

Maria College

Title IX & Prohibited Sex Discrimination Policy

Updated: September 11, 2024

I. INTRODUCTION:

A. Purpose of This Policy

This policy identifies and defines conduct prohibited under this policy and the procedures and process that will be used to respond to allegations of Prohibited Conduct.

Maria College (the College) will act on all notices of allegations of sex discrimination or retaliation. It will take necessary measures to end conduct that is in violation of this policy, prevent its recurrence, and remedy its effect on individuals and the community. Within any process related to this policy, the College provides reasonable accommodations to persons with disabilities and reasonable religious accommodations, when that accommodation is consistent with state and federal law.

Situations involving other conduct that may be in violation of other student or employee conduct policies should be reported to Student Affairs for matters involving students, or Human Resources for matters involving faculty or staff. Situations involving other conduct relating to nonaffiliates should be reported to Campus Safety.

B. Statement of Nondiscrimination

Maria College does not discriminate and prohibits discrimination against any individual based on any category protected under applicable federal, state, or local laws.

Accordingly, the College does not discriminate, and strictly prohibits unlawful discrimination on the basis of race (including traits historically associated with race, such as hair texture and protective hairstyles), color, religion, creed, national origin, ancestry, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity or expression, age, sexual orientation, physical or mental disability, citizenship, genetic information or predisposing genetic characteristics, marital status, familial status, domestic violence victim status, caregiver status, military status, including past, current, or prospective service in the uniformed services, or any other category or characteristic protected by applicable law. When brought to the attention of the College, sex discrimination will be appropriately addressed by the College according to the procedures below, and discrimination on the basis of any other protected category will be addressed in accordance with applicable student or employee policies.

The protections in this policy apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

C. Title IX of the Education Amendments of 1972

Maria College does not discriminate in its admissions practices except as permitted by law, in its employment practices, or in its educational programs or activities on the basis of sex. As a recipient of federal financial assistance for education activities, the College is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or related conditions.

The College has obligations under Title IX to provide certain supports and modifications to people experiencing pregnancy or related conditions in order to ensure their equal access to the College's program or activity. For example, the College must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions and must allow voluntary leaves of absence. Students, employees, or applicants should contact the Title IX Coordinator for more information. Employees or applicants may also contact Human Resources for more information, because additional workplace laws and policies apply.

Pregnancy or related conditions include pregnancy, childbirth, termination of pregnancy, lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; and recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

The College also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process, whether internal or external to the institution. Sex-based harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by the College's policy.

D. Application of Section 504/Americans with Disabilities Act to this Policy

In both practice and policy, Maria College adheres to the requirements of the Americans with Disabilities Act of 1990, as amended 2008 (ADA); Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; and all other federal and state laws and regulations prohibiting discrimination on the basis of disability. The College is committed to providing individuals with disabilities equal access and opportunity and strives in its policies and practices to provide for the full participation of individuals with disabilities in all aspects of campus life.

Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point relating to the implementation of this policy, including making a disclosure or report, and initiating a grievance procedure. Accommodations will be granted if they are appropriate and do not fundamentally alter the process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other College programs and activities. With the consent of the impacted student or employee, the Title IX Coordinator will work collaboratively with the Office of Accessibility Services (for students) or Human Resources (for employees) to ensure that approved reasonable accommodations (disability-related) are honored as applicable throughout any process related to this policy.

E. To Whom This Policy Applies

This policy applies to the entire Maria College community, including, but not limited to, students, student organizations, faculty, administrators, and staff, whether on or off campus (including study abroad), and third parties such as guests, visitors, vendors, volunteers, invitees, board members, and alumni when they are on campus or participating in College sponsored activities. This policy may also 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. Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational or employment opportunities and/or benefits of any member of the College community on the basis of sex is in violation of this policy.

Members of the College community are expected to provide truthful information in any report, meeting, or proceeding under this policy.

Any respondent who is not a College student, faculty member, or staff member is generally considered a third party. The College's ability to take appropriate corrective action against a third party may be limited and will depend on the nature of the third party's relationship, if any, to the College. When appropriate, the Title IX Coordinator will refer such allegations against third-party respondents to the appropriate office.

The status of a party may impact which resources and remedies are available to them, as described in this policy.

F. Academic Freedom

The College is dedicated to an uncompromising standard of academic excellence and an unwavering commitment to academic freedom, freedom of inquiry, and freedom of expression in the search for truth. This policy and procedures are not intended to inhibit or restrict free expression or exchange of ideas, abridge academic freedom, or prohibit educational content or discussions inside or outside of the classroom that includes germane, but controversial or sensitive subject matters protected by academic freedom.

Members of the College community are free to express their views on any academic subject — regardless of whether those viewpoints are provocative or controversial. Before proceeding with or continuing an investigation of any report of harassment or retaliation that involves an individual's speech or other communication, the College will take care to distinguish between protected speech and hostile environment harassment. The Title IX Coordinator will take action as needed to re-store or preserve a person's access to the College's education program or activity.

G. Student Bill of Rights

All Maria College students have the right to:

- Make a report (or decline to report) to local law enforcement and/or state police;

- Have disclosures of Sexual Assault, Domestic Violence, Dating Violence, and Stalking and all other forms of Prohibited Conduct treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the complaint resolution process and/or criminal justice process free from pressure by the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from Maria College courteous, fair, and respectful health care and counseling services, where available;
- Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few representatives of Maria College as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by Maria College, any student, the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the College;
- Access to at least one level of appeal of a determination;
- Be accompanied by an Advisor of choice who may assist and advise a Complainant or a Respondent during any meetings and hearings under the Policy and procedures; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or complaint resolution process of Maria College.

II. PROHIBITED CONDUCT:

This policy prohibits sex discrimination, including sex-based harassment, and retaliation as defined below. These acts shall also be referred to as Prohibited Conduct under this policy.

A. Discrimination on the Basis of Sex

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

B. Sex-Based Harassment

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. Sex-Based Harassment includes the following:

1. **Quid pro quo harassment:** 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.

2. **Hostile environment harassment:** Consistent with state law, hostile environment sex-based harassment is a form of sex discrimination and a form of discriminatory harassment. Unwelcome sexual advances, requests for sexual favors, requests for sexual contact, sexual comments, physical or visual conduct of a sexual nature, and sharing or displaying sexual images constitute sex-based harassment.

This includes when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic, co-curricular, or campus life activities; or Submission to or rejection of such conduct by an individual is used as the basis for academic, student life, or employment decisions affecting that individual; or
- Such unwelcome conduct is intentional or serves no legitimate purpose; or
- It involves unwelcome contact with parts of another individual's body which may cause that person to feel degraded or abused; or
- The unwelcome behavior is for the purpose of gratifying the actor's sexual desire; or
- The unwelcome conduct constitutes more than "petty slights or trivial inconveniences"; or
- Such unwelcome conduct has the purpose or effect of unreasonably interfering with another person's academic or work performance or creating an intimidating, hostile, demeaning, or offensive working, learning, campus, or living environment.

The following describes acts that may be unlawful sex-based harassment and are strictly prohibited:

- Unwelcome touching, pinching, patting, grabbing, brushing against another's body;
- Subtle or obvious pressure for unwelcome sexual activities;
- Unwelcome requests for sexual favors accompanied by implied or overt threats concerning performance evaluations, promotion, etc.;
- Unwelcome images, texts, social media posts, or other images or materials that are sexually demeaning or pornographic (this does not include images shown solely for the purposes of academic instruction or research); or
- Unwelcome sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile environment

NYS workplace sexual harassment can take a variety of forms. Examples include, but are not limited to:

- Unwelcome sexual propositions, invitations, solicitations, and flirtations;
- Non-consensual sexual intercourse or other sexual contact;
- Coercive behavior, unreasonable pressure, or manipulation to compel a person to engage in sexual activity;
- Threats or insinuations that a person's employment, wages, promotional opportunities, work assignments, academic grade, classroom assignments, or other conditions of employment or academic or other collegiate life may be adversely affected by not submitting to sexual advances;
- Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls, mail, or email;
- Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed on the work or study area, if not used solely for a legitimate educational purpose;
- Non-consensual touching, grabbing, groping, pinching, or other physical contact;
- Spreading sexual rumors; distributing intimate or sexual information about another person;
- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person;
- Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person.

3. **Sexual assault:** an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

- 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.
- 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.
- Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

4. **Dating violence:** violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

- Where the existence of such a relationship shall be determined based on a consideration of the following factors: o The length of the relationship; o The type of relationship; and o The frequency of interaction between the people involved in the relationship. Emotional and psychological abuse do not constitute violence for the purposes of this definition.

5. **Domestic violence:** felony or misdemeanor crimes of violence committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the College, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

Emotional and psychological abuse do not constitute violence for the purposes of this definition.

6. **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.

7. **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.

8. **Sexual Exploitation** is the abuse or exploitation of another person’s sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Sexual Exploitation includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.

C. Retaliation:

Retaliation is any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct. Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct 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 this policy or by law, including Title IX or its regulations. Adverse action does not include perceived or petty slights, or trivial annoyances.

The prohibition against retaliation applies to any individuals who participate (or refuse to participate) in any manner in an investigation, proceeding, or hearing, and to any student who refuses to participate in an investigation, proceeding, or hearing.

Retaliation may occur even where there is a finding of “not responsible” under this policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation.

D. Consensual Relationships – Fraternalization Policy

In an effort to promote efficiency of operations, improve productivity and morale, avoid conflict of interest, prevent favoritism and bias, and provide the best service to our students, no person in a management or supervisory position shall have an intimate, sexual or romantic relationship with a subordinate (direct or indirect reporting relationship) at the College. This policy applies to ALL employees of the College. Further, this shall also apply to relationships between faculty and students.

- Any manager or supervisor shall not fraternize with an employee whom they supervise or whose terms and conditions of employment they may influence are required to bring this to the attention of Human Resources immediately.
- Any faculty member or staff member shall not fraternize with any student with whom they teach or whose academic career they may influence, control or impact.
- Maria College will try to place necessary and reasonable measures to avoid an actual or apparent conflict of interest. The supervisory employee may be demoted or reassigned to remove the supervisor-subordinate conflict.
- In the event no suitable accommodation can be arranged, it may be necessary for one of the individuals in the dating relationship to be assigned a new position at the College. The individuals involved in the dating relationship will be given the opportunity to determine which person will move. If no decision can be made, the College will make arrangements to reassign the manager/supervisor.

Maria College reserves the right to assess current situations where a potential conflict of interest may exist. These situations will be looked at on a case-by-case basis by Human Resources.

III. TITLE IX COORDINATOR:

Maria College is committed to promoting a diverse, equitable, and inclusive working and learning environment free from sex discrimination. The Title IX Coordinator is charged with monitoring compliance with Title IX; providing education and training; and coordinating the College’s response, investigation, and resolution of all reports of Prohibited Conduct under this policy. The Title IX Coordinator acts with independence and authority and oversees all resolutions under this policy free from bias and conflicts of

interest. The Title IX Coordinator is available to meet with any Student, Employee, or other individual to discuss this policy or the accompanying procedures and can be contacted at:

Dr. Bill Boerner
Title IX Coordinator
700 New Scotland Avenue
Albany, NY 12208
titleix@mariacollege.edu
650-383-4753 ext. 158

Rosalyn Vazquez
Deputy Title IX Coordinator
700 New Scotland Avenue
Albany, NY 12208
rvazquez@mariacollege.edu
518-861-2580

Karen Conrad
Deputy Title IX Coordinator
700 New Scotland Avenue
Albany, NY 12208
kconrad@mariacollege.edu
518-861-2529

A. Delegation of Duties Under 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.

B. Conflicts of Interest or Bias

Any individual carrying out any part of this policy shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of a matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Senior Associate Vice President of Academic and Student Life who will either take, or reassign, the role of Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue. Should any Investigator, Decision maker, or Appeal Panel Member have a conflict of interest, the Investigator, Decision maker, or Appeal Panel Member is to notify the Title IX Coordinator upon discovery of the conflict so that the Title IX Coordinator may reassign the role as appropriate. This policy will note where parties have the opportunity to challenge the participation of any individual implementing this policy based on actual conflict of interest or demonstrated bias.

IV. REPORTING HARASSMENT AND DISCRIMINATION

A. Employee Reporting Obligations

Maria College believes it is important to be proactive in taking reasonable steps to identify and prevent incidents of sex discrimination. All employees, with limited exceptions as identified by the College, are required to promptly provide to the Title IX Coordinator all complaints or reports of sex discrimination, including sex-based harassment, and all complaints or reports of discrimination and harassment to the Title IX Coordinator and share all information reported or made available to the employee.

Researchers conducting IRB-approved human subjects research study designed to gather information about sex discrimination are not required to report to the Title IX Coordinator disclosures made in the course of that study.

The College also encourages employees who themselves experience sex discrimination to bring their concerns to the Title IX Coordinator, though they are not required to do so.

When providing this information to the Title IX Coordinator, the employee must include their own name and contact information, and all known details about an incident, which may include, if known, the dates, times, locations, names of involved individuals and the nature of the incident.

Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information, consistent with the College's [FERPA requirements](#).

In addition, certain members of the College community who interact with, supervise, chaperone, or otherwise oversee minors in programs or activities at the College or sponsored by the College are required to report immediately to the NYS Maltreatment Hotline if they have reasonable cause to suspect abuse or maltreatment of individuals under the age of 18. If there is suspected abuse or maltreatment of a minor on campus, contact the College's Campus Safety at (518) 376-0690, the Title IX Coordinator, and call the NYS Child Maltreatment Hotline at 800-342-3720.

B. Crime and Incident Disclosure Obligations

The Clery Act is a federal crime and incident disclosure law. It requires, among other things, that the College report the number of incidents of certain crimes, including some of the Prohibited Conduct in this policy, that occur in particular campus-related locations. The Clery Act also requires the College to issue a warning to the community in certain circumstances.

In the statistical disclosures and warnings to the community, the College will ensure that a complainant's name and other identifying information is not disclosed. The Title IX Coordinator will refer information to Campus Safety when appropriate for a determination about Clery-related actions, such as disclosing crime statistics or sending campus notifications.

C. Coordination Among Multiple Institutions

When such conduct involves students or employees from two or more institutions, such institutions may work collaboratively to address the conduct provided that such collaboration complies with the Family Educational Rights and Privacy Act.

D. Public Awareness Events

Employees are required to report to the Title IX Coordinator information about sex discrimination or harassment they learn about at public awareness events such as at "Take Back the Night" or other similar programs. The Title IX Coordinator will outreach 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, especially when 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.

E. How to Make a Report to the College

All complaints of violations of this policy will be taken seriously and in good faith. The Title IX Coordinator will provide information and guidance regarding how to file a complaint with the College and/or local law enforcement, as well as information and assistance about what course of action may best support the individual(s) involved and how best to address the complaint.

Every reasonable effort will be made to maintain the privacy of those making a report to the extent possible. In all cases, the College will give consideration to the party bringing forward a report with respect to how the matter is pursued. The College may, when necessary to protect the community, initiate an investigation or take other responsive actions to a report, even when the person identifying a concern chooses not to participate in a resolution process and/or requests that the College not initiate an investigation.

Employees, students, guests, or visitors who believe that this policy has been violated should promptly contact the Title IX Coordinator or another member of the Title IX Office as follows:

Dr. Bill Boerner

titleix@mariacollege.edu

[Reporting Form](#)

Website: [Office of Title IX](#)

There is no timeline for making a report of harassment or discrimination under this policy, however, the College encourages the prompt reporting of a complaint as the ability of the College to pursue the complaint to conclusion may be hindered by the passage of time. Additional information about reporting matters involving conduct by an employee may be found by contacting Human Resources at rvazquez@mariacollege.edu.

F. Policy for Alcohol and/or Drug Use Amnesty for Students

The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence stalking, or sexual assault to the College's officials or law enforcement will not be subject to the College's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. This policy does not

provide amnesty for drug dealers or those who use drugs or alcohol as a weapon or to facilitate Prohibited Conduct. Under this Amnesty provision, personal drug use and possession, whether it is intentional or accidental, will not form the basis of student disciplinary charges. A bystander is someone who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.

G. Privacy and Confidentiality

The College values the privacy of its students, employees, and other community members. Community members should be able to seek the assistance they need and access this policy without fear that the information they provide will be shared more broadly.

References made to privacy mean College offices and employees who cannot guarantee confidentiality, but will maintain privacy to the greatest extent possible, relaying information as necessary to investigate or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The College will limit the disclosure as much as practicable.

All activities under these procedures shall be conducted with the privacy interests of those involved. While the College will take all reasonable steps to protect the privacy of individuals involved in a complaint, it may be necessary to disclose some information to individuals or offices on campus in order to address a complaint or provide for the physical safety of an individual or the campus. Thus, the College cannot, and does not, guarantee that all information related to complaints will be kept confidential.

In order to maintain the privacy of evidence gathered as part of any resolution process, access to materials under the procedures in this policy will be provided only by a secure method and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this policy. Parties may request to review a hard copy of materials, and the College will make that available in a supervised or monitored setting. Inappropriately sharing materials provided during this process may constitute retaliation under this policy. Nothing in this policy prohibits parties from discussing or disclosing the outcome of the matter, consistent with the prohibition on retaliation.

Individuals may speak confidentially with a Confidential Resource. Confidential Resources (e.g., licensed mental health care providers, physicians, clergy) may not report to Title IX Coordinator any identifying information about conduct that may violate the College's policies against harassment and discrimination without the written consent of the individual who supplied the information, unless required by law. Such disclosures will not be reported to the Title IX Coordinator or initiate any process under this policy.

The College has employees who are not required to report information about sex discrimination to the Title IX Coordinator:

- Privileged and confidential employees whose communications are privileged or confidential under Federal or State law. The employee must be hired for and functioning within the scope of their duties to which the privilege or confidentiality applies. For example, physicians, clergy, and mental

health counselors are all confidential employees. Disclosures made to these employees means that information cannot be disclosed to anyone internal or external to the College without the expressed permission from the individual disclosing the information.

State law requires professional counselors to report: (i) when a patient is likely to engage in conduct that would result in serious harm to the patient or others; (ii) if there is reasonable cause to suspect that a minor has been sexually abused.

A list of Confidential and Non-Confidential resources may be found in section XII of this policy.

H. Protective Orders

The College's Campus Safety, if applicable, or other officials will assist members of the campus community in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order from any state or federally recognized tribal court. If the College receives an order of protection of equivalent, an institution representative or other appropriate person will reach out and provide a copy of the order. Upon request they can also provide an explanation of the order, including the consequences for violating these orders, and answer questions about it. Campus Security will provide assistance in effecting an arrest when an individual violates an order of protection.

I. Reporting to the Police

Some Prohibited Conduct may constitute a violation of both the law and Maria College policy. The College encourages students to report alleged crimes promptly to local law enforcement agencies and/or state police. All persons have the right to file with law enforcement, as well as the right to decline to file with law enforcement. The decision not to file shall not be considered as evidence that there was not a violation of College policy.

Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Conduct may constitute Prohibited Conduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. However, when a complaint is made to the College as well as to law enforcement, the College may delay its process if a law enforcement agency requests that the College delay its process for a reasonable amount of time to allow law enforcement to gather evidence of criminal misconduct. These temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay. Criminal or legal proceedings are separate from the processes in this policy and do not determine whether this policy has been violated.

All investigations and hearings under this policy will be thorough, reliable and impartial, and will seek to collect evidence and names of witnesses to gather information that is directly or substantially relevant to

whether the alleged policy violation occurred and will not be based on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

In the case of an emergency, where the physical well-being of a member of the College community or the safety of the College as an institution is threatened, any individual with such knowledge should promptly inform Campus Safety. The College may take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the College community and the College as an institution.

J. Emergency Access to Information & Resources

At any time, one of the following resources trained in interviewing victims of sexual assault will be available to provide information about options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. These individuals will also explain whether they are authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options:

- Title IX Coordinator: Dr. Bill Boerner, titleix@mariacollege.edu, 650-383-4753 ext. 158
- [Albany County Crime Victims and Sexual Violence Center](#): 518-447-7716
- [Equinox Domestic Violence Services](#): 518-432-7865

V. RESPONDING TO A REPORT

The following process will be used following the receipt of a report of sex discrimination.

A. Initial Contact

- Following receipt of a report alleging a potential violation of this policy, the Title IX Coordinator will contact the complainant to meet with the Title IX Coordinator (or their designee) for an initial intake and assessment meeting, and will provide the following:
- An invitation to meet to offer assistance and explain their rights, resources, and options under this policy;
- Access to this policy;
- Information regarding available campus and community resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
- The availability of Supportive Measures regardless of whether a complaint is filed and/or any resolution is initiated;
- The options for resolution (no action, prevention, agreement, investigation) and how to initiate such resolution processes;
- The right to notify law enforcement as well as the right not to notify law enforcement;
- The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from Campus Safety or local law enforcement in preserving evidence;

- The right to an advisor of choice during College proceedings under this policy including the initial meeting with the Title IX Coordinator;
- A statement that retaliation for filing a complaint, or participating in the complaint process, is prohibited;
- Ensure that the Complainant receives a written explanation of all available resources and options and is offered the opportunity to meet and discuss the resources and options, including information about STI's, forensic exams, and resources available through NYS Office of Victim Services; and
- Information on how to initiate the Investigation or Resolution-Based Agreement process.

B. Initial Intake & Assessment

The Initial Assessment process seeks to gather information about the nature and circumstances of the report to determine whether this policy applies to the report and, if so, which resolution process may be appropriate, as well as which section of the grievance procedures apply based on the conduct and the status of the parties. The Title IX Coordinator may also determine that the provision of supportive measures only is the appropriate response under the policy. The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the complaint is not the actual complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

Should the complainant wish to initiate a resolution process, the Title IX Coordinator will determine whether this policy applies and, if so, the appropriate process under this policy. The Title IX Coordinator will communicate to the complainant this determination.

If the information provided does not suggest a potential violation of this policy, the Title IX Coordinator will provide the complainant written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling.

C. Requests for Confidentiality or No Further Action

When a complainant requests that the Complainant not use their name as part of any resolution process, or that the College not take any further action, Maria College will generally try to honor those requests. However, there are certain instances in which the College has a broader obligation to the community and may need to act against the wishes of the complainant. In such circumstances, the Title IX Coordinator will notify the complainant in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a complainant include:

1. The complainant's request not to proceed with initiation of a complaint;
2. The complainant's reasonable safety concerns regarding initiation of a complaint;
3. The risk that additional acts of Prohibited Conduct would occur if a complaint were not initiated;
4. The severity of the alleged Prohibited Conduct, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

5. The age and relationship of the parties, including whether the respondent is an employee of the College, or whether the impacted person is a minor;
6. The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a Decision-maker in determining whether discrimination occurred;
8. Whether the College could end the alleged discrimination and prevent its recurrence without initiating its grievance procedures under this policy;
9. Whether the accused has a history of violent behavior or is a repeat offender;
10. Whether the incidents represent an escalation on the part of the person accused;
11. Whether the accused used a weapon or force;
12. Whether available information reveals a pattern of perpetration at a given location by a particular group; and
13. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other persons, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its education program or activity.

D. Emergency Removal

For sex discrimination and sex-based harassment, Maria College retains the authority to remove a respondent from the College's program or activity on an emergency basis, where the College (1) undertakes an individualized safety and risk analysis, (2) determines that an immediate and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations of sex discrimination justifies a removal, and (3) the College provides the respondent with notice of and an opportunity to challenge the decision immediately following the removal.

The respondent may challenge the decision immediately following the removal, by notifying the Title IX Coordinator in writing. The Title IX Coordinator will designate an impartial individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

For all other Prohibited Conduct, the College may defer to its interim suspension policies for students and administrative leave for employees.

E. Administrative Leave

The College retains the authority to place an employee respondent on administrative leave during a pending complaint process under this policy, with or without pay as appropriate. Administrative leave may be a supportive measure, emergency removal, or consistent with applicable law. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to challenge the decision to implement that measure.

F. Dismissal of a Complaint

Before dismissing a complaint, Maria College will make reasonable efforts to clarify the allegations with the complainant. The College may dismiss a complaint if:

- The College is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the College's education program or activity and is not employed by Maria 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 a 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
- The College determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under this policy.

Upon dismissal, the College 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 the College 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.

The College will notify the complainant that a dismissal may be appealed on the basis outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the allegations, then the College will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, the College will follow the procedures outlined in the Appeals section of these procedures.

When a complaint is dismissed, the College will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and,
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that discrimination does not continue or recur within the College's education program or activity.

A complainant who decides to withdraw a complaint or any portion of it may later request to reinstate it or refile it.

G. Referrals for Other Misconduct

Maria College has the discretion to refer complaints of misconduct not covered by this policy for handling under any other applicable College policy or code. As part of any such referral for further handling, the College may use evidence already gathered through any process covered by this policy.

Should there be a conflict between the provision of this policy and other College policies, procedures, rules, regulations, or terms or conditions of employment, the provisions of this policy will govern unless specifically stated otherwise.

This policy and these procedures are separate from the College's student disciplinary processes, by which the College may bring a discipline charge against a student for violating College policy according to the provisions found in the [Academic Catalog – Student Code of Conduct](#).

H. Consolidation of Cases

Maria College may consolidate complaints under this policy as appropriate: for example, if there are multiple complaints where the allegations of Prohibited Conduct arise out of the same facts or circumstances, or there are multiple complaints with overlapping parties.

The College also reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct under this policy. The Title IX Coordinator will address these consolidated complaints in collaboration and coordination with other appropriate offices, such as Student Affairs and Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

I. Student Withdrawal or Employee Resignation while Matters are Pending

If a student or employee respondent withdraws or resigns from Maria College with unresolved allegations pending, the College will consider whether and how to proceed with the resolution process. The College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct.

An employee respondent who resigns with unresolved allegations pending is not eligible for rehire with the College and the records retained by the Title IX Coordinator will reflect that status. All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

VI. OPTIONS FOR RESOLUTION

There are multiple ways to resolve a complaint or report of harassment and discrimination. Whenever possible, the College will utilize the resolution method chosen by the complainant. During the resolution of a complaint, the Title IX Coordinator will determine whether to implement reasonable supportive measures designed to assist all parties (complainants and respondents) and community members in

maintaining access to and participation in the College's programs, services and activities during the resolution of the complaint.

This section includes information on three resolution options: (A) Support-Based Resolution, (B) Agreement-Based Resolution, and (C) Formal Resolution, which may include an investigation only based process, or an Investigation and Hearing based process.

A. Support- Based Resolution

A support-based resolution is an option for a complainant who does not wish the College to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support that may be appropriate include, but are not limited to, adjustments or changes to class schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or arrangements; escorts to and around campus; or counseling.

A support-based resolution does not preclude later use of another form of resolution, for example if new information becomes available to the College and the Title IX Coordinator determines there is need for additional steps to be taken, or the complainant later decides to pursue a Resolution Agreement or type of Formal Resolution.

B. Agreement-Based Resolution

Agreement-Based Resolution is an alternative to the investigation and decision-making procedures where the Parties each voluntarily agree to resolve the complaint in a way that does not include an investigation and does not include any finding of responsibility. Agreement-Based Resolution is a voluntary, structured interaction between or among affected parties that balances support and accountability. If the College offers Agreement-Based Resolution to the parties, and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps as needed to ensure that sex discrimination does not continue or recur within the education program or activity.

Any party may design a proposed agreement between the parties. The Title IX Coordinator must approve of the use of the Agreement-Based Resolution process and approve the final agreement between the parties. Agreement-Based Resolution may be initiated at any time prior to the release of the final determination should the matter be resolved via Formal Resolution. Because Agreement-Based Resolution does not involve an investigation, there is not any determination made as to whether a respondent violated this policy.

The Title IX Coordinator has the discretion to determine that Agreement-Based Resolution is not an appropriate way to address the reported conduct, and that the matter must instead be resolved through the Formal Resolution process if appropriate.

1. Initiating the Agreement-Based Resolution Process

Prior to the initiation of Agreement-Based Resolution, the Title IX Coordinator will provide the Parties written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Agreement-Based Resolution process;
- Any consequences resulting from participating in the Agreement-Based Resolution process, including the records that will be maintained or could be shared, and whether Maria College could disclose such information for use in a future College grievance process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate.
- Notice that an agreement resulting from the Agreement-Based Resolution process is binding only on the parties and is not subject to appeal.
- Notice that once the Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations.
- A statement indicating that the decision to participate in the Agreement-Based Resolution process does not presume that the conduct at issue has occurred.
- A statement that the respondent is presumed not responsible for violating this policy, unless respondent admits to violations of this policy;
- An explanation that all parties may be accompanied by an advisor of their choice, who may be a parent, colleague, friend, or attorney;
- A statement that any party has the right to withdraw from the Agreement-Based Resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- The date and time of the initial meeting with staff or the Title IX Coordinator, with a minimum of 3 business days' notice;
- Information regarding Supportive Measures, which are available equally to the parties; and
- The potential terms that may be requested or offered in an Agreement-Based Resolution agreement.

2. Facilitating an Agreement

If all parties are willing to explore Agreement-Based Resolution, the Title IX Coordinator will then meet separately with each party to discuss the Agreement-Based Resolution process and facilitate an agreement. If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the Agreement-Based Resolution process, or the Title IX Coordinator does not believe that the terms of the agreement or continuing the Agreement-Based Resolution process is appropriate, the Title IX Coordinator may decide that the reported conduct will instead be addressed through the Formal Resolution process as appropriate. The Title IX Coordinator will inform the Parties of such decision, in writing.

Agreement-Based Resolution processes are managed by facilitators who do not have a conflict of interest or bias in favor of or against complainants or respondents generally or regarding the specific parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions. An Investigator or Decision maker for the matter may not facilitate an Agreement-Based Resolution in that same matter.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas. Examples of agreements may include but are not limited to:

- an agreement that the respondent will change classes or housing assignments;
- an agreement that the Parties will not communicate or otherwise engage with one another;
- an agreement that the Parties will not contact one another;
- completion of a training or educational project by the respondent;
- completion of a community service project by the respondent;
- an agreement to engage in a restorative justice process or facilitated dialogue; and/or
- discipline agreed upon by all parties.

In order to facilitate Agreement-Based Resolution, information shared by any party will not be used in any related resolution process of the same complaint under this policy. No evidence concerning the allegations obtained within the Agreement-Based Resolution process may be disseminated to any outside person, provided that any party to the Agreement-Based Resolution process may generally discuss the allegations under investigation with a parent, advisor, or other source of emotional support, or with an advocacy organization. An admission of responsibility made during an Agreement-Based Resolution process, however, may not be incorporated into the Formal Resolution and adjudication proceedings.

3. Finalizing the Resolution Agreement

Once the final terms of the Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The Agreement-Based Resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

Records of an Agreement-Based Resolution process can be shared with other offices as appropriate. Any violations of the terms of the Resolution Agreement may result in disciplinary action.

C. Formal Resolution: Investigation & Decision-making Resolution

This policy includes two types of investigation and decision-making procedures for Formal Resolution:

- **Resolution Process A:** utilized for Formal Resolution adjudication of all prohibited conduct matters except for sex-based harassment involving a student as a party;

- **Resolution Process B:** utilized for Formal Resolution adjudication for sex-based harassment involving a student as a party.

The following information applies to both types of Formal Resolution Processes:

Acceptance of Responsibility

If a respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the 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 any.

Assignment of the Investigator and/or Decision-maker

The College will assign a trained investigator and/or Decision-maker to conduct an adequate, reliable, and impartial investigation and hearing, if applicable, in a reasonably prompt timeframe. The College reserves the right to utilize internal or external investigators, Decision-makers, or hearing officers.

All parties have the option to participate in the investigation and/or hearing, and each have the same rights during the resolution process including the right to an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator providing the final report to the Decision-maker. In cases where there is a hearing, all parties have the same rights at the hearing, including the right to review any evidence that will be considered by the Decision-maker prior to the hearing.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

Conflict of Interest or Bias

After a Notice of Investigation is issued to all parties, any party may object to the participation of the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. All parties will have three (3) business days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator. Objections to the Title IX Coordinator are to be made, in writing, to the Vice President of Student Affairs. Objections to the appointment of the investigator are to be made in writing, to the Title IX Coordinator. All objections will be considered, and changes made as appropriate. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced. Any change will be communicated in writing.

Timeline

In those cases that do not include a hearing, the College strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation. In those cases that include a hearing, the College strives to complete the investigation process within sixty (60) days from the date of the Notice of Investigation and complete the hearing within sixty (60) days of the Notice of Hearing.

The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator. All parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

The College shall not unreasonably deny a student request for an extension of a deadline related to a complaint during periods of examinations or school closures.

The investigator and/or Title IX Coordinator shall provide the Parties with periodic status updates, in writing.

Burden and Standard of Review

Maria College has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. This burden does not rest with any party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. This does not shift the burden of proof away from the College and does not indicate responsibility. The standard of proof used in any investigation and decision-making process is the preponderance of the evidence standard, which means more likely than not.

Written Notice of Meetings

Maria College will provide to a party or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.

Evidence Gathering

Interviews

The investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via video conference. When a party meets with an investigator, the investigator will ask questions related to the allegations in the complaint and a party is given the opportunity to speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant to the allegations and not otherwise impermissible. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The investigator ultimately determines whom to interview to determine the facts relevant to the complaint.

Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are impermissible. 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 a privilege recognized by Federal or State law, unless the person to whom the privilege or 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 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 grievance 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.
- In matters of sexual assault, domestic violence, dating violence, and stalking, all parties have the right to exclude their own prior sexual history with persons other than the other party in the investigation and decision-making process or their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility. The limit does not exclude evidence of prior sexual history with the other party in the investigation that is relevant to an allegation or defense of an allegation.

Expectations of Decorum in all proceedings

The College will share expectations of decorum to be observed at all times in any meeting or proceeding under this policy. These expectations are applied equally to all parties and advisors. The College has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other applicable rules. Decorum expectations include the following:

- Individuals participating in the resolution process are expected to maintain decorum and abide by any expectations detailed in this policy or provided by the Investigator, Decision Maker, or Title IX Coordinator. These expectations are applied equally to all parties and advisors.
- Questions must be conveyed in a neutral tone;

- Parties and Advisors will refer to other parties, witnesses, advisors, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning;
- No party may act abusively or disrespectfully toward any other party, witness, Investigator, or any other resolution process participant;
- Parties may not use profanity or make irrelevant ad hominem attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact, they may not include accusations within the text of the question;
- Parties and advisors may take no action that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.
- No unauthorized audio or video recording of any kind is permitted during any proceeding or meeting. If the Investigator or Title IX Coordinator elects to audio and/or video record interviews, meetings, or proceedings, all involved parties must be made aware of audio and/or video recording.

1. Resolution Process A: Investigation & Decision-making Procedures for All Prohibited Conduct Except Sex-Based Harassment Involving a Student Party

This procedure is for all matters of Prohibited Conduct being investigated and determined under this policy except for sex-based harassment involving a student as a party.

The College will assign a trained investigator to conduct an adequate, reliable, and impartial investigation in a reasonably prompt timeframe. The College reserves the right to utilize internal or external investigators.

All parties have the option to participate in the investigation and/or hearing, and each have the same rights during the resolution process including the right to an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator's making any findings. In the event of a hearing, all parties have the same rights, including the right to review any evidence gathered by the investigator prior to the investigator making any findings.

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:

- Maria College’s resolution procedures, including the applicable determination procedure, and any alternative resolution process, with a link to the full procedures;
- The specific allegations, including the identity of the parties, and dates and location if known;
- 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);
- A statement that Retaliation is prohibited;
- Contact information for the assigned investigator, as well as the process for raising a challenge to the appointed investigator or Title IX Coordinator, and the deadline for doing so;
- Expected length of the major stages of the resolution process, as well as any applicable deadlines.
- Whether the Investigator, or another individual, shall serve as the Decision maker.
- A statement that the respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence.
- The parties may have an advisor of their choice who may be a friend, colleague, therapist, or attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
- A statement that the College prohibits knowingly making false statements or knowingly submitting false information during grievance procedures, with a link to the relevant policy(ies).
- The date and time of the initial interview with the investigator, with a minimum of five (5) business days’ notice.

Individual Interviews

The investigator will hold individual interviews with parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Only the investigator and the party or witness may attend each individual interview. A party's advisor may attend these meetings, subject to the rules described in this policy. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to

maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings and may be subject to further College discipline for failure to do so.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the College's discretion, with all participants joining virtually through a video conferencing option.

Evidence Review

At the conclusion of all fact-gathering, the investigator will provide each party and their advisor, if any, the opportunity to review all relevant and not otherwise impermissible evidence gathered.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence, or names of witnesses. Given the sensitive nature of the information provided, the College will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of five (5) business days to inspect and review the evidence and submit a written response in writing to the investigator. The College will provide access to copies of the parties' written responses to the investigator to all parties and their advisors, if any. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the investigator, the investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their advisors. The parties shall have five (5) business days to provide a response to the newly gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The investigator will consider the parties' written responses before finalizing the investigation report.

Impact Statements

Following the investigation, the parties will be offered an opportunity to provide written impact statements to the Title IX Coordinator. The Title IX Coordinator will share the impact statements, if submitted, with the parties and their advisors; however, the parties may not respond or provide any comments to the submitted impact statements. The Title IX Coordinator will only provide the impact statements to the investigator if there is a finding of responsibility for Prohibited Conduct to support

sanctioning decisions. Impact statements will not be considered by the investigator when reaching a determination of responsibility.

Investigation Report

The investigator, who will also serve as the Decision-maker, shall evaluate the relevant and not impermissible evidence and make a factual determination regarding each allegation, and also determine whether a violation of the policy occurred. The investigator may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible or declined to participate. The investigator will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to questions.

The investigator shall prepare a report which shall include:

- A description of the allegations of Prohibited Conduct;
- Information about the policies and procedures used to evaluate the allegations;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
- An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
- Findings of fact for each allegation, with rationale;
- Conclusions regarding which section of this policy or other College policy, if any, the respondent has or has not violated, with rationale.

This report shall be provided to the Title IX Coordinator. In the event that the investigator has determined that a violation of College policy has occurred, they will then make a recommendation for the sanction with support from the Title IX Coordinator. The Title IX Coordinator shall then determine the appropriate remedy(ies) for the complainant and any impacted parties. Past findings of responsibility relating to this Policy, or any other College Policy are admissible in the sanctioning stage only. The investigator's sanction recommendation will be identified to the appropriate appointing authority for employees, and the Vice President of Academic Affairs for students to determine the final sanction.

The Title IX Coordinator shall then provide the parties and their advisors, if any, with a written Notice of Outcome and a copy of the investigation report. The Notice of Outcome shall include:

- A statement of, and rationale for, any disciplinary sanctions the College imposed on the respondent;
- A statement as to whether remedies will be provided to the Complaint;
- For the complainant, a description of any remedies that apply to the complainant;

- The College’s procedures and the permitted reasons for the parties to appeal, including identifying the Appeal Panel;
- How to challenge participation by the Appeal Panel for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

2. Resolution Process B: Investigation & Decision-making Procedures in Cases of Sex-Based Harassment Involving a Student Party

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

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:

- Maria College’s investigation procedures, including the applicable determination procedure that will be used in this investigation and resolution, and a link to the relevant policies;
- Information about the agreement-based resolution process, with a link to the full procedures;
- 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 specific type of Prohibited Conduct alleged under the policy, and the date(s), time(s), and location(s) of the alleged incident(s);
- A statement that retaliation is prohibited;
- Whether the investigator, or another individual, shall serve as the Decision-maker;
- Expected length of the major stages of the resolution process, as well as any applicable deadlines;
- 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);

- The process for raising a challenge to the appointed investigator or Title IX Coordinator, and the deadline for doing so;
- 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 Decision-maker. Should the respondent be found responsible, possible sanctions may include suspension or expulsion from the College.
- A statement that the parties may have an advisor of their choice who may be a friend, parent, therapist, colleague, or attorney;
- 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. The parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party;
- Information that the College's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during grievance procedures; and
- The date and time of the initial interview with the Investigator, with a minimum of five (5) business days' notice.

Individual Interviews

The investigator will hold individual interviews with parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility, and to request of the parties the names of relevant witnesses and relevant evidence. Only the investigator and the party or witness may attend each individual interview. A party's advisor may attend these meetings, subject to the rules described in this policy. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of the grievance process and may be subject to further College discipline for failure to do so.

The investigator will then gather from parties, witnesses, and other sources, all relevant evidence.

The College will share expectations of decorum to be observed at all times in any meeting or proceeding under this policy. These expectations are applied equally to all parties and advisors. The College has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other applicable College rules.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the College's discretion, with all participants joining virtually through a video conferencing option. The investigator will determine, in their sole discretion, whether parties and witnesses are likely to provide relevant information about the allegations and has the sole discretion to determine which parties and witnesses to call to an interview. The investigator may conduct follow-up interviews as they deem appropriate.

Investigator Determination of Relevance

The investigator will determine whether parties and witnesses are likely to provide relevant information about the allegations and has the sole discretion to determine which parties and witnesses to call to individual follow-up meetings.

The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Character evidence is not relevant evidence, and therefore will not be considered.

Evidence Review

At the conclusion of all fact-gathering, the investigator will provide each party and their advisor the opportunity to review all relevant and not otherwise impermissible evidence gathered. In the event that an audio or audiovisual recording is shared, the recording will only be made available at an in-person and monitored meeting on campus, and will not otherwise be transmitted for review, so as to maintain the privacy of those participating in the process.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Evidence not provided during the investigation process will not be considered by the Decision-maker. Given the sensitive nature of the information provided, the College will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of five (5) business days to inspect and review the evidence and submit a written response in writing to the investigator. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence.

When deemed appropriate by the investigator, the investigator shall then conduct any additional fact gathering as may be necessary. If new, relevant evidence was submitted as part of evidence review, or is gathered during this second fact-gathering period, the new relevant evidence will be made available for

review by the parties and their advisors. The parties shall have five (5) business days to provide a response to the newly gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The investigator will consider the parties' written responses before finalizing the investigation report.

Determination and Investigation Report

The investigator will prepare a written report summarizing all of the relevant evidence gathered and all steps taken during the investigation process. The investigator will also include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes.

Conclusion of Investigation, Notice of Hearing

Once the investigation report is final, the report together with all attachments shall be provided to each party and to their advisor, if any, in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Each party shall have ten (10) business days to provide a response. The response, if any, shall be provided to the Decision-maker/Hearing Officer and shared with the parties and their advisor, if applicable.

Following conclusion of the investigation, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Decision-maker/Hearing Officer, the process to be used at the hearing, deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Decision-maker/Hearing Officer to ensure they are relevant to the allegations. The hearing shall be scheduled no less than ten (10) business days from the date of the Notice of Hearing.

Within three (3) business days of receipt of the Notice of Hearing, either party may object to the Decision-maker/Hearing Officer on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Decision-maker/Hearing Officer and appoint another.

Hearing Procedures

The purpose of a hearing is for a Decision-maker/Hearing Officer to determine whether the conduct occurred as alleged, and if so, whether that conduct violates this policy. The College expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias. Hearings may be conducted in person or via videoconferencing. The Title IX Coordinator may determine that the hearing will continue in the absence of any party or any witness.

The College will appoint a Decision-maker/Hearing Officer, who may be the same person as the Title IX Coordinator or investigator, who will determine whether a violation of College policy has occurred. The Decision-maker/Hearing Officer shall have the authority to determine the relevance of evidence submitted, and of questions asked, to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Decision-maker/The Hearing Officer shall not draw an inference about the determination regarding responsibility based solely on a party's absence from the hearing or refusal to answer questions posed.

Each hearing shall be recorded by the College and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of the College but shall be available for listening until the conclusion of the appeals process to complainant, respondent, their respective advisors, Decision-maker/Hearing Officer, and Appeal Panel by contacting the Title IX Coordinator.

Prior to the Hearing

The parties and the Hearing Officer all have the right to call witnesses. Witnesses participating in the hearing must have information relevant to the allegations. Parties who wish to call witnesses must submit the name of the witness at least five (5) business days in advance of the hearing.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the party must also provide the reason the witness was not interviewed by the investigator, and what information the witness has that is relevant to the allegations. The Decision-maker/Hearing Officer will then determine whether the witness has relevant information and if there is sufficient justification for permitting the witness to participate. The Decision-maker/Hearing Officer may instead send the case back to the investigator to interview the newly proffered witness prior to the hearing taking place.

A list of witnesses approved by the Decision-maker/Hearing Officer will be provided to the parties at least three (3) business days prior to the hearing.

Three (3) business days prior to the hearing, each party shall submit to the Decision-maker/Hearing Officer a preliminary list of questions they wish to pose to the other party, or to a witness. If the Decision-maker/Hearing Officer determines that any questions are not relevant or seek otherwise impermissible evidence, the Decision-maker/Hearing Officer 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 Decision-maker/Hearing Officer must give a party an opportunity to clarify or revise any question that the Decision-maker/Hearing Officer 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.

Advisor

Each party is entitled to be accompanied by one advisor at the hearing. The role of the advisor is to assist the party with understanding and navigating the proceedings. The advisor may not advocate for, respond for, or otherwise speak on behalf of, a party during the hearing. In the event that a party does not appear for the Hearing, the advisor for that party may not participate in the hearing or submit questions to be asked on behalf of the party.

Hearing Participation Guidelines

The Decision-maker/Hearing Officer shall have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct, and when necessary to adjourn the hearing or exclude the disruptive person. In the event the Decision-maker/Hearing Officer removes an advisor, the Decision-maker/Hearing Officer will have the discretion to appoint another advisor for the remainder of the hearing. The Decision-maker/Hearing Officer also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. The Decision maker/Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing.

Statements, Questioning and Presentation of Evidence

During the hearing, each party will be permitted to provide an introductory statement. Following introductory statements, the Decision-maker/Hearing Officer will call parties and witnesses for questioning. The order of questioning shall be determined by the Decision-maker/Hearing Officer. The Decision-maker/Hearing Officer will pose questions to the parties and witnesses including the questions the Decision-maker/Hearing Officer approved to be asked that were submitted by each party prior to the hearing. Each party will then be provided an opportunity to submit follow-up written questions to the Decision-maker/Hearing Officer for the Decision-maker/Hearing Officer to pose to the other party or witnesses. If the Decision-maker/Hearing Officer determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Decision-maker/Hearing Officer 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 Decision-maker/Hearing Officer 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.

Following the questioning of parties and witnesses, each party will be permitted to provide a closing statement. An advisor is not permitted to provide a closing statement on behalf of their party.

Impact Statements

Following the hearing, the parties will be offered an opportunity to provide written impact statements 24 hours after the conclusion of the hearing to the Title IX Coordinator. The Title IX Coordinator will share the

impact statements, if submitted, with the parties and their advisors; however, the parties may not respond or provide any comments to the submitted impact statements. The Title IX Coordinator will only provide the impact statements to the Decision-maker/Hearing Officer if there is a finding of responsibility for Prohibited Conduct to support sanctioning decisions. Impact statements will not be considered by the Decision-maker/Hearing Officer when reaching a determination of responsibility.

Hearing Officer's Report

Following the hearing, the Decision-maker/Hearing Officer shall prepare a determination report. All findings shall be made by a preponderance of the evidence, meaning more likely than not. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as complainant, respondent, or witness. In the event the Decision-maker/Hearing Officer makes a determination of responsibility their sanction recommendation(s) will be identified to the appropriate appointing authority for employees, and the Vice President of Academic Affairs for students to determine the final sanction. Past findings of responsibility relating to this Policy or any other College Policy are admissible in the sanctioning stage only.

The determination report will include:

- A description of the sex-based harassment;
- A reference to the policies and procedures used to evaluate the allegations;
- Description of all procedural steps taken to date;
- The Decision-maker/Hearing Officer's evaluation of the relevant and not otherwise impermissible evidence along with the finding of facts;
- Determinations for each allegation, with the rationale;
- Sanction recommendation, if applicable; • Whether remedies will be provided;
- The procedures for an appeal.

The Decision-maker/Hearing Officer's report shall be provided to the Title IX Coordinator. The Title IX Coordinator shall communicate the findings to each party, and their advisor should the party wish the advisor to receive it, a written Notice of Outcome along with a copy of the Decision-maker/Hearing Officer's report, to the parties, together with procedures for appeal. The Title IX Coordinator will also provide written communication to the complainant regarding any appropriate remedies in the event of a finding of responsibility.

VII. SANCTIONS

One or more of the sanctions or disciplinary steps listed here may be imposed on a respondent who is found responsible for a violation of the College's policies. Sanctions or disciplinary steps not listed here

may be imposed in consultation with the Title IX Coordinator. If found not responsible, no further action taken regarding the complaint.

The form of sanction or discipline used will depend on the nature of the offense, as well as any prior disciplinary history. Such discipline or sanction will be imposed pursuant to and in accordance with any and all applicable College rules, policies, and procedures. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation.
- An individual's disciplinary history.
- Previous grievances or allegations involving similar conduct.
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, or retaliation.
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, or retaliation.
- The need to remedy the effects of the discrimination, harassment or retaliation on the victim and the campus community.

Student sanctions imposed are implemented when the decision is final (after an appeal, or, if there was no appeal, after the appeals period expires).

Employees found responsible for violating this policy may be referred to the appropriate College official for any other applicable processes.

Possible sanctions and disciplinary steps for student respondents include, but are not limited to the following:

- Reprimand or warning;
- Changing the Respondent's work or academic schedule;
- Disciplinary probation;
- Revocation or withholding of honors or awards, or a degree;
- Community service and/or training;
- Restricting the Respondent's access to College facilities or activities;
- Issuing a no-contact order or requiring that such an order remain in place;
- Suspension (limited time or indefinite);

- Expulsion; and/or
- Other actions deemed appropriate by the College.

Possible sanctions and disciplinary steps for employee respondents include, but are not limited to:

- Reprimand or warning;
- Changing the Respondent's work schedule;
- Disciplinary probation;
- Revocation of honors or awards;
- Community service and/or training;
- Restricting the Respondent's access to College facilities or activities;
- Issuing a no-contact order or requiring that such an order remain in place;
- Dismissal from, restricting, or reassignment of College employment;
- Suspension (limited time or indefinite);
- Forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership as adjunct faculty, staff, or administration;
- Reassignment of College employment;
- Administrative leave during the pendency of processes outlined in this policy;
- Termination; and/or
- Other actions deemed appropriate by the College.

The sanctions available for students or employees who have been found responsible under the following specific forms of prohibited conduct are limited to the following:

Sexual Assault:

- Expulsion or Termination.
- Suspension for 1, 2, 3, 4, 5, 6, 7, or 8 semesters or for employees for a designated period of time.
- Restricting the Respondent's access to College facilities or activities.
- Dismissal from or restricting reassignment of College employment.
- Assignment of educational program and/or training.

Domestic Violence:

- Expulsion or Termination.
- Suspension for 1, 2, 3, 4, 5, 6, 7, or 8 semesters or for employees for a designated period of time.
- Restricting the Respondent's access to College facilities or activities.
- Dismissal from or restricting reassignment of College employment.
- Assignment of educational program and/or training.
- Disciplinary probation.

Dating Violence:

- Expulsion or Termination.
- Suspension for 1, 2, 3, 4, 5, 6, 7, or 8 semesters or for employees for a designated period of time.
- Restricting the Respondent's access to College facilities or activities.
- Dismissal from or restricting reassignment of College employment.
- Assignment of educational program and/or training.
- Disciplinary probation.

Stalking

- Expulsion or Termination.
- Suspension for 1, 2, 3, 4, 5, 6, 7, or 8 semesters or for employees for a designated period of time.
- Restricting the Respondent's access to College facilities or activities.
- Dismissal from or restricting reassignment of College employment.
- Assignment of educational program and/or training.
- Disciplinary probation.

VIII. APPEALS

Determinations may be appealed in writing by either party. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to an assigned Appeal Panel (3 panelists) to conduct a

written review of the appeal(s) and to make a final determination. Appeals must be in writing and filed within ten (10) business days following the issuance of the outcome letter.

When an appeal is filed with the Title IX coordinator, the other party shall be notified and provided with a copy of the filed appeal within one (1) business day and have five (5) business days to respond to the appeal in writing. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

Within three (3) business days of an Appeal Panel being assigned, either party may provide written objection to any member of the panel on the basis of an actual bias or conflict of interest. Any objection is to be sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will appoint another member to the panel.

Appeals may be filed only on the following grounds:

1. Procedural Error: A procedural error occurred would change the outcome. A description of the error and its impact on the outcome of the case must be included in the written appeal; or,
2. New Evidence: New evidence or information has arisen that was not available or known to the party during the investigation or hearing, that would change the outcome. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; or
3. Actual Conflict of Interest or Demonstrated Bias: The Title IX Coordinator, investigator, or others with a role in the process with an actual conflict of interest or demonstrated bias for or against complainants or respondents generally, or the individual complainant or respondent, that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.
4. Unreasonable Sanction. The sanction is objectively unreasonable in light of the facts and circumstances and is disproportionate to the conduct committed.

The Appeal Panel will make a determination regarding the appeal and communicate that decision, along with a rationale for the decision to the Title IX Coordinator who will communicate the Panel's decision to the Parties. The decision of the Appeal Panel is final.

A. Failure to Complete Sanctions/Comply with Responsive Actions

All responding parties are expected to comply with conduct sanctions/responsive actions/ corrective actions within the timeframe specified by the College. Responding parties needing an extension to comply

with their sanctions must submit a written request to the Title IX Coordinator stating the reasons for needing additional time.

Failure to follow through on conduct sanctions/responsive actions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive actions/corrective actions, such as suspension, expulsion, termination, or a transcript notation. Students who fail to comply will be referred for a potential violation of the Student Code of Conduct.

B. Transcript Notation

Maria College has a policy of making a notation on a transcript related to outcomes for crimes of violence as defined by the Clery Act. Upon conclusion of any appeal process, a transcript notation will be indicated on the respondent's record for cases resulting in suspension, expulsion or in cases where the respondent withdraws from the College during the investigation and decision-making process. Notations on transcripts will be indicated as follows:

- "suspended after a finding of responsibility for a code of conduct violation"
- "expelled after a finding of responsibility for a code of conduct violation" or
- "withdrew with conduct charges pending."

Transcript notations for a student who is suspended or who chooses to withdraw with a pending investigation will remain on a transcript for a minimum of one year. After one year's time, a student may request to have the transcript notation removed by filing an appeal with the Vice President of Academic Affairs.

Transcript notations for students expelled are permanent and cannot be removed.

If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

IX. RECORD RETENTION

In implementing this policy, records of all reports and resolutions will be kept by the Title IX Coordinator in accordance with the applicable College records retention schedule. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act governing confidentiality of student information.

X. ADDITIONAL ENFORCEMENT INFORMATION

An individual who has experienced harassment or discrimination may file a report/complaint with the College only or may also file a report/complaint with an external enforcement agency. Filing a report/complaint internally with the College does not extend the time to file with an external enforcement agency or in court. One does not need an attorney and there is no cost to file a complaint with the following external agencies:

The U.S. Equity Employment Opportunity Commission (EEOC) – investigates reports of unlawful discrimination and harassment in employment.

U.S. Department of Education

Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 1-800-421-3481

Fax: 202-453-6012

TDD: 1-800-877-8339

Email: OCR@ed.gov <https://www.eeoc.gov/contact-eeoc>

The U.S. Department of Education, Office for Civil Rights (OCR) investigates complaints of unlawful discrimination and harassment of students and employees in education programs or activities.

Office for Civil Rights, New York Office

U.S. Department of Education
26 Federal Plaza, Suite 31-100
New York, NY 10278-9991

Telephone: 646-428-3800

Fax: 646-428-3843, TDD: 800-877-8339

Email: OCR.NewYork@ed.gov

The New York State Division of Human Rights supports complaints related to employees in New York State regarding sexual harassment and protects employees and covered non-employees regardless of immigration status.

NYS Division of Human Rights - Albany

Agency Building 1, 2nd Floor, Empire State Plaza
Albany, NY 12220

Telephone: 518-474-2705 or 518-474-2707

Email: Info.Albany@dhr.ny.gov

Website: www.dhr.ny.gov

XI. POLICY REVIEW & REVISION

These policies and procedures will be reviewed and updated regularly by the Title IX Coordinator. The Title IX Coordinator will submit modifications to this policy in a manner consistent with institutional policy upon determining those changes to law, regulation, or best practices require policy or procedural alterations not

reflected in this policy and procedure. Procedures in effect at the time of its implementation will apply. The policy definitions in effect at the time of the conduct will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy.

This policy may be revised at any time without notice. All revisions supersede prior policy and are effective immediately upon posting to the Maria College website.

XII. KEY DEFINITIONS

A. Involved Party Definitions

Advisor: Each party has the right to choose and consult with an advisor of their choice at their own expense. The advisor may be any person, including a friend, family member, therapist, union representative, or an attorney. The College will not limit their choice of advisor. Parties in this process may be accompanied by an advisor of choice to any meeting or proceeding to which they are required or are eligible to attend.

Except where explicitly stated by this policy, advisors shall not participate directly in the process. The College will provide the parties equal access to advisors; any restrictions on advisor participation will be applied equally.

The advisor may not represent, advocate, or speak on behalf of a complainant or respondent. An advisor may not disrupt or impede any resolution proceeding.

Complainant: Any individual who has reported being or is alleged to be impacted by Prohibited Conduct as defined by this policy, and who was participating in a Maria College program or activity at the time of the alleged misconduct.

Decision-maker: Trained professional designated by the College to decide responsibility, sanction, or appeals. A Decision-maker may be one person, or a panel of multiple people as determined by the College. When there is no hearing, the investigator may be appointed as the Decision-maker.

Employee: Any individual performing services for the College as a w-2 employee, which shall include faculty, adjunct and clinical faculty, full-time and part-time staff, part-time seasonal and temporary employees.

Party/parties: Referring to complainant(s), respondent(s), or both/all complainant(s) and respondent(s).

Respondent: an individual, or group of individuals such as a student organization, who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct under this policy; or retaliation for engaging in a protected activity.

Student: Any person who has (or will have) attained student status by way of:

1. Admission, housing, or other service that requires student status.
2. Registration for one or more credit hours.
3. Enrollment in any non-credit, certificate or other program offered by the College.

B. Conduct Information Definitions

Consent, Incapacitation, Force, and Coercion:

Consent Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance does not in and of itself, demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop. Children under 17 years of age cannot legally consent under New York State law to having sex or sexual contact with an adult (i.e., someone who is 17 years of age or older).

Consent cannot be given if any of the following are present: Incapacitation, Force, or Coercion.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing and informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, or being under the influence of drugs or alcohol. This policy also covers a person whose incapacity results from temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs. Under this policy, the College will consider whether a respondent knew or should have known the complainant to be incapacitated, based on an objective, reasonable person standard that assumes the reasonable person is both sober and exercising sound judgment.

Coercion/Force: Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion. Sexual activity accompanied by coercion or force is not consensual.

- Coercion refers to unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in sexual activity or do not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of coercion can involve the use of pressure, manipulation, substances, or force. Ignoring objections of another person is a form of coercion.

- Force refers to the use of physical violence or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

Sexual activity shall have the same meaning as “sexual act” and “sexual contact.” The term “sexual act” means— A. contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; B. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; C. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or D. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; (3) the term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.”

Complaint: A complaint means an oral or written request to Title IX Coordinator that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under this policy. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail (email), by using the contact information listed on the [Title IX Office website](#), or as described in this policy. Individuals who would like more information about filing a complaint are invited to contact the Title IX Coordinator for additional information.

Disclosure or Report: A disclosure or report may be made by anyone, whether they learned about conduct potentially constituting discrimination or harassment under this policy, or whether they personally experienced such conduct. A person making a disclosure or report may or may not be seeking to initiate an investigation.

Education Program or Activity: Maria College’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.

Finding: a written conclusion by a preponderance of the evidence, issued by an Investigator, that the conduct did or did not occur as alleged.

No-Contact Directive: A No Contact Directive is a document issued by a College administrator that is designed to limit or prohibit contact or communications between the parties. A No-Contact Directive may

be mutual or unilateral, with the exception that a No-Contact Directive issued as either a sanction or remedy shall be unilateral, directing that the respondent does not contact the complainant.

Notice: All notices under this policy are written and sent to the student or employee's assigned Maria College email address or delivered via Certified Mail to the local or permanent address(es) of the parties as indicated in official College records, or personally delivered to the intended recipient.

Remedies: Remedies means measures provided, as appropriate, to a complainant or any other person the College identifies as having had their equal access to the College's education program or activity limited or denied by discrimination or other prohibited conduct covered by this policy. These measures are provided to restore or preserve that person's access to the education program or activity after the College determines that discrimination occurred. Only the complainant will be informed of any remedies pertaining to them. Some examples are academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling, or changes to work assignments or locations. The Title IX Coordinator is responsible for implementation of remedies.

C. Other Definitions

Confidential Resources: any individual identified by the College who receives information about conduct prohibited under this policy in their confidential capacity and who are privileged under state law will not report prohibited conduct disclosed to them without written consent. Designation as a confidential resource under this policy only exempts such individuals from disclosure to the Title IX Coordinator. It does not affect other mandatory reporting obligations under state child abuse reporting laws, the Clery Act as a campus security authority, or other laws that require reporting to campus or local law enforcement.

Days: any reference to days refers to business days when Maria College is in normal operation.

Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or
- Provide support during the College's grievance procedures or during an alternative resolution process.

Supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable

alternative; no-contact directives (which may be mutual or unilateral at the discretion of the Title IX Coordinator); and training and education programs related to sex-based harassment. Supportive measures are non-disciplinary and non-punitive. Supportive Measures will also be offered to respondents when they are notified of the allegations.

Any Supportive Measures put in place will be kept confidential, except when doing so impairs the ability of the institution to provide the Supportive Measures.

The College will offer and coordinate supportive measures as appropriate for the parties as applicable to restore or preserve their access to the College's program or activity or provide support during the College's alternative resolution process or grievance procedures. Prohibited Conduct under this policy have the right to request supportive measures from the College regardless of whether they desire to make a complaint or seek alternative resolution.

A party may challenge the College's decision to provide, deny, modify, or terminate supportive measures when such measures are applicable to them. An impartial employee will be designated to consider modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures. When the individual providing Supportive Measures is a Deputy Title IX Coordinator or other individual identified by the Title IX Coordinator to provide Supportive Measures, the Title IX Coordinator will be designated to consider the challenge regarding supportive measures. The impartial employee will typically respond to the challenge within five (5) business days.

The Title IX Coordinator has the discretion to implement or modify supportive measures. Violation of the parameters of supportive measures may violate existing codes or handbooks.

XIII. RESOURCES

A. Confidential Resources

Confidential Resources may not report to Title IX Coordinator any identifying information about conduct that may violate the College's policies against harassment and discrimination without the written consent of the individual who supplied the information, unless required by law. The following information includes the contact information for on-campus confidential resources for students:

- Pastoral Care – Maria College provides confidential spiritual services through Pastoral Care. Please contact tflanagan@mariacollege.edu for more information.
- Counseling Services – Maria College provides free, confidential mental health support through Uwill Student Mental Health & Wellness.

If a student is experiencing a mental health crisis after hours, they should contact 911 or 988 (a new three-digit number for mental health crises and emotional distress).

The following information includes the contact information for confidential resources for employees:

- Albany County Crime Victims and Sexual Violence Center: 518-447-7716

- Equinox Domestic Violence Services: 518-432-7865

The following information includes the contact information for off-campus confidential resources for any individual:

- Local Police, 24-hour, seven days a week: dial 911
- Albany County Crime Victims and Sexual Violence Center: 518-447-7716
- Equinox Domestic Violence Services: 518-432-7865
- In Our Own Voices – LGBT Domestic Violence Support Line: 518-432-4341
- RAINN National Sexual Assault Hotline: 800-656-HOPE
- National Domestic Violence Hotline: 800-799-SAFE
- New York State Hotline for Sexual Assault and Domestic Violence: 800-942-6906
- New York State Office of Victim Services: 800-247-8035
- St. Peters Health Partners Crime Victim Services: 24 Hour Crisis Hotline – 518-271-3257

B. Non-Confidential Resources

The College also has non-confidential campus resources available to the Maria College community. These non-confidential resources are required to report disclosures of conduct that may violate this Policy's Prohibited Conduct to the Title IX Coordinator.

- Campus Security – security@mariacollege.edu, 518-376-0690
- The Department of Student Affairs – wtrevor@mariacollege.edu
- The Office of Title IX – titleix@mariacollege.edu, 650-383-4753 ext. 1