

3-31-2016

SAINT VINCENT COLLEGE

Title IX and Sexual Misconduct

I. Policy Statement

Saint Vincent College is deeply committed to its strong tradition of respecting, preserving, protecting, and enhancing the dignity of every member of its community and all whom we welcome as guests. This tradition embraces the notion that no member of the College community is, or should be, excluded from participation in, denied the benefits of, or subjected to discrimination in, any College program or activity on the basis of sex, sexual orientation, or gender identity. Gender-based and sexual harassment, including sexual violence, are forms of discrimination that deny or limit an individual's ability to participate in and benefit from the programs and activities of the College. Accordingly, the College expressly prohibits them.

The foregoing policy on prohibits all forms of Sexual Misconduct, Sexual Harassment and Gender-Based Harassment as defined in SECTION II. In addition, Sexual Misconduct may be subject to criminal prosecution. The College encourages victims to report sexual misconduct to appropriate College authorities as described in SECTION VI of this policy.

This policy protects students, faculty, and staff from harassment that occurs in any of the academic, educational, extracurricular, athletic, and other programs or activities of the College, regardless of whether those programs or activities occur on or off campus. It protects both male and female students from sexual harassment by any College employee, another student, and a non-employee third party. Persons found in violation of this policy shall be subject to disciplinary action which may include, but is not limited to, counseling, educational training, written warning, demotion, transfer, suspension or dismissal.

As a recipient of Federal funds, the College complies with Title IX of the Higher Education Amendments of 1972 which prohibits discrimination on the basis of sex in education programs or activities. Sexual Misconduct, as defined in this Policy, is a form of sex discrimination prohibited by Title IX. Saint Vincent College is committed to providing programs, activities, and an educational environment free from sex discrimination.

Saint Vincent College is an educational community rooted in the tradition of the Catholic faith, the heritage of Benedictine monasticism, and the love of values inherent in the liberal approach to life and learning. Nothing in this policy shall require Saint Vincent to act in a manner contrary to the beliefs and teachings of the Catholic Church nor shall it be construed as a waiver either of constitutional or statutory rights which Saint Vincent enjoys as a religiously-affiliated institution.

II. Definitions

Sexual Misconduct

Sexual Misconduct includes Sexual Harassment and Gender-Based Harassment.

Sexual Harassment

Sexual Harassment is Unwelcome Conduct of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including but not limited to Rape, Sexual Assault, Sexual Violence and Sexual Exploitation. In addition, Dating Violence, Domestic Violence, and Stalking may also constitute Sexual Harassment.

Gender-Based Harassment

Gender-Based Harassment is Unwelcome Conduct of a nonsexual nature based on a victim's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

Unwelcome Conduct

Unwelcome Conduct is conduct that the victim did not request or invite and that the victim considered to be undesirable or offensive.

Unwelcome Conduct may take various forms, including name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome Conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex.

Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that a victim may have welcomed some conduct does not necessarily mean that a victim welcomed other conduct. Also, the fact that a victim requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

Hostile Environment

A Hostile Environment exists when the Sexual Misconduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the College's programs or which negatively impacts the work environment for a faculty or staff member.

A Hostile Environment can be created by anyone involved in a College's program or activity (*e.g.*, administrators, faculty members, students, and campus visitors).

In determining whether Sexual Misconduct has created a Hostile Environment, the College considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was Unwelcome Conduct with respect to the student, faculty or staff member who was harassed. But the College will also need to find that a reasonable person in the victim's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a Hostile Environment.

To make the ultimate determination of whether a Hostile Environment exists, the College considers a variety of factors related to the severity, persistence, or pervasiveness of the Sexual Misconduct, including:

- (1) The type, frequency, and duration of the conduct;
- (2) The identity and relationships of persons involved;
- (3) The number of individuals involved;
- (4) The location of the conduct and the context in which it occurred; and,
- (5) The degree to which the conduct affected one or more student's education.

The more severe the Sexual Misconduct, the less need there is to show a repetitive series of incidents to find a Hostile Environment. A single instance of Sexual Assault may be sufficient to create a Hostile Environment. Likewise, a series of incidents may be sufficient even if the Sexual Misconduct is not particularly severe.

Sexual Assault

Sexual Assault crimes are defined over a number of statutes in Chapter 31 of the Pennsylvania Crimes Code. The Sexual Assault statutes cover a broad range of activities, including everything from offensive sexual touching to rape. Violations of these laws can carry hefty prison sentences and many result in serious Megan's Law consequences. In addition to Sexual Assault crimes defined by law, under this Policy Sexual Assault includes, but is not limited to:

- Non-consensual Sexual Contact, which may be defined as follows:
 - Intentional touching of another person's intimate parts without that person's Consent; or
 - Other intentional sexual contact with another person without that person's Consent; or
 - Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's Consent; or
- Non-consensual Sexual Intercourse, which may be defined as follows:
 - Penetration (anal, oral or vaginal) by a penis, tongue, finger or an inanimate object without the Consent of both parties.

Sexual Violence

Sexual Violence refers to physical sexual acts perpetrated against a person's will or where a person did not or cannot give Consent (*e.g.*, due to age, use of drugs or alcohol, or because an intellectual disability prevents the person from having the capacity to Consent). A number of different acts fall into the category of Sexual Violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual Violence includes acts constituting all forms of rape or sexual assault as defined by the Crimes Code of Pennsylvania.

Consent

Consent must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no Consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is in a state of Incapacitation or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

Incapacitation

Incapacitation means the physical and/or mental inability to make informed, rational judgments. States of Incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol [or other drug] is involved, one does not have to be intoxicated or drunk to be considered Incapacitated. Rather, Incapacitation is determined by how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether a sober, reasonable person in the position of the accused person should have known that the complainant was Incapacitated. Because Incapacitation may be difficult to discern, persons are strongly encouraged to err on the side of caution; *i.e.*, when in doubt, assume that another person is Incapacitated and therefore unable to give Consent. Being intoxicated or drunk is never a defense to a complaint of Sexual Misconduct under this Policy.

Sexual Exploitation

Sexual Exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's Consent. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (*e.g.*, video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's Consent;
- Distributing images (*e.g.*, video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not Consent to such disclosure and objects to such disclosure; and,
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's Consent, and for the purpose of arousing or gratifying sexual desire.

Dating Violence

Dating Violence means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Dating Violence may constitute Sexual Harassment under this policy.

Domestic Violence

Domestic Violence is defined as set forth in 42 Pa. C.S. § 1726.2. Domestic Violence includes any of the offenses or crimes set forth in Title 18 (relating to crimes and offenses), where the alleged perpetrator and victim have one of the relationships set forth in the definition of "family or household member" in 23 Pa. C.S. § 6102 or are persons who reside or resided temporarily or permanently in the same dwelling. "Family or household members" include spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners, or persons who share biological parenthood.

Domestic Violence may constitute Sexual Harassment under this policy.

Stalking

Stalking is defined as set forth in 18 Pa. C.S. § 2709.1. A person commits the crime of stalking when the person either: (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or (2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate

or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

Stalking may constitute Sexual Harassment under this policy.

III. The Title IX Coordinator

All institutions of higher education must designate one employee to serve as the Title IX Coordinator. The Title IX Coordinator is responsible for overseeing the school'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 for Saint Vincent College is Eileen K. Flinn, Esq..

Eileen K. Flinn, Esq.
Title IX Coordinator
2nd Floor Alfred Hall,
eileen.flinn@stvincent.edu
724-805-2897

Except for confidential reports made to professional or pastoral counselors as set forth in SECTION VI, the Title IX Coordinator must be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office.

The Title IX Coordinator's responsibilities are discussed in other sections of this Policy. Among other things, these responsibilities include making confidentiality determinations, assigning investigators to handle a matter, and determining who will sit on disciplinary panels. See SECTIONS VII – VIII.

In the event that the individual designated as the Title IX Coordinator is unable (for any reason) to perform that function in any case, the President will appoint a senior administrator of the College to carry out that function.

IV. No Retaliation

The College prohibits any form of retaliation and will take steps to prevent retaliation and take strong responsive actions if retaliation occurs. No faculty, administrator or staff, applicant for employment, student, or member of the public may be subject to restraint, interference, coercion or any other form of retaliation for, in good faith, seeking advice concerning a sexual misconduct matter, filing a sexual misconduct complaint, or serving as a witness in the investigation of a sexual misconduct complaint.

V. Amnesty

The College encourages prompt, full, and frank reporting of all instances of sexual misconduct regardless of whether it occurred in a circumstance in which the conduct of the individuals involved also constituted a violation of the College drug/alcohol policy. The Office of Student Affairs may grant immunity (or substantial mitigation of sanctions) to any victim of sexual misconduct, third-party reporter of sexual misconduct, or any necessary witness regarding any matter of sexual misconduct, from College sanctions arising from violations of the drug/alcohol policy to the extent that such individual provides information in good faith regarding an investigation of sexual misconduct under this Policy.

VI. Reporting and Confidentiality

The pre-eminent concern of the College is that victims of Sexual Misconduct receive whatever support is necessary to assist them in dealing with the events which have resulted in their victimization. The College is also deeply concerned about responding quickly, professionally, and effectively to any allegation of Sexual Misconduct in order to determine its origin and veracity, and the need for remedial or punitive measures with respect to those determined to be responsible.

Individuals who believe they have been victimized by an act of Sexual Misconduct have a number of options available to them to obtain help from the College. They also have options with respect to making an effective report of the incident in a manner designed to protect their confidentiality as much as possible but so as to allow the College to deal with the circumstances in an effective manner.

Accordingly, if you believe that you are a victim of Sexual Misconduct, the following individuals both on and off the campus are resources for you. Some of these individuals have an obligation to report the incident to authorities on campus for further investigation and, if necessary, remediation. However, there are individuals available to you who will provide support and counsel but who will not report the incident and thus maintain your complete anonymity if you so choose.

A. **Professional and Pastoral Counselors**

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not permitted to report any information about an incident to the Title IX Coordinator without a victim's permission.

These individuals are, however, in a position to provide considerable support for victims of Sexual Misconduct and the victims are urged to seek such support in dealing with trauma often associated with such incidents.

Here is the contact information for on-campus individuals designated as Professional Counselors and/or Pastoral Counselors:

- Wellness Center, Carey Center: 724-805-2115
- Campus Ministry, Carey Center: 724-805- 2350

If you are reluctant to seek such help on campus, you should seek professional assistance from an off-campus trauma professional. Here is contact information for such individuals:

- Dr. Elizabeth Ventura: Dr. Ventura is a licensed, professional counselor with over ten years' of experience in the field. You may contact her at 412-559-9152.
- The Blackburn Center: This is a Sexual Assault Crisis Center located in Greensburg. You may reach them anytime at 724-836-1122 or 1-888-832-2272.

These individuals are trained trauma therapists able to provide considerable support for individuals who believe they have been victimized by Sexual Misconduct. In the event that a victim's personal health insurance will not cover the assessment or counseling sessions with this individual, arrangements have been made for the College to pay for those sessions without the disclosure by the professional counselor of any information regarding the patient or the nature of the incident involved.

It is critical for victims to understand that the above listed persons are **not permitted** to disclose anything revealed to them in a professional setting to the College or anyone else without the explicit consent of the victim.

B. Title IX Support Persons

The College has designated certain employees and volunteers as Title IX Support Persons. These individuals can talk to a victim without revealing any personally identifying information about an incident to the College. A victim can seek assistance and support from these individuals without triggering a College investigation that could reveal the victim's identity or that the victim has disclosed the incident.

Title IX Support Persons are, however, obligated to report the nature, date, time, and general location of an incident to the Title IX Coordinator while keeping confidential any information that would directly or indirectly identify the victim. This limited report helps keep the Title IX Coordinator informed of the general extent and nature of Sexual Misconduct on and off campus so the Title IX Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before Title

IX Support Persons report any information to the Title IX Coordinator, they will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator.

Here is the contact information for individuals designated as Title IX Support Persons:

- Sue Hozak
Associate Athletic Director
Head Women's Volleyball Coach
Athletics, Carey Center
724-805-2112
Sue.hozak@stvincent.edu
- Barbara A. Joyce
Administrator, Human Resources Benefits
Office of Human Resources, 1st Floor Alfred Hall
724-805-2267
Barb.joyce@stvincent.edu
- Connie Krznaric
Nurse
Wellness Center, Carey Center
724-805-2115
Concetta.krznaric@stvincent.edu
- Jody Marsh
Coordinator of Office and Service
Campus Ministry, Carey Center
724-805-2350 Jody.marsh@email.stvincent.edu
- Sandy Quinlivan
Associate Dean of Studies
Headmaster's Hall, Second Floor
724-805-2371
Sandy.quinlivan@stvincent.edu
- Kim Woodley
Assistant Director/Career Consultant
Career Center, Carey Center
724-805-2070

Kimberly.woodley@stvincent.edu

A victim who speaks to a Title IX Support Person must understand that, if the victim wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Nonetheless, Title IX Support Persons will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These Title IX Support Persons will provide the victim with assistance if the victim wishes to do so.

C. Responsible Employees

Responsible Employees are College employees who have the authority to redress Sexual Misconduct, who have the duty to report incidents of sex-based discrimination, or who a student, faculty, or staff member could reasonably believe have this authority or duty. These employees are mandated to report the incident to the Title IX Coordinator.

When a victim tells a Responsible Employee about an incident of Sexual Misconduct, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the victim and that the College will need to determine what happened—including the names of the victim and the alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

To the extent possible, information reported to a Responsible Employee will be shared only with those who handle the College's response to the report. A Responsible Employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

All residence hall student and professional staff members, faculty advisors, athletic coaches, department directors and Public Safety officers are Responsible Employees:

Before a victim reveals any information to a Responsible Employee, the Responsible Employee should ensure that the victim understands the reporting obligations of the Responsible Employee. If the victim wants to maintain confidentiality, the Responsible Employee must direct the victim to confidential resources.

After being fully apprised of confidential resources at the College (see, **Assistance for Victims of Sexual Misconduct**, in Section IX of this Policy), If the victim nonetheless wants to tell the Responsible Employee what happened but also maintain confidentiality, the Responsible Employee must tell the victim that the College will consider the request but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the victim's request for confidentiality.

Responsible Employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the College to fully investigate an incident. Likewise, Responsible Employees will not pressure a victim to make a full report if the victim is not ready to do so.

Weighing Confidentiality Requests

If a victim discloses an incident to a Responsible Employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action be taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students, faculty and staff members, including the victim.

If the College honors the request for confidentiality, a victim must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the College may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students, faculty, and staff members.

The College hereby designates the Title IX Coordinator to make the final determination on requests for confidentiality once a Responsible Employee is on notice of alleged sex-based discrimination. The Coordinator may consult with any individual they deem appropriate in making this decision.

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- a. The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
 - i. Whether there have been other sexual violence complaints about the same alleged perpetrator;
 - ii. Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - iii. Whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
 - iv. Whether the sexual violence was committed by multiple perpetrators;
- b. Whether the sexual violence was perpetrated with a weapon;
- c. Whether the victim is a minor;
- d. Whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- e. Whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. For example, if the school has credible information that the alleged perpetrator has committed one or more prior rapes, the balance of factors would compel the school to investigate the allegation and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality.

If the College determines that it cannot maintain a victim's confidentiality, the College will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response.

The College will remain mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated. The College will also:

- f. Assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;

- g. Provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- h. Inform the victim of the right to report a crime to campus or local law enforcement—and provide the victim with assistance if the victim wishes to do so.

The College may not require a victim to participate in any investigation or disciplinary proceeding.

Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sex-based discrimination (including non-identifying reports) will also prompt the College to consider broader remedial action—such as increasing monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the College determines that it can respect a victim’s request for confidentiality, the College will also take immediate action as necessary to protect and assist the victim.

Miscellaneous Reporting and Confidentiality Matters

Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other similar public forums in which students, faculty, or staff members disclose incidents of sexual violence, are not considered notice to the College of sexual violence for the purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students’, faculty and staff members’ Title IX rights at these events

VII. Filing a Complaint

A. Filing a Criminal Complaint

Victims of sexual violence are highly encouraged to file a criminal complaint with the Pennsylvania State Police. The College will fully cooperate with any criminal investigation. The nearest Pennsylvania State Police Barracks is located in Greensburg, PA.

Pennsylvania State Police, Greensburg Barracks
100 N. Westmoreland Ave.
Greensburg, PA 15601
724-832-3288

B. Investigation and Adjudication Procedures for Complaints Filed With the College

Information and Resolution Options

College students, faculty, staff, and other third parties who believe they have been a victim of sexual misconduct are strongly encouraged to report incidents of Sexual Misconduct to the College. The options and procedures for redressing incidents of Sexual Misconduct are described in this section.

Legal Counsel

Legal counsel may be present at any point during the formal investigation or informal mediation for either party. Such counsel may privately consult with and advise the parties during the proceeding but may not examine witnesses or otherwise directly participate on behalf of either party.

Personal Advisors

At any point during the formal investigation or informal mediation, all parties involved may have a Personal Advisor present to support them during the process. The parties may select anyone they desire to act as their Advisor. Personal Advisors may privately consult with their parties during the proceedings, but Personal Advisors may not directly participate on behalf of either party in any way whatsoever. Personal Advisors shall undergo training so they are familiar with this policy, understand their role within the context of these proceedings in assisting and providing guidance to the party, and acknowledge the importance of maintaining the confidentiality of the information to which they become privy during the course of any proceeding.

Intake Meeting

Upon receipt of a complaint of sexual misconduct, the Title IX Coordinator will arrange to meet with the complainant as soon as possible and no later than within 5 days. For compelling reasons, this meeting may be delayed for a period that should not exceed 5 additional days. At this meeting, the Title IX Coordinator will explain this Policy and explain the processes available to the complainant. The Title IX Coordinator will also identify forms of support or immediate

interim measures available to the complainant. The intake meeting may also involve a discussion of any interim measures that may be appropriate concerning the complainant's academic, College housing, College employment arrangements, and any other matter that the Title IX Coordinator considers appropriate to discuss at that time.

Determining How to Proceed

At the initial intake meeting, the Title IX Coordinator will seek to determine how the complainant wishes to proceed, i.e., whether the complainant wishes to pursue a formal hearing, informal mediation, or does not wish to pursue anything at all.

Informal Mediation

If the complainant desires to pursue informal mediation to resolve his/her complaint, the Title IX Coordinator must certify that informal mediation is appropriate for resolution of the complaint at issue. Mediation is never appropriate for resolution of cases involving alleged Sexual Assault. To determine whether informal mediation is appropriate, the Title IX Coordinator shall take the totality of circumstances into account, including but not limited to:

- (1) The nature and severity of the conduct;
- (2) The possibility of mediation resolving the complaint;
- (3) Whether informal mediation would satisfy the College's Title IX obligations in the case at hand.

If the Title IX Coordinator determines that mediation is appropriate, the Title IX Coordinator will promptly assign an appropriately trained mediator, notify the accused, and implement informal procedures within five working days, absent any unusual circumstances. Mediation should encourage each person to be honest, direct, and respectful, and to accept personal responsibility where appropriate. Both parties must consent to mediation. The Title IX Coordinator or any other appropriately trained employee may serve as the mediator. A matter will be deemed satisfactorily resolved when both parties expressly agree in writing to an outcome that is also acceptable to the Title IX Coordinator.

When the allegations, if true, might constitute criminal conduct, the party against whom they are brought is hereby advised to seek legal counsel before making any written or oral statements. Those facing allegations may wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

At any stage during the mediation process, the complainant may terminate the mediation and elect to begin formal complaint procedures. Further, at any point during the mediation, if the mediator suspects that mediation is no longer appropriate, the mediator will confer with the Title IX Coordinator on this matter. The Title IX Coordinator will then determine whether mediation is still appropriate and instruct the relevant parties accordingly. A finding of inappropriateness

must be made, for example, in the event that the mediation exposes an occurrence of sexual assault with respect to the parties engaged in the mediation.

Ordinarily, the informal resolution process will be concluded within four weeks of the date of the request for mediation.

Because entry into mediation and into a Mediation Agreement is voluntary, neither party shall have the right to appeal the terms of a Mediation Agreement absent a showing of duress or undue influence caused by any person, even a person not involved in the mediation. The Title IX Coordinator shall have sole discretion to determine whether a proper showing of duress or undue influence has been made. If the Title IX Coordinator makes a finding of duress or undue influence, then formal procedures will be initiated.

Formal Complaint Procedures

1. Filing a Complaint

A victim or a third-party may file a formal complaint alleging a violation of this policy. A complaint of Sexual Misconduct should be filed directly with the Title IX Coordinator.

A formal complaint must be in writing and signed and dated. It should state the name of the accused (if known) and describe with reasonable specificity the incident(s) of alleged misconduct, including the date and place of such incident(s). The complaint should include a list of any sources of potential information (e.g., witnesses, correspondence, records, etc.) that the victim or third-party believes may be relevant to the investigation. However, a complaint should not be delayed if such sources of potential information are unknown or unavailable because sources can be discovered in the formal investigation.

The College does not limit the timeframe for filing a complaint. Nevertheless, the College encourages complaints to be filed as soon as reasonably possible following a violation, because the College's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint.

2. Initial Review

Once a complaint is received by the Title IX Coordinator, the Title IX Coordinator will review the complaint and determine whether the allegations, if true, would constitute a violation of this Policy. If necessary, the Title IX Coordinator will meet with the complainant or the third-party reporter to gather further information prior to making a determination.

This initial review will occur within 5 days.

If, after conducting the initial review of a formal complaint, the Title IX Coordinator determines that the allegation, if true, would not constitute a violation of this Policy, then the Title IX Coordinator will administratively close the case and notify the complainant (and the reporter, if there is one). If new information subsequently arises, the complainant or reporter of the incident may request reconsideration of the determination that no violation occurred. In cases where the Title IX Coordinator concludes that the alleged conduct, while not a violation of this Policy, might implicate other College policies, the Title IX Coordinator may refer the matter to the appropriate College officials.

3. Investigation

If the Title IX Coordinator determines that the allegations would constitute a violation of this Policy, then a formal investigation will be initiated. The investigation will take the form of the single-investigator model recommended by the White House Task Force to Protect Students from Sexual Assault.

Once an investigation is initiated, the Title IX Coordinator may enter an interim order directing that no contact shall occur between the Victim and alleged Perpetrator and/or any other order necessary to preserve the integrity of the investigation.

The Title IX Coordinator will appoint one or two trained investigators, depending on the severity of the complained of conduct, to investigate the incident(s). The investigators will be chosen from a pool of appropriately trained individuals with specialized knowledge in the area of sexual misconduct.

The investigators will notify the respondent in writing of the allegations and will provide the respondent with a copy of the Policy and these procedures immediately upon being appointed to investigate the matter. The Respondent will have one week to submit a written response to the allegations to the investigators.

When the allegations, if true, might constitute criminal conduct, the party against whom they are brought is hereby advised to seek legal counsel before making any written or oral statements. Those facing allegations may wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

The investigators will request individual interviews with the complainant, the respondent, and other witnesses as appropriate. Such witnesses may include those identified by the parties, those identified by relevant officers of the College, those identified by other witnesses, and any other persons who the investigators consider it proper to interview. The purpose of the interviews is to gather and assess information about the incident(s) at issue in the complaint, not to solicit general information about a party's character.

After the collection of additional information is complete but prior to the conclusion of the investigation, the investigators will request individual follow-up interviews with the complainant and respondent to give each the opportunity to respond to the additional information.

4. Investigation Findings and Final Report

After the complainant and respondent have the opportunity to respond to the additional information, the investigators will make findings of fact, applying a preponderance of the evidence standard (i.e., more likely than not), and determine based on those findings of fact whether a violation of this Policy occurred.

When the investigators have completed their initial investigation, they shall simultaneously and confidentially notify the complainant and the respondent in writing of their preliminary findings. Within one week after each party reviews the preliminary factual findings, they may submit a written response to the investigator who will consider that response before finalizing the factual findings.

To the extent that the final report of the investigators concludes that a violation has occurred, the report will not contain any specific recommendation as to sanctions. The report may recommend general remedial steps the College may take to eliminate any harassment, prevent its recurrence, and address its effects. The investigator (s) will notify the complainant and respondent simultaneously and confidentially in writing of their decision and advise that an appeal of that decision may be filed within five days of the receipt of the decision

The investigation will be completed within six weeks of receipt of the complaint.

If the final report determines that a violation has occurred, the Title IX Coordinator will appoint a Discipline Panel of three persons, chosen from the Title IX Disciplinary Review Board, who will determine the appropriate sanctions. The Review Board shall be constituted by members of the President's Cabinet, the President's Council and the president and vice-president of Faculty Council.

Upon referral of a matter to the Panel, the Vice President of Student Affairs shall direct that her office prepare a confidential report to the Panel regarding the background of the respondent, any prior incidents of misconduct in which the respondent has been involved, and an assessment of the type of sanctions/remediation that has previously been

dispensed for offenses of the nature found in the current case. This report shall also disclose to the Panel the full range of possible penalties, sanctions, and remedial measures which the Panel might consider in its determination.

The Panel may, if it wishes, request that each side submit a confidential statement to it regarding the matters of sanctions.

The Discipline Panel functions solely to determine the appropriate sanctions/remediation based on the findings made by the investigators. The Panel does not have the authority to overrule the factual determinations of the investigators.

The forms of sanctions/remediation may include expulsion, suspension for a determinate or indeterminate length of time, restrictions on contact; course-schedule or work-schedule alteration; changes in housing; leaves of absence; required counselling and/or treatment, and restitution.

The Disciplinary Panel will issue a written report detailing the sanctions to be imposed within 10 days after receipt of all required materials. That report will be sent simultaneously to the complainant, respondent, and the Title IX Coordinator along with the procedures to appeal the result of the disciplinary hearing. In the event there is a subsequent change in the result or when the result becomes final, both parties will be sent notification thereof at the same time.

In disciplinary proceedings conducted against a student who is the alleged perpetrator of any crime of violence or non-forcible sex offense (statutory rape, incest), the results of the proceeding will be provided to the alleged victim and in the case of a deceased victim, to the next of kin.

5. Appeal

Both the respondent and the complainant may appeal the decision of the investigators and/or Panel to the President of the College or his designee. Any appeal must be filed within 5 days after:

- a. the determination of the Disciplinary Panel is delivered to the party perfecting the appeal in the case where the investigators have determined that a violation has occurred; or,
- b. the date upon which the complainant receives the final report of the investigators determining that no violation has occurred.

In any event, an appeal may be based only on the following grounds:

- a. A violation of the procedures set forth above has occurred which, in the context of the case, may have the effect of changing the outcome; or
 - b. The appellant has substantive and relevant new information that was not available at the time of investigation that may change the outcome.
6. If the President (or his designee) upholds the appeal on either/both of the above grounds, the matter will be remanded to the investigators and/or Panel to correct the procedural violation and/or consider the new evidence and reinstitute the process as previously outlined. The appeal decision will be sent simultaneously to the parties.

7. Final Reports

When issuing final reports to the complainant and the respondent, the College must be mindful of the following Title IX requirements:

- a. The College must inform the complainant of the following:
 - i. Whether the alleged conduct occurred
 - ii. Any individual remedies offered or provided to the complainant
 - iii. Any sanctions imposed on the perpetrator that directly relate to the complainant
 - iv. Other steps the College has taken to eliminate the hostile environment and prevent recurrence.
- b. The College will not notify the perpetrator of individual remedies offered or provided to the complainant.

In addition, Clery requires, and FERPA permits, postsecondary institutions to inform the complainant of the College's final determination and any disciplinary sanctions imposed on the perpetrator in Sexual Violence cases (as opposed to all Sexual Misconduct covered by Title IX), not just those sanctions that directly relate to the complainant.

8. Confidentiality

All College officials involved in the investigation process will take reasonable steps to protect the privacy of all involved. Once a complaint is filed, the complainant, third-party reporter, the respondent, personal advisors, and any witnesses will be notified of the potential for compromising the integrity of the investigation by disclosing information about the case and the importance of keeping confidential any information or documents that they receive or review. They also will be notified that sharing such information could be construed as retaliatory. Retaliation of any kind is a separate violation of this Policy and may have strong punitive consequences.

The parties remain free to share their own experiences, but in order to avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom they confide.

9. Request to Withdraw Complaint

While every effort will be made to respect the complainant's wishes to withdraw a formal complaint, the College must be mindful of its overarching commitment to provide a non-discriminatory environment. Therefore, the Title IX Coordinator may determine that investigation is appropriate despite a complainant's request to withdraw the complaint.

10. Request for Informal Resolution After a Complaint has Been Filed

Once a complaint has been opened for investigation and before the final report has been provided to the parties, the complainant may request informal resolution as an alternative to formal resolution of the complaint, but such informal resolution requires the agreement of the complainant and respondent and the approval of the Title IX Coordinator.

If such a request is approved, the timeframes will be stayed, and the investigators or a designee will take such steps as he or she deems appropriate to assist in reaching a resolution. If an informal resolution cannot be reached in two weeks, then formal procedures will resume.

IX. Assistance for Victims of Sexual Misconduct

Immediate and Ongoing Assistance

If you are a victim of sexual misconduct in need of immediate and/or ongoing assistance following an incident, the following resources, both off-campus and on-campus, are available:

A. Blackburn Center Against Domestic and Sexual Violence (Off-Campus, Confidential)

The Blackburn Center, located in Greensburg, PA, advocates for the rights of all individuals to live free from domestic and sexual violence in their homes and communities by eliminating the root causes of this violence and providing for the well-being and safety of survivors/victims.

Blackburn Center has numerous and wide-ranging resources available for victims of sexual violence. *All of their resources are FREE and CONFIDENTIAL; they can even be ANONYMOUS.* All services are available to children, women and men. Blackburn Center's services include the following:

a. **24 Hour Hotline**

To reach a counselor any time of the day or night, call: 724-836-1122 or 1-888-832-2272.

The 24-hour hotline provides crisis counseling to survivors of sexual assault, incest, domestic violence, and sexual harassment. The hotline can be the first contact victims have with an organization dedicated to their safety and healing. The hotline is available to anyone who needs help: survivors, their families and friends, and professionals who seek information about how they might better meet the needs of their clients. Blackburn's counselors have received training in the dynamics of domestic violence and sexual assault and understand the complex issues involved.

b. **Emergency Shelter**

Temporary emergency shelter is available to victims of domestic violence and their children. The shelter provides a safe, comfortable haven where a victim can plan for his or her future. Residents may stay up to 30 days in a six-month period.

c. **Counseling and Therapy**

Blackburn Center provides in-person crisis counseling to survivors of domestic violence and sexual assault. In addition, sexual assault therapy services are available by appointment for women, children, and men.

d. **Support Groups**

Blackburn Center's staff facilitates weekly support groups for victims of domestic violence and sexual assault to explore their strengths, resources and options.

Group participants may include:

- i. Adult victims of domestic violence
- ii. Children of victims of domestic violence
- iii. Adults sexually abused as children
- iv. Sexual assault/harassment victims
- v. Significant others of sexual assault victims
- vi. Incarcerated female victims of domestic or sexual violence (County Prison)

e. **Medical Advocacy/Accompaniment**

Medical advocates meet survivors of abuse at medical facilities in Westmoreland County in order to provide support during medical examinations and information about available options and resources. Medical advocacy services are available 24/7.

f. **Legal System Support**

Legal advocates accompany survivors of abuse and their significant others during PFA hearings, Magisterial District Justice hearings, and trials, and provide support, encouragement, and information about available options and resources.

B. Independent Psychological Counselor

Dr. Elizabeth Ventura
Professional Licensed Counselor
Associates in Counselling and Wellness
412-559-9152

C. Wellness Center Counselors (On-Campus)

The Counselors in the Wellness Center are available for ongoing counseling support. The Wellness Center is located in the Carey Center and may be reached at 724-805-2115.

D. Residence Life Staff (On-Campus)

Members of the Residence Life Staff are available 24/7 for emergency help in any situation. Victims can ask Residence Life Staff to help them report incidents of sexual misconduct and secure any required assistance. Residence Life Staff members have an obligation to report these incidents to their managing Residence Hall Director and to the Dean of Students, who will report the incident to the Title IX Coordinator.

E. Public Safety (On-Campus)

- a. Public Safety Officers are on duty 24/7 for emergency help in any situation. Victims can ask the Public Safety Office to help them report incidents of sexual misconduct and secure any required assistance. Public Safety Officers have the obligation to report incidents to the Director of Public Safety and the Title IX Coordinator.
- b. Public Safety may be reached in an emergency situation by calling 724-805-2911

F. Title IX Coordinator (On-Campus)

- a. Responsible Employee Confidentiality Obligations.
- b. Title IX Coordinator Eileen K. Flinn, Esq. may be reached Monday through Friday from 8:30 AM until 4:30 PM at 724-805-2897.

G. Pennsylvania State Police (Off-Campus)

- a. The Pennsylvania State Police have their own set of confidentiality obligations.

- b. The Pennsylvania State Police can generally be on the scene responding to an emergency situation at the College within 15 minutes. Victims of sexual violence are encouraged to file a report with the State Police. The Greensburg, PA barracks can be reached at 724-832-3288.

H. Excelsa Hospital Latrobe (Off-Campus)

- a. Medical professionals at hospitals have their own rules for reporting and confidentiality. Typically, hospitals are required to call the police when a rape is reported, but you are not required to talk to them.
- b. Victims of sexual violence are encouraged to seek medical treatment immediately in order to address any physical injuries that may have occurred, preserve any evidence for a criminal complaint, and have a rape kit performed. Excelsa Hospital in Latrobe is within 10 minutes of campus.

Prevention, Education, and Training

The College will conduct periodic education and training sessions throughout the year. Your support of these programs is warmly encouraged.