of the investigator(s);
6. The Notice will inform the parties that the investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses, evidence, and relevant questions to ask a party or witness. These deadlines may be extended by the Title IX Coordinator for good cause, and any changes will be provided, in writing, to the parties, along with the rationale for the revised deadline(s);
7. A statement that the respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the resolution process. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decisionmaker;

8. A statement that the parties may have an advisor of their choice who may be a friend, parent, therapist, colleague, or attorney;
9. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigation report that accurately summarizes this evidence; and
10. A statement that Davidson's Honor Code prohibits knowingly making false statements or knowingly submitting false information during resolution procedures.

- 2. Investigators** Investigators are individuals who have received specialized training in conducting sex discrimination investigations. Investigators are neutral fact finders who, during the course of the investigation, typically conduct interviews with the Complainant, the Respondent, and third-party witnesses; gather any physical or electronic records or documents to be included in an investigation report; and, where applicable, coordinate with Campus Police or other law enforcement agencies. Investigators prepare a written investigation report.

Investigators are authorized to contact any relevant individuals and to access any relevant records not otherwise prohibited by legal protections of privilege or confidentiality.

Depending on the circumstances, the Title IX Coordinator may appoint a single Investigator or a team of Investigators to conduct the investigation. The Title IX Coordinator may appoint trained staff members or an external Investigator to serve as Investigators. An external Investigator may be appointed in the event that there are insufficient staff resources to investigate a complaint, there is a legitimate conflict of interest between the available staff Investigators and a party to the complaint, the complaint is particularly complex, or in any other case that the Title IX Coordinator, in their discretion, deems it advisable.

- 3. Investigation Timeframe** The length of the investigation depends on the circumstances of each case, but the College will make every effort to complete an investigation, draft investigation report, review of the draft report, and completion of the final investigation packet in sixty (60) days.
- 4. Investigation Procedures** The investigation will be conducted in a prompt, fair, thorough, and impartial manner. The investigation will be free from presumptions of conduct or responsibility for either party. At a minimum, it will include obtaining information from the Complainant and Respondent and pertinent witnesses and soliciting and reviewing documentation relevant to the investigation including available police reports.

The Complainant and Respondent will be asked to identify all information they would like the Investigator to review, including any witnesses they would like to be interviewed. Complainant and Respondent must identify all witnesses during the investigation process. Parties will not be able to present information from witnesses during the hearing, if those witnesses were not identified and interviewed or did not provide a written statement during the investigation process. Decisions about interviews and collection and evaluation of information are at the discretion of the Investigator. The Investigator may need to interview the Complainant and Respondent multiple times during the Investigation.

- 5. Investigation Report** The Investigator will prepare a written investigation report, including as exhibits any relevant and not otherwise impermissible documentation. The Investigator shall submit the investigation report and exhibits to the Title IX Coordinator for

review. The Investigator will redact (remove) any impermissible evidence as described above and the following irrelevant information from the investigation report and exhibits:

- a. Irrelevant information concerning sexual history, unrelated sexual activity, character, or incidents not directly related to the complaint (subject to the Title IX Coordinator's determination that the information demonstrates a pattern of behavior);
- b. Irrelevant information that violates an individual's privacy rights or that constitutes an unwarranted invasion of privacy; or
- c. Irrelevant information as to whether or not a Policy violation occurred, related to the longer-term impact of the alleged incident on Complainant or Respondent (which may be submitted as a separate impact or mitigation statement.)

**6. Notice to Proceed** At the conclusion of the investigation, the Title IX Coordinator will issue a written Notice to Proceed to Complainant and Respondent. Where warranted, the Notice to Proceed will include any additions or revisions to the Policy violations alleged based on information gathered in the investigation. In rare circumstances, when the investigation finds no factual basis for the allegation, the Title IX Coordinator may dismiss the allegations prior to resolution by the Decisionmaker and shall notify Complainant and Respondent of the dismissal in writing. Parties may appeal this dismissal. The appeal must be sent to the Chair of the Appeal Board within five (5) days of receiving the notice of dismissal.

**7. Review and Response to Investigation Report** Upon receipt of the Notice to Proceed, the Title IX Coordinator shall provide the Complainant, Respondent, and their Advisors access to the investigation information. The parties may not make copies or take photographs of the information. The parties and their Advisors will have access to the information for five (5) days. If the parties wish to respond to the information provided, they must send a written response to the Investigator(s) by the end of the 5-day review period. If new, relevant and not otherwise impermissible information is submitted during this review and response period, it will be shared with the Complainant and Respondent, and each will have an opportunity to respond to the new information via the Investigator(s) within a time frame determined by the Title IX Coordinator. If the written reports of the parties' responses include information deemed by the Investigator to be irrelevant, redundant, or impermissible, the Investigator shall redact (remove) such information prior to permitting the other party to access the information.

Following the review and response period (typically within three (3) days after its conclusion), the Title IX Coordinator will issue the final investigation packet, comprising the investigation report and any exhibits thereto; the written reports of the parties' responses, if any; written notices to the parties (notice of investigation, notice upon conclusion of investigation); and the Complaint, to the Decisionmaker.

**8. Review of the Final Investigation Packet** The Decisionmaker will review the final investigation packet and may request any additional relevant information from the Investigator or the parties before scheduling a hearing, if any. The parties will have the opportunity to access any such requests for additional relevant information and any information produced in response to such requests prior to the hearing, if any. The parties will have at least ten (10) days to review the final investigation packet before any scheduled hearing. The parties may not make copies or take photographs of the additional relevant information.

**Impact Statement and Mitigation Statement** The Complainant has an opportunity to submit a written impact statement, and the Respondent has an opportunity to submit a written statement in mitigation or extenuation. These statements shall not exceed two (2) pages and should be submitted to the Title IX Coordinator no later than five (5) days after the Title IX Coordinator issued the final investigation packet. These statements would only be reviewed by the Decisionmaker and made part of the record if the Decisionmaker determines that a Policy violation occurred. In that event, the statements would be reviewed by the Decisionmaker in determining sanctions as described below. If either the impact statement or mitigation statement include information deemed by the Title IX Coordinator to be irrelevant or impermissible, the Title IX Coordinator shall redact (remove) the irrelevant and impermissible information prior to distributing to the Decisionmaker.

### **Optional Hearing Process**

**Hearing** The Decisionmaker will schedule a live hearing with Complainant, Respondent, and Advisors upon the request of the Decisionmaker, Complainant, or Respondent. Requests for a hearing should be made as soon as possible after the final investigation packet is issued, but in any event no later than three (3) days thereafter. Live hearings include hearings conducted in-person or via video technology such as Zoom. If the Complainant and Respondent request to participate in the live hearing via alternative arrangements, the Decisionmaker will arrange for the parties to participate in the hearing outside the presence of the other party (e.g., by using a room divider, using separate conference rooms, using video technology such as Zoom).

Three (3) days prior to the hearing, each party shall submit to the Decisionmaker a preliminary list of questions they wish to pose to the other party, or to a witness. If the Decisionmaker determines that any questions are not relevant or seek otherwise impermissible evidence, the Decisionmaker shall exclude the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Decisionmaker must give a party an opportunity to clarify or revise any question that the Decisionmaker has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question, and the question is relevant, the question will be asked.

The Decisionmaker will not receive new evidence, that was not previously included in the report, during the hearing. During the hearing, the Decisionmaker will ask questions of the Complainant, Respondent, witnesses or the Investigator(s). Each party will then be provided an opportunity to submit follow-up written questions to the Decisionmaker for the Decisionmaker to pose to the other party or witnesses. If the Decisionmaker determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Decisionmaker shall exclude the question and explain the reason for the exclusion of the question at the hearing and offer an opportunity to the party to reframe or resubmit the question. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

Only the Decisionmaker is permitted to ask questions of parties and witnesses. Neither party may directly question the other party or witness. Advisors are not permitted to directly or indirectly question the other party or witness.

The Decisionmaker will make all determinations regarding credibility and weight of evidence, based solely on the available evidence provided through the investigation and hearing when making a final determination of responsibility. No party or witness is required to attend the hearing, provide testimony, or answer questions. The Decisionmaker will not draw an inference regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to provide testimony or answer questions. If a party or witness does not attend the hearing, provide testimony, or answer certain questions, any information previously provided by that party or witness will still remain in the

investigation report. The College will make reasonable efforts to accommodate the availability of a party's witnesses when scheduling the hearing date. However, if after reasonable efforts have been made, a witness is unable to attend the hearing, this does not constitute an unavoidable conflict that would necessitate postponing the hearing.

If either Complainant or Respondent does not appear at the hearing, after confirmation by the Decisionmaker that the party was duly notified of the date and time of the hearing, the hearing will proceed and the party who failed to appear will be deemed to have waived the right to timely and equal access to information from the hearing that the Decisionmaker uses to make a determination. A Complainant or Respondent may have their Advisor present at the hearing, even if the party does not attend.

**Role of Advisors** Advisors will consult with the Complainant and Respondent to determine what questions the Complainant and Respondent have for the other party and any witnesses. The parties will pose questions to be asked through the Decisionmaker.

**Determination of Responsibility** The Decisionmaker will apply a preponderance of the evidence standard when arriving at a determination of whether a Policy violation occurred. The Decisionmaker will base the determination solely on information presented as part of the complaint resolution process. The Decisionmaker will not base determinations of responsibility solely on a party's or witness's absence from the live hearing or refusal to answer questions.

9. **Notice of Outcome** The Title IX Coordinator shall distribute to the parties a notice of the Decisionmaker's determination of whether a Policy violation occurred (including the specific prohibited acts alleged and the Decisionmaker's determination of responsibility for each alleged prohibited act), the rationale for the decision, the sanctions imposed, if any, and whether remedies will be provided. In addition, the Notice of Outcome shall include a record of procedural steps taken during the Complaint process and the procedures for filing an appeal. The Decisionmaker will make every effort to conclude the complaint resolution process and complete the Notice of Outcome within two (2) weeks of the Hearing or receipt of the Final Investigation Packet, if no Hearing is requested. The determination by the Decisionmaker both as to the fact of violation and as to any sanction(s) to be imposed, are finally dispositive of the complaint resolution process subject only to the rights of the parties to appeal as provided below. In the event the Decisionmaker determines the Respondent is not responsible for the alleged Policy violation, the College may continue to provide supportive measures for the Complainant so long as those measures do not unduly burden or prejudice the Respondent.

**Record of Hearing** The Title IX Coordinator shall maintain a record of the hearing proceedings including a transcript of the hearing and any materials distributed to the Decisionmaker prior to a determination on sanctions (that is, any written impact statement or mitigation statement; and a copy of the items from the Respondent's file considered by the Decisionmaker in determining appropriate sanctions, if any). The Title IX Coordinator shall provide an opportunity for the Complainant and Respondent to access the hearing record separately in a private setting at least two (2) days prior to the deadline for filing an appeal. The parties may not make copies or take photographs of the hearing record.

## **Sanctions**

**Imposition of Sanctions for Student Respondents** If the Decisionmaker determines a Policy violation occurred, the Decisionmaker will impose sanctions and in determining sanctions, the Decisionmaker will attempt to fairly fit the sanction to the violation seen in total context. For



example, a fairly severe sanction might appropriately be imposed for a relatively minor violation which has been persistently repeated despite formal warning, while a relatively minor sanction might appropriately be imposed for a serious violation when substantial extenuation is shown.

Prior to making a determination on sanctions, the Title IX Coordinator shall distribute to the Decisionmaker:

- a. Any written impact statement or mitigation statement; and
- b. Any items from the Respondent's files deemed appropriate by the Title IX Coordinator for the Decisionmaker's consideration of the appropriate sanction(s), if any, to be imposed. These items could include, but not be limited to:
  - i. Disciplinary records;
  - ii. Criminal records;
  - iii. Police reports; and/or
  - iv. Supportive measures imposed.

If the Decisionmaker determines no Policy violation occurred, then no sanction will be recommended. If the Decisionmaker determines a Policy violation occurred, the Decisionmaker will impose sanction(s), and in determining sanctions the Decisionmaker will attempt to fairly fit the sanction to the violation seen in total context.

Possible sanctions include those listed below and are in alignment with the Code of Responsibility, Section 9: Accountability Plans - Community Statuses

**Accountability Probation.** A defined period of time in which a student or student organization is given the opportunity to demonstrate the ability to abide by the College's expectations of behavior articulated in the Title IX Policy. Students and student organizations on this community status are considered to not be in good standing with Davidson College. Any further violation of the Policy may result in an extension of this status, elevation to Social Probation status, or definite or indefinite suspension from the College.

**Social Probation.** A defined period of time in which a student or student organization is prohibited from engaging in privileges of extra-curricular activities. Social probation may restrict a student or student organization from: hosting events or gatherings with or without alcohol, attending campus social events, attending Patterson Court functions sponsored on or off campus, participation in club, or intramural activities, attending sports events, and eating house, sorority, or fraternity activities. Scholar-athletes representing the College on varsity athletic teams who are placed on social probation by the Decisionmaker may be restricted from participating in team activities, practices, and/or competitions by the Decisionmaker as a consequence of being found responsible under this Policy.

**Removal from Campus Housing.** Termination of a student's housing contract.

**Restricted Campus Access.** A specified period of time that a student or student organization is restricted from taking advantage of certain privileges, spaces, organizations or events related to the College. This may include the revocation of the privilege of Residential Community Access.

**Definite Suspension.** A specified period of time in which a student or student organization's status with the College is suspended. Such suspension prohibits attendance at any classes, presence on campus, forfeiture of all college-related privileges, and the termination of student or

student organization status for the specified period of time. At the completion of the suspension period, and if the student or student organization has met the terms of any Accountability Plan(s) and there is not further violation of this Policy or other college policies, the student or student organization will be allowed to resume activity as a fully recognized student or student organization.

**Indefinite Suspension.** An undefined period of time in which a student or student organization's status with the College is suspended. Such suspension prohibits attendance at any classes, presence on campus, forfeiture of any college-related privileges, and the termination of a student or student organization status. In order to return, a student or student organization must: have met the terms of any Accountability Plan(s); have no further violation(s) of this Policy or other College policies, and petition for readmission to the Dean of Student no sooner than one calendar year from the effective date of suspension. Readmission is considered, but not guaranteed.

**Permanent Dismissal.** Permanent dismissal is an official and permanent separation from the College. A student may be permanently dismissed from the College when:

- The violation of College policy is so egregious or severe that the College deems total and permanent dismissal from the College is appropriate or,
- The student violates College policy while on probation or suspension status or,
- The student exhibits blatant disregard for the (i) health, safety, and welfare of themselves or other members of the College community or, (2) the College's right to establish rules of conduct.

A student who is permanently dismissed from the College:

- Loses all rights and privileges at the College;
- May not represent the College in any manner;
- Is indefinitely prohibited, without prior approval from the Dean or their designee, from entering upon all College-controlled property, including but not limited: residence halls, College Union, athletic facilities, dining halls, etc. Entering upon College-controlled property without prior approval from the Dean or their designee may result in criminal trespass charges against the Respondent under the criminal laws of the State of North Carolina;
- Is permanently barred from re-enrolling at the College.

Students who are removed from campus housing, suspended or permanently dismissed will not receive a refund from the College.

\*If a violation is not sanctioned until after the semester in which the violation occurred, and the sanction includes suspension for the semester in which the violation occurred, authorized withdrawals (W/A) will be assigned for all courses for that semester nullifying any earned grades.

When students are suspended, they shall ordinarily leave campus within forty-eight (48) hours after conclusion of the complaint resolution process.

**Stay of Sanctions Pending Appeals** If the decision of the Decisionmaker is appealed, sanctions are stayed until the matter has been finally disposed of within these procedures; provided, however, that:

- a. If a sanction of suspension is appealed, the Respondent is restricted during the appeal period to academic involvements only. Thus, the continuation of participation in privileged or extra-curricular activities is not permitted during the appeals process. A reversal of the sanction of suspension on appeal may allow for reinstatement at the discretion of the Appeal Board;

- b. If a sanction of suspension is appealed and the sanction is upheld, the effect of the suspension shall be as of the date imposed by the Decisionmaker;
- c. If a sanction of social probation is appealed and the sanction is upheld, the term of the probationary period shall begin when the appeal concludes.

### **Imposition of Sanctions for Employee Respondents**

If the Respondent is an employee and the Chief Human Resources Officer confirms a policy violation occurred, the Chief Human Resources Officer will determine the next procedural steps for issuing disciplinary or responsive actions as to those violation(s), consistent with the policies in the Employee Guide and the Faculty Handbook.

**Stay of Disciplinary Action Pending Appeals** If the decision of the Decisionmaker is appealed disciplinary actions are stayed until the matter have been finally disposed of within these procedures.

## **VI. APPEALS**

**Grounds for Appeal** Either the Complainant or Respondent can appeal the dismissal of a Complaint, the finding of the Decisionmaker or the sanctions imposed on the following grounds:

1. Procedural irregularity that had a material impact on the outcome of the complaint resolution process;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Title IX Coordinator, Investigator(s), or Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
4. The sanction is substantially disproportionate to the findings.

**Filing an Appeal** Appeals must be filed with the Chair of the Appeal Board within five (5) days of receiving the written Notice of Action. Appeals are made in writing and must state in detail the reasons for the appeal. Appeals shall not exceed five (5) pages.

If both parties file appeals, the appeal officer shall have the discretion to determine the process for resolving counter appeals, including the discretion to alter timelines.

Upon receipt of a written appeal, the Chair of the Appeal Board will forward the appeal and the record on appeal to the Appeal Board. The record on appeal comprises all materials reviewed by the Decisionmaker, the record of the hearing, and the Notice of Outcome. The Chair shall provide an opportunity for Complainant and Respondent to access the appeal and the record on appeal separately in a private setting. The parties may not make copies or take photographs of the information.

**Appeal Procedures** Appeals are heard by the Appeal Board. The Appeal Board is composed of five members, including the Chair. The Appeal Board ordinarily will decide within five (5) days of receiving the record on appeal whether the appeal states sufficient grounds to be considered. If it does not, the Appeal Board will dismiss the appeal.

If the Appeal Board finds the appeal states sufficient grounds, the Appeal Board may invite the Decisionmaker to respond in writing. When an appeal is requested by the Respondent, the Appeal Board will invite the Complainant to respond in writing. When an appeal is requested by the Complainant, the Appeal Board will invite the Respondent to respond in writing. Written responses shall

not exceed five (5) pages. The Appeal Board may, in the Appeal Board's discretion, request additional documentation related to alleged procedural errors to accompany the statement of the Decisionmaker or a party. The Appeal Board shall provide copies of the written responses and additional documentation, if any, to the Chair, and shall provide an opportunity for the Complainant and Respondent to access the information separately in a private setting. The parties may not make copies or take photographs of the information.

The Appeal Board may, in the Appeal Board's discretion, choose to call a conference with the Complainant, Respondent, and Decisionmaker before making a decision on appeal.

The Appeal Board considers the appeal solely on the grounds stated in the filed appeal, the record on appeal, and the written responses, and additional documentation of procedural error. The Appeal Board will not substitute their own judgement for that of the Decisionmaker.

**Actions Available on Appeal** The appeal officer may:

1. Uphold the determination of the Decisionmaker;
2. Adjust the sanction(s) to one(s) deemed more appropriate than those imposed;
3. Remand the matter to the Decisionmaker where a procedural irregularity could be corrected by the Decisionmaker;
4. Remand the matter to the Decisionmaker where newly available information could be considered by the Decisionmaker; or
5. Remand the matter to a new Decisionmaker. This action will only be taken in extraordinary cases, when the Appeal Board determines the matter would be best addressed by a newly appointed Decisionmaker.

**Notice of Appeal Outcome** The Appeal Board ordinarily will provide a written Notice of Appeal Outcome within two (2) weeks of the decision to consider the appeal, and this decision is finally dispositive of the matter. The Notice of Outcome will be distributed to the Complainant, Respondent, and Title IX Coordinator with any redactions as required by federal law.

### **VIII. RETALIATION**

No person shall be subject to restraints, interference, coercion, or reprisal for action taken in good faith to seek advice concerning an alleged violation of this Policy, to initiate a report, to initiate the College's internal complaint resolution process, to be a Complainant or Respondent in a complaint resolution process, to serve or refuse to serve as a witness, Appeal Board member, or representative in the investigation and resolution of a complaint. It is prohibited for any member of the College to intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy.

Prohibited acts of retaliation also include charges against an individual for Code of Responsibility violations that are outside of this Policy but arise out of the same facts or circumstances stated in a complaint or report of sex discrimination or sexual harassment when done for the purpose of interfering with any right or privilege secured by this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take appropriate steps to protect individuals who fear that they may be subjected to retaliation. Acts or threats of retaliation may be a violation of this policy and will be investigated and adjudicated accordingly.

### **IX. ADDITIONAL POLICY AND PROCEDURE INFORMATION**

**Rights of Parties** The Complainant and Respondent have the following common rights:

1. A prompt, fair, and impartial complaint resolution process; meaning a process that:
  - a. Is completed within reasonably prompt timeframes;
  - b. Is conducted in a manner that is consistent with this Policy;
  - c. Is free from presumptions of conduct or responsibility for either party;
  - d. Includes timely notice of meetings at which the parties may be present;
  - e. Provides timely and equal access to information that will be used during the complaint resolution process; and
  - f. Is conducted by individuals who do not have a conflict of interest or bias for or against the Complainant or Respondent.
2. Equal opportunities to have the Advisor and Support Person of the party's choice present during any meeting or proceeding related to complaint resolution procedure under this Policy, including meetings related to investigation of the Complaint;
3. Written notification of the result of the complaint resolution process (subject to any redactions required by federal law);
4. An outcome based solely on information presented as part of the complaint resolution process;
5. To not be subject to acts or threats of retaliation for action taken in good faith as part of the complaint resolution process;
6. To receive supportive measures including putting academic adjustments in place to assist with completing any reviews or examinations during the complaint resolution process;
7. To decline to make statements, provide testimony, or attend meetings or proceedings related to the complaint resolution procedure under this Policy; however, failure to appear at the Decisionmaker hearing or Appeal Board conference is deemed a waiver to the right to timely and equal access to information used during the complaint resolution process;
8. Preservation of privacy, to the extent possible and allowed by law; and
9. Access to support from Student Health and Well-Being staff and the College Chaplain's Office.

The **Complainant** has the following additional rights:

1. Implementation of supportive measures that reduce the burden on Complainant but do not unduly burden or prejudice the Respondent;
2. To request that the Title IX Coordinator evaluate the need for supportive measures;
3. Notice that the Title IX Coordinator has determined the College must act on information received in cases where the Complainant has requested confidentiality or that the College not take action.

The **Respondent** has the following additional rights:

1. Implementation of supportive measures that reduce the burden on Respondent but do not unduly burden or prejudice the Complainant;

2. To waive Decisionmaker proceedings by accepting responsibility for the alleged violation prior to, or during the course of, an investigation.

**Securing Witnesses** Investigators are authorized to contact any relevant individuals to request that they participate in the investigation, including responding to requests for additional information from the Decisionmaker.

**Honesty; Malicious and False Accusations** All witnesses to an investigation, including the parties, shall confirm in writing to present honest testimony. A student who does not present honest testimony may be formally referred for the Honor Code violation of lying. Filing a Complaint (for Complainant) or denying responsibility (for Respondent) will not in itself subject the party to an Honor Code charge for lying, regardless of the Decisionmaker's determination of whether a Policy violation occurred. An allegation which is both false and brought with malicious intent is a violation of the Honor Code.

**Confidentiality** All aspects of the complaint resolution process shall be confidential, including information provided as part of the process, and all persons participating in the complaint resolution process shall confirm in writing to maintain in confidence all matters presented in the process; provided, however:

1. The College is authorized to disclose information as set forth in this Policy;
2. Parties may disclose information to their Advisors and other personal support persons (e.g., family members, counselors or physicians, spiritual Advisors) and legal counsel; and
3. Confidentiality does not extend to information that an individual has a legal right to disclose.

**Disclosure of Information** The College will limit disclosure of personally identifiable information presented as part of the complaint resolution process to those individuals involved in the College's process and other legally required or permitted disclosures. Appropriate College officials (including, but not limited to, the Title IX Coordinator, the Dean of Students, the Decisionmaker, the Investigators assigned to the complaint, the Appeal Board, the President, and the General Counsel) shall have access to information presented as part of the complaint resolution process.

**Publication of Outcomes** In addition to the information contained in the College's annual security report, the College will publish annually a three-year summary including the number of sex -based harassment reports received by the Title IX Coordinator, the number of Complaints filed with the Title IX Coordinator, and the outcome of complaints filed (including the finding and sanctions, if any). The three-year summary will not include the names of any students. Any supportive measures received will be reported in the aggregate.

### **Summary of Timelines for Complaint Resolution Procedures**

1. The Title IX Coordinator provides Notice of Investigation to the parties ordinarily within three (3) days of receiving a Complaint.
2. The parties provide notice of the identity of their Advisor at least one (1) day in advance of the Advisor attending a meeting or proceeding under this Policy.
3. The College will make every effort to complete an investigation in sixty (60) days. At the conclusions of the investigation, the Title IX Coordinator will notify the parties whether, based on information gathered in the investigation, there are any additions or revisions to the Policy violations alleged.

4. Upon receipt of the Notice to Proceed, the Title IX Coordinator shall provide the parties and their Advisors with access to the investigation information. The parties and their Advisors will have access to the information for five (5) days. If the parties wish to respond to the information provided, they must send a written response to the Investigator(s) by the end of the 10-day review period.
5. Typically, within three (3) days of the end of the review and response period, the Title IX Coordinator notifies the parties that the final investigation packet has been issued to the Decisionmaker and provides an opportunity for the parties to access the information in the final investigation packet.
6. The Complainant, Respondent and their Advisors will have at least three (3) days to request that a hearing be scheduled.
7. The Complainant and Respondent shall submit their impact and mitigation statements to the Title IX Coordinator no later than five (5) days after the Title IX Coordinator issues the final investigation packet.
8. The Decisionmaker will schedule the hearing for a date that is at least ten (10) days after the release of the final investigation packet.
9. The Decisionmaker will make every effort to conclude the complaint resolution process and distribute the Notice of Outcome within two (2) weeks of receipt of the Final Investigation Packet or the hearing, if one is requested.
10. Appeals must be filed within five (5) days of receiving the written Notice of Outcome. The Appeal Board Chair shall provide an opportunity for the parties to access the record of the hearing and exhibits (if any) at least two (2) days prior to the deadline for filing an appeal.
11. The Appeal Board ordinarily will decide within five (5) days of receiving the record on appeal whether the appeal states sufficient grounds to be considered.
12. The Appeal Board ordinarily will provide a written Notice of Appeal Outcome within two (2) weeks of the decision to consider the appeal.

There is no deadline by which a Complainant must initiate a Complaint, and the fact that there was a delay between the alleged Policy violation and the filing of a Complaint is irrelevant to the Decisionmaker's determination of whether a Policy violation occurred. However, a delayed filing can affect the College's ability to gather information related to the alleged Policy violation and may affect the College's jurisdiction to administer the Title IX Policy.

While the College will make every effort to complete actions within the stated timelines, the College may extend timelines for good cause and with written notice to the Complainant and Respondent that explain the reason for the extension or delay.

**Concurrent or Subsequent Legal Proceedings** The College's Policy, definitions, and standard of review differ from North Carolina criminal law. Neither law enforcement's determination whether to prosecute the Respondent nor the outcome of any criminal prosecution is determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

The complaint resolution process is separate from any criminal proceedings or civil litigation. Information provided as part of the complaint resolution process may be used in criminal proceedings or other legal proceedings.

In the event that there is a criminal investigation involving acts that are alleged violations of this Policy, the College will fulfill its responsibility to take prompt and appropriate action to provide supportive measures and resources to the parties. The College will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation and may need to delay temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed its gathering of evidence, the College will resume and complete its investigation. If the Complainant wishes to file a Complaint under this Policy while criminal proceedings are pending, or if the Title IX Coordinator determines that the College must file a Complaint, the College will not wait for the conclusion of the criminal case to proceed with the disciplinary process.

Individuals who report an alleged violation of this Policy shall be informed that they may request that a Davidson College campus police officer be present during a meeting with the Title IX Coordinator or an Investigator so that they can simultaneously provide a statement for campus police and for the College's Title IX Investigation.

**Delegation** Whenever an action may be or is required to be taken under this Policy by the Dean of Students, the action may be taken by the Dean's designee. Whenever an action may be or is required to be taken under this Policy by the Title IX Coordinator, the action may be taken by the Title IX Coordinator's designee.

**Accommodations for Persons with Disabilities** The College will make appropriate arrangements to ensure that students with disabilities are provided reasonable accommodations as needed to participate in this process. Requests for accommodations must be made to the College's Section 504/ADA Coordinator. The Section 504/ADA Coordinator will review the supporting disability related documentation, make a decision about the request, notify the student about approved accommodations, and make arrangements for the accommodations.

**Training** College officials and all others involved in the complaint resolution process shall receive annual training on this Policy including the definitions of prohibited conduct, the scope of the College's education programs and activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially.

## **X. PROCEDURES FOR SPECIFIC CIRCUMSTANCES**

**Information Concerning Unrelated Sexual Activity** Information concerning the unrelated sexual activity of the Complainant is irrelevant and shall not be considered in the complaint resolution process except in the case that the Title IX Coordinator determines there is relevant information regarding sexual activity between the Complainant and Respondent.

Information concerning the unrelated sexual activity of the Respondent is irrelevant and shall not be considered in the complaint resolution process except in the case that the Title IX Coordinator determines the information alleges behavior that is sufficiently similar in nature to suggest a pattern of behavior. Information that suggests a pattern of behavior may be considered in the complaint resolution process regardless of whether the Respondent was formally charged with a violation of this Policy; except if the Respondent was formally charged and the Decisionmaker did not find that a Policy



violation occurred, then information related to that charge shall not be considered in the complaint resolution process.

**Multiple Complaints Filed** If more than one Complainant files a Complaint against the Respondent before the complaint resolution process for the initial complaint has been completed, the Title IX Coordinator shall have the discretion to determine the process for resolving multiple complaints, including the discretion to alter timelines.

**Multiple Respondents** In the event the complaint involves more than one Respondent, the Title IX Coordinator shall have the discretion to determine the process for resolving the complaint against multiple Respondents.

**Jurisdiction over Related Charges** The Decisionmaker has the authority to consider any charge under the Code of Responsibility that is related to an alleged violation of this Policy. The Dean of Students has the discretion to determine whether any such related charge will be considered by the Decisionmaker pursuant to these procedures or by disciplinary proceedings under the Code of Responsibility.

**Conflicts of Interest** Investigators, Decisionmakers, and Appeal Board members with disclosed conflicts of interest or demonstrated bias for or against a party shall not be assigned to investigate or determine responsibility for an alleged Policy violation. Examples of a conflict of interest include:

1. A party currently enrolled in a course taught by a faculty member of the Appeal Board;
2. A party is in a formal advising relationship with an Investigator or Appeal Board member; or
3. Where an Investigator or Appeal Board member currently supervises the party's academic work, College employment, or athletic or other educational programming.

Investigators, Decisionmakers, and Appeal Board members deeming themselves disqualified for reasons of conflict of interest shall remove themselves from the matter or may be removed by the Title IX Coordinator. A party may petition the Title IX Coordinator for removal of an Investigator or any member of the Appeal Board on the basis of a conflict of interest or demonstrated bias.

Any vacancies occurring on the Appeal Board while a contested matter is to come before it shall be filled by the President, in consultation with the Dean of Students, who shall appoint faculty or staff without a conflict of interest to fill such vacancies.

**Scheduling Meetings and Proceedings** The Complainant and Respondent shall receive timely notice of any meeting or proceeding at which they may be present. The College will make reasonable efforts to schedule meetings and proceedings at times convenient to the parties. Meetings and proceedings will not be scheduled at a time when a party has an unavoidable conflict with a required academic (e.g., classes, labs) or work commitment. An Advisor's inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding.

**Respondent Withdrawal** Should a Respondent choose to withdraw or take leave from the College after a Complaint is filed but before final disposition of the matter, the College may continue to administer this Policy or, in the alternative, the College may make note in the student's disciplinary records that charges under this Policy were pending at the time of withdrawal.

**Emergency Removals and Restrictions** In circumstances where it has been determined via an individualized safety and risk analysis that an immediate threat to physical health or safety of any student or other individual has arisen from allegations of sex discrimination, the President and/or Dean

of Students may consider removal from campus or restrictions while on campus via the procedures stated under the *Extraordinary Disciplinary Powers of the President* in the College's Code of Responsibility.

**Commitment to Academic Freedom** Teaching, performing research, and learning are subject to the protections of "academic freedom" as described in the College's policy on academic freedom. Actions or words used in the context of the academic curriculum and teaching environments that serve legitimate and reasonable educational purposes will not be evaluated as harassment or other unlawful discrimination because of the principles underlying academic freedom. However, academic freedom is not a legitimate defense in the case of bona fide discrimination or harassment including sexual harassment.