

Maria College
Title IX and Sexual Misconduct Policy
Updated as of February 27, 2025

I. POLICY STATEMENT

Maria College complies with Title IX of the Educational Amendments of 1972 as well as the Title IX regulations released by the Department of Education on August 14, 2020. This policy prohibits all forms of sexual and gender-based harassment and discrimination. This policy also covers sexual misconduct that does not fall within the scope of the Title IX, as defined by Section VI(2)(a). This policy is effective March 1, 2025.

II. SCOPE OF THE POLICY AND JURISDICTIONAL STATEMENT

This policy applies to all students; student organizations; College employees and contractors, including staff, faculty, administrators, and board members; and all other persons that participate in Maria College's Educational Programs or Activities, including third-party visitors on campus. This policy prohibits the conduct set forth in Section VII regardless of the Complainant and Respondent's relationship status and whether the Complainant and Respondent are members of the same or opposite sex or gender.

Maria College may investigate any alleged violation of this Policy that occurs in the context of a College Educational Program or Activities or that otherwise affects the working, living or learning environments, regardless of whether that conduct occurred on or off campus. Regardless of where the conduct occurred, the College will review complaints to determine whether the conduct occurred in the context of its employment or educational program or activity or has continuing effects on campus or in an off-campus sponsored program or activity, or whether the College otherwise has a substantial interest in the allegations. A substantial interest includes:

1. Any action that constitutes a criminal offense as defined by law (This includes, but is not limited to, single or repeat violations of any local, state, or federal law.);
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual; or
3. Any situation that is detrimental to the educational interests or mission of the College.

All actions that involve the use of the College's computing and network resources from a remote location, including but not limited to accessing email accounts, will be deemed to have occurred on campus.

If the Respondent is unknown or is not otherwise subject to sanctions imposed by the College, the Title IX Coordinator will offer the Complainant supportive measures, remedies, and resources, such as, identifying appropriate campus and local resources and support options or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Although the College may not, in certain instances, be in a position to conduct an investigation, it may provide appropriate resources or support to impacted individuals and where appropriate, the broader Maria College community.

III. 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.

IV. DEFINITIONS

Affirmative Consent: Sexual contact must be consensual at all times, and sexual contact is considered consensual only after affirmative consent has been given. Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Affirmative Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following are principles that apply to the above definition of Affirmative Consent:

- Consent to any sexual act or prior consensual sexual activity 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 or alcohol.
- Consent may be withdrawn at any time.
- When Affirmative Consent is withdrawn or can no longer be given, sexual activity must stop.
- A person is incapable of affirmative consent when they are:
 - less than seventeen years of age;

- mentally disabled (a person is mentally disabled when their normal cognitive, emotional, or behavioral functioning renders them incapable of appraising their conduct); or
- incapacitated (as defined below).
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

Coercion: Coercion is intimidation or conduct that would compel an individual to do something against their will by

- a. expressed or implied threats of physical, emotional, property, or reputational harm, or
- b. pressure that would cause a reasonable person to fear such harm.

Coercion is more than an effort to persuade or attract another person to engage in sexual activity. In assessing whether coercion was used, the frequency, duration, and intensity of the pressure applied will be taken into consideration.

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. Confidential Resources are set forth on Appendix C.

Complainant: When used in this policy, “Complainant” is the person who is alleged to have experienced Prohibited Conduct.

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

Decision Maker: The College will designate the Decision Maker for the moderation of the hearing and determination of finding and sanction.

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.

Educational Program or Activity: An educational program or activity includes any duly registered recognized student organizational events and/or Maria College sponsored events occurring in any venue where Maria College exercises substantial control over. Any building owned and or controlled by Maria College that hosts a student organization officially recognized as a student organization by Maria College is an educational program or activity. Any recognized student organization hosting an approved event, which may occur at both an on or off campus venues is appropriately categorized as an Educational Program or Activity.

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.

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats and intimidation (implied threats) that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Formal Complaint: A Formal Complaint is a document signed by the Complainant or the Title IX Coordinator alleging a violation of this Policy against a Respondent and requesting that the College initiate an informal or formal Resolution of the Formal Complaint pursuant to this Policy and its procedures. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. For matters involving Title IX Prohibited Conduct, the Complainant must be participating or attempting to participate in the College’s educational program or activities at the time of the filing of the Formal Complaint.

Incapacitation: A person cannot consent if they are unable to understand what is happening or disorientated, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

- a. Incapacitation negates consent. An individual cannot give consent when mentally or physically incapacitated, when the incapacity is known or, based on the circumstances, should reasonably have been known to be incapacitated.
- b. Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).
- c. Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- d. This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

Mandated Reporter: Mandated Reporters are those individuals required to report allegations regarding conduct prohibited by this policy to the Title IX Coordinator and are not Confidential Resources. All faculty, staff, board members, security and contractors of Maria College are mandated reporters.

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.

Party or Parties: Refers to the Complainant and the Respondent, collectively.

Prohibited Conduct: Conduct prohibited by this Policy, as defined in Section VII.

Remedies: Remedies means measures provided, as appropriate, to a Complainant or any other person the recipient identifies as having had their equal access to the recipient's Educational Program or Activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred. The Title IX Coordinator is responsible for implementation of remedies.

Respondent: When used in this policy, "Respondent" is the person who is alleged to have engaged in Prohibited Conduct.

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.

V. STATEMENT REGARDING PRIVACY AND CONFIDENTIALITY

Maria College is committed to protecting the privacy of all individuals who are involved in a report of Prohibited Conduct. To the fullest extent practicable, consistent with fair and full investigation procedures, information related to a report of Prohibited Conduct will be shared only with those who "need to know" (i) to assist in the investigation or resolution of the report, or (ii) to allow the College to comply with other requirements under this Policy or city or state or federal law. Individuals who are involved in the review, investigation, or resolution of reports or Formal Complaints are trained to safeguard private information.

Complainants, Respondents, and any witnesses involved in a resolution process under this Policy are strongly encouraged to exercise discretion in sharing information learned in such process in order to protect the privacy of the individuals involved, to safeguard the integrity of the process, and to avoid the appearance of retaliation.

The College prohibits Parties from distributing documents obtained in the course of their participation in matters under this Policy's accompanying procedures, including, but not limited to, the Formal Complaint, interview summaries or transcripts, and the evidence file and investigative report, other than for the purpose of consulting with an advisor; incidental to seeking support and advice from family, clergy, health professionals, and others playing a similar role; or as part of a civil, criminal, or administrative legal proceeding.

As appropriate, in a given case, a College official, such as the Title IX coordinator, may issue an order restricting the Parties from disclosing specific information. Additionally, sharing private information in a manner that harms another individual may constitute retaliation prohibited under this Policy.

The College will provide other participants, such as witnesses, investigators, and hearing and appeal panel members, with instructions about respecting and safeguarding private information. Such persons are obliged to comply with the College's rules regarding privacy which are set forth in this section.

Students and employees who wish to obtain confidential assistance without making a report to the school may do so by contacting the confidential resources listed in Appendix C. These resources will not share any personally identifiable information with other College employees without express permission unless doing so is necessary to address a serious and ongoing threat to the campus community.

When the College receives a report or Formal Complaint of Prohibited Conduct, but the Complainant requests that their identity remain confidential or that the College not take action to address the conduct reported, the College must balance this request against its responsibility to provide a safe and non-discriminatory environment for all members of the campus community. The College will take all reasonable steps to investigate and respond to the report consistent with the Complainant's request, but its ability to do so may be limited. If the College determines that it cannot maintain Complainant's request for confidentiality, the College will inform the Complainant as soon as practicable and will take immediate and necessary action to protect and assist the Complainant. The Complainant will not be required to participate in any proceedings initiated by the College. However, if Complainant declines to participate in an investigation or adjudication under this Policy and its Procedures, the College's ability to meaningfully respond to a report of Prohibited Conduct may be limited.

VI. TITLE IX COORDINATOR

Maria College has designated the Title IX Coordinator, with the assistance of designated staff, to coordinate the College's compliance with Title IX and related provisions of the Clery Act (as amended by VAWA) and New York State Law. The Title IX Coordinator oversees compliance with all aspects of this Policy, including oversight of the College's response to all reports of Prohibited Conduct.

When used in this Policy, the term Title IX Coordinator may include an appropriate designee. The Title IX Coordinator's contact information is:

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
518-861-2586

If you have any questions about this Policy, you may contact the College's Title IX Coordinator or a Deputy Title IX Coordinator.

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and related complaint resolution procedures. The Title IX Coordinator may delegate responsibilities under this policy to designated College staff or external professionals, who will have appropriate training or experience. Individuals tasked with aspects of implementation of this Policy and its Procedures are vetted and trained to ensure that in overseeing the institutional response to reports of Prohibited Conduct or the provision of supportive measures they do not act with bias for or against any party in a specific case, or for or against Complainants or Respondents, generally.

VII. PROHIBITED CONDUCT

The conduct prohibited by this Policy (“Prohibited Conduct”) is set out below. The College will respond to all reports of Prohibited Conduct pursuant to the applicable Procedures set out in this Policy.

Conduct that does not meet the definitions below or that is not otherwise prohibited by this Policy may violate other College policies or may be considered inappropriate or unacceptable within the College community. In appropriate cases, the Title IX Coordinator may refer such conduct elsewhere within the College for resolution.

1. Title IX Sexual Harassment

Title IX Sexual Harassment is conduct on the basis of sex, occurring within the United States, that constitutes one or more of the following:

a. Quid Pro Quo Sexual Harassment: an employee of Maria College, conditions the provision of an aid, benefit, or service of the College, on an individual’s participation in unwelcome sexual conduct; or

b. Hostile Environment Sexual Harassment: unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive, that it effectively denies a person equal access to the College’s education program or activity.¹

- i. New York State Sexual Harassment Workplace Law: unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:
 - a. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
 - b. Such conduct is made either explicitly or implicitly a term or condition of employment; or
 - c. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

¹ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances (“in the shoes of the Complainant”), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

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

- a. Unwelcome sexual propositions, invitations, solicitations, and flirtations;
- b. Non-consensual sexual intercourse or other sexual contact;
- c. Coercive behavior, unreasonable pressure, or manipulation to compel a person to engage in sexual activity;
- d. 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;
- e. 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;
- f. 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;
- g. Non-consensual touching, grabbing, groping, pinching, or other physical contact;
- h. Spreading sexual rumors; distributing intimate or sexual information about another person;
- i. Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person;
- j. Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person.

c. Sexual Assault: Any sexual act directed against another individual, without the consent of that individual, including instances in which the individual is incapable of giving consent.

i. Non-Consensual Sexual Penetration (Rape, Sodomy)

- a. Penetration, no matter how slight, of the vagina or anus of an individual with any body part or object, or oral penetration by a sex organ of another individual, without the consent of the individual or against the individual's will, or
- b. not forcibly or against the individual's will in instances in which the individual is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

ii. Non-Consensual Sexual Contact (Fondling)

- a. The touching of the private body parts of another individual (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, without the consent of the individual or against the individual's will, or
- b. not forcibly or against the individual's will in instances in which the individual is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

iii. Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by New York law.

iv. Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent. The age of consent in New York is 17 years old.

d. Dating Violence: Violence, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with an individual. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

e. Domestic Violence: Violence, committed by a current or former spouse or intimate partner of an individual, by a person with whom the individual shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the individual as a spouse or intimate partner, or by a person similarly situated to a spouse of the individual under the domestic or family violence laws of New York, or by any other person against an adult or youth individual who is protected from that person's acts under the domestic or family violence laws of New York.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

f. Stalking: Engaging in a course of conduct, directed at a specific person, that would cause a reasonable person to fear for that person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:

- i. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- iii. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Additional Requirements

Conduct must also meet the following additional requirements to fall within the definition of Title IX Sexual Harassment:

- It must occur within the United States; and
- It must occur within the scope of the College's educational program or activities.

Prohibited Conduct occurs within the scope of Maria College's Education Programs or Activities when:

- It occurs on campus;
- It occurs on a property or in any facility owned and controlled by the College;
- It occurs as part of the College's operations;
- The College exercised substantial control over the Respondent.

As described in Section XI(4)(b) of this Policy, if conduct alleged in a Formal Complaint does not meet the definition of Title IX Sexual Harassment, the College must dismiss the Formal Complaint

(or the allegations of Title IX Sexual Harassment in the Formal Complaint) for purposes of compliance with Title IX. If the conduct would still, as alleged, constitute Non-Title IX Prohibited Conduct under this Policy, the College may continue to address the allegations pursuant to the Procedures in this Policy set forth in Appendix A or B.

2. Non-Title IX Prohibited Conduct

In addition to the conduct set forth above as Title IX Sexual Harassment, the following conduct is also prohibited under this Policy:

a. Non-Title IX Sexual Harassment

Non-Title IX Sexual Harassment includes conduct that meets the definition of Title IX Sexual Harassment but does not occur within the United States or within Maria College's Educational Program or Activities (e.g., sexual harassment occurs on a school trip outside of the United States).

Non-Title IX Sexual Harassment also includes conduct that does not meet the definition of Title IX Sexual Harassment but otherwise constitutes an unwelcome sexual advance, a request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise when the conditions outlined in (i) or (ii) below are present; or unwelcome conduct based on sex, gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, non-verbal, graphic, physical, or otherwise when the conditions outlined in (i) or (ii) below are present;

(i) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any College program or activity or is used as the basis of College decisions affecting the individual; or

(ii) Such conduct creates a hostile environment. A "hostile environment" exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the College's education or employment programs or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and objective perspective. In evaluating whether a hostile environment exists, the College will consider the totality of known circumstances, including, but not limited to

- the frequency, nature, and severity of the conduct;
- whether the conduct was physically threatening;
- the effect of the conduct on the Complainant's mental or emotional state;
- whether the conduct arose in the context of the discriminatory conduct;
- whether the conduct unreasonably interfered with the Complainant's educational or work performance or College programs or activities; and
- whether the conduct is protected by academic freedom or freedom of speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment.

b. Non-Title IX Sexual Assault: Non-Title IX Sexual Assault includes conduct that meets the definition of Title IX Sexual Assault but does not occur within the United States or within the College's Educational Program or Activities.

c. Non-Title IX Dating Violence: Non-Title IX Dating Violence includes conduct that meets the definition of Title IX Dating Violence but does not occur within the United States or within the College's Educational Program or Activities.

d. Non-Title IX Domestic Violence: Non-Title IX Domestic Violence includes conduct that meets the definition of Title IX Domestic Violence but does not occur within the United States or within the College's Educational Program or Activities.

e. Non-Title IX Stalking: Non-Title IX Stalking includes conduct that meets the definition of Title IX Stalking but does not occur within the United States or within the College's Educational Program or Activities.

f. Sexual Exploitation: Sexual Exploitation is intentionally engaging in any of the following:

- i. observing another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person observed or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- ii. making, sharing, posting, streaming or otherwise distributing any image, photography, video, or audio recording depicting or otherwise recording another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person depicted or recorded;
- iii. exposing one's genitals to another person without the consent of that person;
- iv. exposing another person to a sexually transmitted infection without the knowledge and consent of the person exposed; and
- v. causing another person to become incapacitated with the intent of making that person vulnerable to nonconsensual sexual assault or sexual exploitation.

g. Aiding or Facilitating: Knowingly and intentionally aiding or facilitating any act of sexual misconduct, before or after the fact, is a violation of this policy.

h. Retaliation: Retaliation is adverse action taken against an individual with the purpose of interfering with an individual's rights under these procedures, including for making a good faith report of Prohibited Conduct, for participating in an investigation, proceeding, or hearing, or for refusing to participate in an investigation, proceeding, or hearing under these Procedures. Retaliation may include intimidation, threats, Coercion, discrimination, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Retaliation may be committed by the Respondent, the Complainant, or any other individual or group of individuals. Retaliation does not include good faith actions pursued in response to a report of Prohibited Conduct.

i. False or Bad Faith Allegations: An individual found to have knowingly made a false complaint or report, or to have knowingly given false information during a process under this Policy, may be subject to disciplinary action, up to and including termination of employment or dismissal from the College's academic programs.

VIII. CAMPUS AND COMMUNITY RESOURCES

1. Overview of Resources and Disclosures

Maria College is committed to treating all individuals with dignity, care, and respect. Both Complainants and Respondents have equal access to services through the College. All Parties are encouraged to utilize on-campus or off-campus resources for assistance. For a comprehensive list of resources, see Appendix C of this policy.

Any individual who has been the victim of a crime is encouraged to get to a safe place and to call 911 or to contact local law enforcement, immediately.

Maria College recognizes that not every individual will choose to report conduct prohibited by this Policy to the College or to law enforcement. Accordingly, Confidential Resources are available to all students and employees. Confidential Resources are listed in Appendix C. Under most circumstances, Confidential Resources will not share information with other individuals without the express consent of the reporting party. An exception may be made if there is an imminent risk of danger to the reporting party or another individual.

All members of the faculty, staff, board members, security, and contractors are mandated reporters and have an obligation to share any reports of conduct prohibited by this Policy with the Title IX Coordinator.

2. Medical Care After a Sexual Assault

Any person who experiences sexual assault or violence is encouraged to immediately seek medical assistance. Seeking medical care does not result in a report to law enforcement or to the College. In the aftermath of sexual assault or violence, medical providers can facilitate or provide the following:

- Treatment of any injury or physical trauma
- HIV and STI testing
- Pregnancy testing
- Advice on health care concerns related to the incident.
- Collection and preservation of evidence as a part of a sexual assault forensic exam for potential use in criminal prosecution.

IX. MAKING A REPORT UNDER THIS POLICY

1. Reporting Guidelines

All members of the Maria College community are encouraged to report information about any form of conduct potentially prohibited by this Policy involving a student or an employee. The College will respond to all reports of Prohibited Conduct, including contacting the Complainant to discuss the availability of supportive measures, resources for support, and options for resolution.

At the time a report of Prohibited Conduct is made, a Complainant does not have to decide whether to pursue resolution of the report through any particular resolution process. Choosing to make a report and deciding how to proceed can be a process that unfolds over time. Although the College may need to take action as a result of a particular report, the College will endeavor to respect a Complainant's wishes in making the decision that is best for them and will provide support to assist each individual in making that decision. Because the conduct prohibited by this Policy often involves behaviors or interactions that are not witnessed by third parties, reports cannot always be substantiated by additional

direct evidence. Lack of corroborating direct evidence should not discourage a person from reporting an experience of Prohibited Conduct.

Individuals may make a report of Prohibited Conduct by filling out [Online Reporting Form](#) or by emailing the Title IX Coordinator, or the Deputy Title IX Coordinators.

a. Mandated Reporters

All College faculty, staff, board members, and security and contractors are Mandated Reporters. When Mandated Reporters become aware, either directly or through a third party of an alleged incident of sexual harassment (which includes sexual assault, dating violence, domestic violence, and stalking) or other conduct prohibited by this Policy, that involves a Student as either the Complainant or Respondent, they must report the information they have to the Title IX Coordinator. Mandated Reporters should be prepared to report the name, date, time, location, and description of the incident (if known). They are otherwise required to maintain an individual's privacy to the greatest extent possible.

When the Title IX Coordinator receives a report of Prohibited Conduct, they will contact the Complainant, if known, or another individual reporting the Prohibited Conduct to offer resources and supportive measures. The individual will also be advised of the option to pursue a Formal Complaint, if such an option is available, and any other available reporting options and resources.

A Mandated Reporter who receives a report, should not, under any circumstances, attempt to resolve the report without first reporting it to the Title IX Coordinator. Such failure to report may subject the individual to disciplinary sanctions.

b. Time Frame for Reporting

There is no time limitation on reporting or filing a Formal Complaint of Prohibited Conduct to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on reports and Formal Complaints significantly impacted by the passage of time (including, but not limited to, acts that have been impacted by the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures or remedies, or engage in informal or formal action, as appropriate.

When a Formal Complaint is filed after a significant delay the College will apply the Policy in place at the time of the alleged Prohibited Conduct and the Procedures in place at the time the report was made.

c. Anonymous Reporting

Individuals may submit reports of Prohibited Conduct anonymously. An individual may make a report without disclosing their name, identifying the Respondent, or requesting action. Depending on the level of information included about the conduct or the individuals involved, anonymous reporting may reduce the College's ability to respond or take appropriate action. Moreover, the College will generally not be able to take disciplinary action against an individual based solely on an anonymous report. A form that can be used for anonymous reporting can be found here: [Online Reporting Form](#)

d. Public Awareness and Advocacy Events

Public awareness or advocacy events at which community members disclose incidents of Prohibited Conduct do not initiate the College's Title IX obligations, including its obligation to investigate reports of Prohibited Conduct. Such events may, however, inform the need for campus-wide educational and prevention efforts, and the College may implement broad community initiatives in response to such events where appropriate.

2. Response to Reports of Prohibited Conduct

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will provide Complainant with an explanation of their rights under this Policy, the process for filing a Formal Complaint, and an overview of their options for resolution of the Formal Complaint and the Procedures associated with each resolution process. The Complainant will also be informed of the range of possible outcomes of the resolution process, including potential remedial actions and possible disciplinary actions that may be taken against the Respondent upon finding a violation of this Policy. The Complainant will also be advised of their right to request that the College refrain from initiating a resolution process and their right to file a report with Maria College Public Safety and state and local law enforcement.

The Complainant will be informed of the availability of supportive measures regardless of whether Complainant files a Formal Complaint. The Title IX Coordinator will consider the Complainant's requests for supportive measures in accordance with Section X of this Policy.

3. Advisors

The Complainant and Respondent have the right to have an advisor of their choosing present with them at all stages under this Policy and its Procedures. The advisor may be any person, including an attorney. The parties may be accompanied by their respective advisor at any meeting or proceeding related to the investigation or resolution of a report under this Policy. While the advisor may provide support and advice to the parties at any meeting or proceeding, advisors may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings or proceedings, with the exception that a party's advisor participating in a hearing under Appendix A will ask questions of the other party and witnesses. The College may establish additional restrictions, beyond the restrictions set forth in this section regarding the extent to which the advisor may participate in the proceedings.

An advisor should plan to make themselves reasonably available, and the College will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability.

If an advisor fails to comply with the Procedures set forth herein or established rules of decorum, the College reserves the right to exclude the advisor from further participation in the process. The Title IX Coordinator is responsible for interpreting and applying this provision.

In sexual misconduct cases involving students only, the Complainant and the Respondent may have no more than two people (i.e., a personal supporter, an attorney, a trained advocate, or an advocate supervised by an attorney) at any hearing, meeting, or interview during the investigation and hearing process. Support persons may not also be witnesses to the matter. The support person, advisor, and attorney are permitted to be present and to provide private advice and counsel to the student only, but is not permitted to participate in hearings, meetings, or interviews directly (for instance, the advisor is not permitted to address the investigators or hearing panelists). Disruptive supporters, attorneys, or

advisors may be removed and prohibited from further participation in the investigation and hearing process.

4. Amnesty for Drug and Alcohol Use for Students

The health and safety of every student at Maria College is of utmost importance. The College recognizes that students who have been drinking or using drugs (whether such use is voluntary or involuntary) in violation of other College policies may be hesitant to report incidents due to fear of potential consequences for their own conduct. The College strongly encourages individuals to report such Prohibited Conduct. A Complainant, bystander, or other individual who in good faith reports Prohibited Conduct under this Policy to a College official or law enforcement will not be disciplined for such conduct, if such conduct violates other Maria College policies or expectations of behavior.

5. Coordination with Law Enforcement

Maria College strongly encourages Complainants to pursue criminal action for incidents of sexual harassment, sexual violence, and dating and domestic violence, and stalking that may also be crimes under New York law. The College will assist a Complainant in making a criminal report and will cooperate with law enforcement agencies if a Complainant decides to pursue criminal action to the extent permitted by law.

Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this Policy has occurred.

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings. The College may not delay conducting its own investigation unless specifically requested by the law enforcement to do so.

In the event of such a specific request, the College will defer its investigation only during the time that law enforcement is gathering evidence, which should not exceed ten Days absent extenuating circumstances. The College will nevertheless communicate with the Complainant and Respondent (if appropriate) regarding Title IX rights, procedural options, and the implementation of supportive measures to assure safety and well-being. The College will promptly resume fact-gathering as soon as it is informed that law enforcement has completed its initial investigation.

X. SUPPORTIVE MEASURES

Maria College will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged harassment, discrimination, or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to restore or preserve access to the College's Educational Program or Activity, including measures designed to protect the safety of all Parties or the College's educational environment, or deter harassment, discrimination, or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving notice of a report or a Formal Complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a Formal Complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant and Respondent to ensure that their wishes are considered with respect to the supportive measures that are offered. The College will maintain the privacy of the supportive measures, provided that privacy does not impair its ability to provide the supportive measures. The College will

act to ensure as minimal an academic impact on the Parties as possible. The College will implement measures in a way that does not unreasonably burden the other Party.

Supportive measures may include, but are not limited to the following:

- Referral to counseling, medical, or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering work arrangements for employees or Student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (No Contact Directives) between the Parties²
- Academic support, extensions of deadlines, or other course/program-related
- Class schedule and clinical modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX & Compliance Director

Review of Supportive Measures

Upon request to the Title IX Coordinator, a Complainant or Respondent will be afforded a reasonable and prompt review of any supportive measure that directly affects them and will be permitted to submit evidence in support of any changes requested. The Title IX Coordinator, or their designee, will conduct the review and will advise the Parties of the determination within five Days of the submission of the request for review.

Emergency Removal

If after undertaking an individualized safety and risk analysis, the Title IX Coordinator, in consultation with the Vice President for Financial Affairs for Employees and/or the Chief Student Affairs Officer or designee determines that the Respondent poses an immediate threat to the physical health or safety of any Student or other individual in the College community, the College may remove the Respondent on an emergency basis. The length and nature of the removal will depend on the facts of the particular case. The College will notify the Respondent of the emergency removal. Both the Complainant and the Respondent will have an opportunity to challenge the decision and its terms, including by submitting evidence, immediately following the removal.

Administrative Leave

The College may place a Non-Student Employee Respondent on paid or unpaid administrative leave, consistent with the Employee Handbook or Faculty Handbook, as may be applicable, during the pendency of a Formal Resolution process conducted pursuant to this Policy and its Procedures.

² When a no-contact order has been issued as a supportive measure or sanction in response to a complaint of a pattern or repeated actions on the part of the Respondent (such as, for example, a complaint of stalking or repeated sexual harassment), violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

Pregnancy

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. 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. 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 may apply.

XI. RESOLUTION PROCESS

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. Options for Report Resolution

Reports of Prohibited Conduct are generally resolved either through a support-based resolution of a report of Prohibited Conduct, an informal resolution of a Formal Complaint, or a formal Resolution of a Formal Complaint.

2. Initial Inquiry

When the Title IX Coordinator receives any report of Prohibited Conduct, the Title IX Coordinator will initiate an inquiry into the allegations. Information learned during the initial inquiry will inform the Title IX Coordinator's determination regarding the provision of supportive measures to the Parties and appropriate resolution processes.

3. Support-based Resolution

A Support-based resolution of a report of Prohibited Conduct occurs when the report does not result in the filing of a Formal Complaint. Support-based resolutions will include the offering and provision of supportive measures intended to restore equal access to the College's Educational Programs or Activities and to preserve a safe and non-discriminatory environment for living, working, and learning. It may also include additional, non-disciplinary steps intended to stop discriminatory conduct from occurring, prevent future acts of discriminatory conduct, and to remedy the effects of the discriminatory conduct.

4. Formal Complaints

A Formal Complaint is a document signed by the Complainant or the Title IX Coordinator alleging a violation of this Policy against a Respondent and requesting that the College initiate an informal or formal Resolution of the Formal Complaint pursuant to this Policy and its Procedures. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. For matters involving Title IX Prohibited Conduct, **the Complainant must be participating in the College's educational program or employed at the time of the filing of the Formal Complaint.**

If the Complainant chooses not to file a Formal Complaint, the Title IX Coordinator has discretion to file a Formal Complaint. Where the Title IX Coordinator determines that the College cannot honor the Complainant's request that no Formal Complaint be pursued under this Policy, the Title IX Coordinator will promptly initiate the resolution process by making a signed, written Formal Complaint on behalf of the College. In determining whether to file a Formal Complaint, the Title IX Coordinator will consider the following:

- whether the Respondent has a history of violent behavior or is a repeat offender;
- whether the incident represents escalation in unlawful conduct by the Respondent from previously noted behavior;
- the increased risk that the Respondent will commit additional acts of violence;
- whether the Respondent used a weapon or force;
- whether the Complainant is a minor;
- whether the College possesses other means to obtain evidence such as security footage; and
- whether available information reveals a pattern of perpetration at a given location or by a particular group.

If the Title IX Coordinator decides to file a Formal Complaint, The Title IX Coordinator will notify the Complainant of the College's intention to proceed with a Formal Complaint and will take immediate action as necessary to protect and assist the Complainant. The Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant. However, typically, the Complainant's identity would have to be disclosed as part of the College's investigation. The Complainant is not required to participate in any proceedings that follow. However, if the Complainant declines to participate in an investigation or the adjudicative process under this Policy and its

Procedures, the College's ability to investigate meaningfully and respond to a report of Prohibited Conduct may be limited.

a. Consolidation of Formal Complaints

The Title IX Coordinator has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident might be relevant to the others. Consolidation might involve multiple Complainants and a single Respondent, multiple Respondents, or conduct that is temporally or logically connected. In the event that the allegations under this Policy involve allegations of a violation of a separate policy, the College will have the right, within its sole discretion, to consolidate those other allegations within one investigation or hearing under this Policy and its accompanying Procedures.

b. Dismissal of Formal Complaints

After the filing of the Formal Complaint, or during the initial inquiry, investigation, or resolution process, it may become apparent that conduct alleged in a Formal Complaint does not meet the definition of Title IX Sexual Harassment as defined in section VII(1) of this Policy. In that case, in accordance with Title IX, the Title IX Coordinator must dismiss the Formal Complaint (or the allegations of Title IX Sexual Harassment, therein). If the conduct would still, as alleged, constitute Non-Title IX Prohibited Conduct as defined in section VII(2) of this Policy, the College will continue to address the allegations pursuant to this Policy and the resolution procedures set forth in Appendices A or B. If the conduct, as alleged, does not constitute a violation of this Policy, the Formal Complaint will be dismissed in its entirety. If the conduct, as alleged, violates another College policy, the Title IX Coordinator must transfer the matter, and all information related to it, to the appropriate College office for assessment and potential further action.

The Title IX Coordinator must dismiss a Formal Complaint alleging Title IX Sexual Harassment where:

- the conduct alleged in the Formal Complaint would not constitute Prohibited Conduct as defined in section VII of this Policy, or
- the conduct did not occur in the College's Education Program or Activity, or
- the conduct did not occur against a person in the United States.

The Title IX Coordinator may dismiss a Formal Complaint where:

- the Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations therein, prior to resolution; or
- The Respondent is no longer enrolled in, or employed by, the College; or
- specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties. The Parties may appeal the dismissal of the Formal Complaint on any of the bases and pursuant to the Procedures set forth in Section XIII Appeals, below.

5. Notice of Allegations

At the issuance of a Formal Complaint, the Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the filing of the Formal Complaint and commencement of resolution process pursuant to this Policy and its Procedures and will provide both Parties with a copy of the Formal Complaint. Such notice will

- identify the Complainant and the Respondent;
- specify the alleged Prohibited Conduct and its date, time, and location, to the extent known;
- specify the basis for jurisdiction over the Formal Complaint;
- specify the factual allegations pertaining to the Prohibited Conduct;
- specify any sanctions that may be imposed, including the College's transcript notation policy;
- specify which procedures will be used to resolve the Formal Complaint;
- identify the investigator(s) or the facilitator of informal resolution;
- include information about the Parties' respective rights and obligations under this Policy and the applicable procedures;
- inform the Parties of their right to have an advisor of choice at all stages of the resolution process, who may accompany the respective Parties to meetings and proceedings;
- inform the Parties of the range of available resources, including mental health and academic support resources;
- explain the prohibition against retaliation; and
- instruct the Parties to preserve any potentially relevant evidence, whatever its form.

If, at any point prior to the resolution of the Formal Complaint, the Title IX Coordinator determines that there are additional allegations of Prohibited Conduct not included in the original notice that should be investigated, the Title IX Coordinator must provide the Parties with an amended notice of additional allegations.

6. Informal Resolution

At any time after a Formal Complaint has been filed and before a hearing commences, the Parties may seek to resolve a report of Prohibited Conduct through Informal Resolution, an administrative process. Participation in Informal Resolution is entirely voluntary; the Title IX Coordinator will neither pressure nor compel either Party to participate in the process or to agree to any specific terms. In every case, the Title IX Coordinator has discretion to determine whether the matter is appropriate for Informal Resolution and to determine the appropriate terms. Informal resolution may not be used in cases where an employee is alleged to have committed Title IX Sexual Harassment against a Student.

Before the Title IX Coordinator approves the Informal Resolution process or the terms of any Informal Resolution, the Title IX Coordinator will determine that they have sufficient information about the matter to make these decisions. The Parties are strongly encouraged, although not required, to consult with their advisors during the Informal Resolution process.

If the informal resolution process is terminated for any reason, the matter will be re-evaluated for resolution pursuant to the Formal Complaint resolution process under this Policy and its Procedures. For this reason, the investigator will not participate in Informal Resolution. The Title IX Coordinator will oversee the Informal Resolution process and have access to all College records in the matter, including any records or reports prepared during an investigation.

The Title IX Coordinator will consult separately with both Parties and recommend to the Parties the terms of a potential informal Resolution agreement. Such terms may include, but are not limited to, any sanctions or remedies that could be imposed as a result of a finding following a hearing under these proceedings.

Parties must agree to the terms before an Informal Resolution agreement becomes effective. At any time before a written agreement is effective, the Complainant or the Respondent may withdraw from the Informal Resolution process, and the Title IX Coordinator may also, at their discretion, terminate the process.

If both parties are satisfied with the Title IX Coordinator's recommendation, the matter will be resolved with a written agreement. The Title IX Coordinator will provide each Party, separately, with a copy of the proposed agreement for the party to review, sign, and return. If both Parties return the signed written agreement to the Title IX Coordinator the terms of the agreement will become effective, and the Title IX Coordinator will promptly notify both Parties in writing that the agreement is final. Once the agreement is effective, the Parties may not appeal the agreement and the Complainant may not seek to refile the Formal Complaint absent new allegations of misconduct. The parties are expected to honor and comply with the terms of the Informal Resolution. Noncompliance may be subject to proceedings under the other College policies, such as the student code of conduct, the Employee Handbook, or the Faculty Handbook.

If the process is terminated and the matter is resolved pursuant to the Formal Resolution process, neither the Title IX Coordinator nor the Parties will disclose to the Investigator, Decision-maker, or Appellate reviewers either the fact that the Parties had participated in the Informal Resolution process, or any information learned during the process.

While the Parties are exploring Informal Resolution, any pending investigation will pause, and the time spent pursuing resolution in this way will not count toward the investigation time limit.

Informal Resolution may take two forms: (1) Restorative Agreements, or (2) Negotiated Agreements.

a. Restorative Agreement

The purpose of a Restorative Agreement is for the parties to identify and agree on a set of remedies. Upon successful completion of those remedies, the Formal Complaint will be resolved and may not be refiled. Such remedies may include the following:

- Impact Letter;
- Apology Letter;
- Directed Study;
- Reflection Paper; or
- Other forms of restorative actions.

In order for a resolution under this subsection to be reached, the Respondent need not accept responsibility.

b. Negotiated Agreement

As a necessary precondition of a Negotiated Resolution, the Respondent must accept responsibility for all or part of the alleged Prohibited Conduct. The Parties will then have an

opportunity to negotiate with the Title IX Coordinator what they believe the appropriate sanction should be. In support of their position, Parties are encouraged to submit impact/mitigation information they believe the Title IX Coordinator should consider in evaluating any sanction.

The Title IX Coordinator has the discretion to propose other terms for the resolution that may be appropriate to address the Prohibited Conduct for which the Respondent has accepted responsibility.

If the Respondent agrees to a Negotiated Agreement under Informal Resolution that provides for a suspension, withdrawal, or dismissal (i.e., expulsion) from the College, there will be a transcript notation consistent with the College's policy.

7. Formal Resolutions

The Formal Resolution process is guided by provisions of this section of this Policy and by the Procedures accompanying this Policy. The applicable procedure is determined by the type of prohibited conduct alleged (Title IX Sexual Harassment or Non-Title IX Prohibited Conduct) and the identity of the Respondent. Upon receipt of a report or a Formal Complaint, the Title IX Coordinator will determine which procedure applies.

The Formal Resolution process is overseen by the Title IX Coordinator and will be conducted in a prompt and equitable manner, pursuant to the time frames set forth in Section XV. Throughout the Formal Resolution process, all responsible personnel will maintain a commitment to impartiality.

a. Evidentiary Standard and Burden of Proof

The Respondent is presumed not responsible. A Respondent will be found responsible for violating this Policy only when such a finding is supported by the Preponderance of the Evidence. Maria College, not the Parties, has the burden of proof and the burden of gathering sufficient evidence to reach a finding of responsibility.

b. Investigation and Adjudication Procedures

Appendix A outlines the Procedures for the Formal Resolution of Formal Complaints of Prohibited Conduct of Title IX Sexual Harassment (Student and Employee Respondents).

Appendix B outlines the Procedures for the resolution of reports of Non-Title IX Prohibited Conduct in violation of this Policy.

XII. 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.

XIII. APPEALS

Both the Complainant and the Respondent may appeal the Title IX Coordinators dismissal of a Formal Complaint or any allegations therein or, the determination of responsibility following a hearing or, on the following grounds:

- procedural irregularity that affected the outcome of the matter;
- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- the Title IX Coordinator, Investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
- sanction or remedies imposed are not commensurate with finding made.

A Party may commence an appeal by submitting a written statement to the Title IX Coordinator within ten (10) Days of issuance of the final determination of responsibility or the dismissal of the Formal Complaint. The appeal statement must set forth:

- the determination(s) being appealed,
- the specific ground(s) for the appeal, and
- the facts supporting the grounds.

Although not required, the parties are encouraged refer to the investigative report and record, and the hearing record, in their appeal statement to support their appellate arguments. Failure to submit an appeal within ten (10) Days or any approved extension constitutes waiver of the right to appeal.

A copy of the appeal statement will be provided to the other Party, who, within ten (10) Days may submit a written response to the Title IX Coordinator. The response should address both the specific ground(s) for appeal set forth in the appealing Party's statement and the specific facts asserted by the appealing Party.

The Title IX Coordinator will submit the appeal and response, if any, to the appellate panel, which will be comprised of three individuals appointed by the Title IX Coordinator. The panel members/reviewer will not be the Title IX Coordinator, the investigator, or a Decision-maker.

The Appeal Panel will establish a reasonable schedule for issuing a written decision, typically no later than ten (10) Days after receipt of the non-appealing party's submission or the time for submission has expired.

The Appeal Panel may affirm the decision or sustain any of the above-specified grounds for appeal, in which case the Appeal Panel may:

- reverse or affirm a decision or finding;
- uphold or change a sanction or remedy;
- remand a decision to the Title IX Coordinator for further action;

If the Appeal Panel reverses a finding of not responsible, the Appeal Panel must also determine the sanctions and remedies to be included in their written decision. If the Impact/Mitigation Statements have not previously been distributed, they would be distributed to both parties only upon a finding of

responsibility, and, in that instance, when the Title IX Coordinator distributes the Appeal Panel's written decision to the Parties.

If the Appeal Panel calls for the admission of new evidence, , it will be remanded the Title IX for further action.

The decision of the Appeal Panel will be final and binding on all Parties.

XIV. TRANSCRIPT NOTATION

Maria College has a policy of making a notation on a transcript related to the 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.

XV. TIME FRAMES

Maria College seeks to resolve all reports of Prohibited Conduct pursuant to the following time frames.

- Informal Resolution: The informal resolution process is typically completed within 30-60 Days.
- Formal Resolution: The formal resolution process is typically completed within 90-120 Days.

The Title IX Coordinator may extend the time frames for good cause. Good cause for extension may include the unavailability of the parties or their advisors, concurrent law enforcement investigation, the complexity of the allegations, or other extenuating circumstances. Any extension, and the reason(s) therefore, will be shared with the Parties, in writing.

XVI. TRAINING

The Title IX Coordinator, Investigators, Decision makers, Appellate Reviewers, and Facilitators of Informal Resolutions, shall, at a minimum, receive all training and education required pursuant to Title IX, the Violence Against Women Act, and New York State Law.

XVII. RECORD KEEPING

Maria College will maintain the following records:

- records of reports of Prohibited Conduct under this Policy and any actions taken in response to the reports, including the issuance of supportive measures and educational efforts;
- records related to each Formal Resolution process;
- records related to each Informal Resolution process; and
- materials used to train and educate the Title IX Coordinator, Investigators, Decision makers, Appellate Reviewers, and Facilitators of Informal Resolutions.

This information will be used by the Title IX Coordinator to monitor patterns and areas of concern. In general records will be kept for seven (7) years after the date the reported incident is resolved. Certain records may be retained longer in the College's sole discretion, including for active Employees.

Appendix A: Procedures for the Formal Resolution of Formal Complaints of Prohibited Conduct of Title IX Sexual Harassment

I. SCOPE OF THESE PROCEDURES

The Procedures set forth below will guide the investigation and adjudication of Formal Complaints of Title IX Sexual Harassment, as defined in Section VII(1) regardless of whether the Respondent is a Student or Employee.

II. INITIATION OF THE INVESTIGATION

An investigation under these Procedures will be initiated at the Title IX Coordinator's direction after the filing of a Formal Complaint and the issuance of a Notice of Allegations to the Parties.

III. THE INVESTIGATION

1. Overview of the Investigation

The investigation is a neutral fact-gathering process. During the investigation, the Parties will have an equal opportunity to be heard, to submit evidence, to identify witnesses who have relevant information, including fact and expert witnesses, and to submit questions that they believe should be directed by the investigator to each other or to any witness. The investigators will also seek to obtain relevant evidence identified during the investigation, including relevant evidence that has not been offered by either Party. The College may continue an investigation without the participation of any Party.

2. The Investigator

Investigations will be conducted by one or more appropriately trained individuals appointed by the Title IX Coordinator. The Investigator(s) will be impartial and will conduct a prompt, thorough, and fair investigation. The Investigator(s) may be a College employee or an external party.

3. Evidence Collection

a. Testimonial Evidence Collection: Investigative Interviews

Testimony is evidence. Thus, throughout the investigation, the Investigator(s) will endeavor to interview the Parties and other individuals (witnesses) who have information that is relevant or directly related to the allegations in the Formal Complaint, including fact and expert witnesses. The Investigator(s) will provide to everyone whose participation in an investigative interview is invited or expected written notice of the date, time, and location of the interview, and the Parties will be given a sufficient time to prepare to participate.

If a Party declines to participate in investigative interviews deemed necessary by the investigator, the Party will forfeit the opportunity at the hearing to provide testimony at the hearing. If a witness declines to participate in an investigative interview, they will not be permitted to provide testimony at the hearing. Employees that are fact witnesses (and not a complaining or responding party) are expected to cooperate and testify and may not refuse to participate, without otherwise being deemed insubordinate.

Investigative interviews may be conducted in person, or via telephone or video conference. Investigative interviews will be recorded. Following the investigative interview, the Investigator(s) will prepare a full written summary of the interview ("Interview Summary"). This summary will be shared with the interviewee and the interviewee will be provided five (5)

Days to submit, in writing to the investigator, any corrections to, or comments about, or proposed changes to, the interview summary that the interviewee believes is necessary to ensure the accuracy of the interview summary. Submissions made by the interviewee will be attached to the original summary. The deadline for submitting a response may be extended for good cause, upon request to the Investigator(s). If no response is received from the interviewee, the summary prepared will be presumed accurate.

b. Non-Testimonial Evidence Collection

During the investigative interviews, the Investigator(s) will gather other available evidence and information that is directly related to the allegations in the Formal Complaint, including, without limitation, electronic and other records of communications between the Parties or witnesses (via voicemail, text message, audio messages, email, or social media sites), photographs and videos, medical records (subject to required consent), and records generated by public safety or law enforcement.

c. Evidence Collection Logs

The Investigator(s) will maintain a log of all testimonial and non-testimonial evidence obtained and the source of such evidence. The Investigator(s) will also maintain a log of all testimonial and non-testimonial evidence offered or sought, but not obtained, and the reason such evidence was not obtained. These logs will be made a part of the evidence file.

4. Review of the Draft Investigative Report and Draft Evidence File

a. The Draft Evidence File

At the conclusion of the investigation, the Investigators will compile all the evidence that is directly related to the allegations in the Formal Complaint, including the summaries of the statements the Parties and witness, evidence that is both inculpatory and exculpatory, and evidence upon which the investigator does not intend to rely. This compilation of evidence will be referred to as the “Draft Evidence File.”

The Draft Evidence File will be intentionally organized to support comprehension and will be divided into at least two sections. One section will include evidence obtained that the Investigator(s) deems relevant to the allegations in the Formal Complaint. The other section(s) will include evidence that the Investigator(s) do not deem relevant, but that is otherwise directly related to the allegations in the Formal Complaint.

b. Review and Opportunity to Respond

Upon completion, the Investigator(s) will share the Draft Evidence File and Draft Investigative Report with the Parties and their advisors electronically, or by hard copy. The Parties will then be afforded ten (10) Days to review the Draft Evidence File and Draft Investigative Report and to submit an optional written response, which may include responses to the evidence and requests that the Investigator(s) accept, seek, or obtain additional evidence or conduct follow up inquiries of the other party(ies) or witnesses. The Parties' responses may also include challenges to the Investigator's assessment of relevance. Any responses submitted by the Parties will be shared with the other party and made a part of the Final Evidence File.

c. Additional Evidence Collection

The Investigator(s) will consider the written responses of the Parties, if any, and will determine in their sole discretion, whether further investigative steps are required. If additional

investigative steps are taken that result in collection of additional evidence, such additional evidence will be included in the Draft Investigative File and incorporated, as appropriate, into the Draft Investigative Report. The new evidence and any changes to the Draft Investigative Report and will be shared with the parties and their advisors electronically, or by hard copy. The Parties will be provided with a final opportunity to respond, in writing. The Investigator will determine the length of this review period, not to exceed a reasonable period of time.

Any additional responses submitted will be shared with the other Party and made a part of the Final Evidence File.

d. Prohibition of Evidence Not Offered During the Investigation

In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator(s) during the investigation or during this designated response and review period will not be considered in the determination of responsibility for a violation of the Policy and will not be considered during the hearing process.

5. Final Investigative Report and Final Evidence File

At the conclusion of the fact gathering process and the review periods, as described in this Procedure, the Investigator(s) will prepare a Final Investigative File and Investigative Report.

a. The Final Investigative File

The Final Investigative File will include all of the evidence that is directly related to the allegations in the Formal Complaint, including the summaries of the statements of the Parties and witness, evidence that is both inculpatory and exculpatory, and evidence upon which the College does not intend to rely. The Final Investigative File will also include any responses submitted by the Parties during the evidence review period and a timeline of all procedural steps taken by the College from the time of the filing of the Formal Complaint to the conclusion of the investigation.

The Final Evidence File will be intentionally organized to support comprehension and will be divided into at least two sections. One section will include evidence obtained that the Investigator(s) deems relevant to the allegations in the Formal Complaint. The other section(s) will include evidence that the Investigator(s) do not deem relevant, but that is otherwise directly related to the allegations in the Formal Complaint. The final section will include the procedural timeline.

b. The Final Investigative Report

The Final Investigative Report will be prepared by the Investigator(s) and will fairly summarize all of the relevant evidence obtained during the investigation. Relevance Determinations are generally guided by the principles set forth below in Section V(1) of this Procedure.

c. Submission of the Final Investigative Report and Evidence File to the Parties

The Final Investigative Report and Evidence File will be simultaneously provided to the Parties and their advisors in electronic format or hard copy, at least ten (10)

Days prior to a hearing. The parties will have ten (10)

Days to submit a written response to the Final Investigative Report and Evidence File.

The Final Investigative Report and Evidence File, and any written responses submitted by the Parties will be provided to the Decision Maker(s).

IV. THE HEARING

1. Overview

Upon conclusion of the investigation, a hearing will be held to determine whether the Respondent is responsible for the alleged Policy violations in the Formal Complaint. As set forth in Section XI(7)(a) of this Policy, the Respondent is presumed not responsible. A Respondent will be found responsible for violating this Policy only when such a finding is supported by the Preponderance of the Evidence.

The hearing is a private proceeding. The only people present will be the parties, their advisors, the Decision Maker(s), witnesses (when testifying), and any staff necessary for conducting the hearing.

2. Hearing Participants

a. Decision Makers

The College will designate the Decision Maker for the moderation of the hearing and determination of finding and sanction. The Decision Maker may take the form of a single Decision Maker or a three-member panel at the Title IX Coordinator's discretion. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator. The Decision-maker(s) may not be the Title IX Coordinator, a facilitator of informal resolution, or the investigator.

Upon receipt of the notice of the Decision Maker or three-member panel, Parties will have three (3) Days to object to the appointment of a Decision Maker, on the basis of demonstrated bias or conflict of interest.

b. The Parties

The Parties are permitted to participate in the entirety of hearing, portions thereof, or they can decline to participate in the hearing entirely, and the Decision Maker(s) will not draw an adverse inference against a party based solely on their decision not to participate in all or some of the hearing proceedings.

In accordance with Appendix A, if a Party declines to participate in investigative interviews deemed necessary by the investigator, the Party will not be permitted the opportunity to provide testimony at the hearing.

Nonetheless, if a Party who has declined to participate in investigative interviews later seeks to participate in a hearing, upon a finding that there was a compelling reason for the nonparticipation, the Hearing Chair, upon the Chair's discretion, may permit the Party to participate. If the Hearing Chair permits the Party to participate in the hearing, the Hearing Chair will first reschedule or adjourn the hearing for the investigator to interview the Party and, as necessary, conduct any follow-up investigation and supplement and revise the evidence file and the investigative report.

c. Advisors

The Parties have the right to have an advisor of their choice present at the hearing in accordance with Section IX(3) of this Policy. If a Party does not have an advisor of choice, the

Title IX Coordinator will appoint an advisor to that Party for the sole purpose of conducting cross examination of other party and witnesses. A Party's advisor of choice or an advisor appointed by the Title IX Coordinator may participate in the hearing for the sole purpose of conducting cross examination in the absence of their advisee.

As set forth in Section IX(3) of this Policy, Advisors may not speak on behalf of the Parties or otherwise participate in, or in any manner delay or disrupt the hearing. If an advisor fails to comply with the procedures set forth herein or the established rules of decorum, the College reserves the right to exclude the advisor from further participation in the process. The Title IX Coordinator is responsible for interpreting and applying this provision.

d. Witnesses

The Decision Maker(s) will determine, in their sole discretion, which witnesses will be invited to provide testimony at the hearing. Witnesses who are invited to participate in the hearing will be permitted to attend the hearing only when providing testimony.

In accordance with Appendix A, a witness who declined to participate in an investigative interview will not be permitted to provide testimony at the hearing.

However, if a witness who has declined to participate in investigative interviews later seeks to participate in a hearing, upon a finding that there was a compelling reason for the nonparticipation, the Decision Maker(s), upon their discretion, may permit the Party to participate. If the Decision Maker(s) permits the Party to participate in the hearing, the Decision Maker(s) will first reschedule or adjourn the hearing for the investigator to interview the party and, as necessary, conduct any follow-up investigation and supplement and revise the evidence file and the investigative report.

e. Hearing Facilitators

The orderly administration of hearings will be supported by Hearing Facilitators, who are individuals either internal or external to the College and appointed by the Title IX Coordinator.

The Title IX Coordinator may not serve as a Decision Maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role.

3. Notice of Hearing

The Title IX Coordinator will notify the Parties in writing of the date, time, and location/format of the hearing. The notice will include the charges at issue; a summary of the alleged Prohibited Conduct; and the applicable procedures under this Policy. All efforts will be made to provide the Notice of Hearing no later than five (5) Days prior to the hearing and to schedule the hearing as soon as practicable.

Either Party may request to have a hearing rescheduled. The request may be granted at the discretion of the Title IX Coordinator. Absent extenuating circumstances, requests to reschedule must be submitted at least three (3) Days prior to the hearing. A request to reschedule a hearing must be supported by a compelling reason. Given the number of individuals involved in a hearing, and the attendant difficulty of scheduling and rescheduling them in a timely manner, it may not be possible to

accommodate all scheduling requests. The Title IX Coordinator may also reschedule a hearing, without a request by the Parties, when there is reasonable cause to do so.

4. Hearing Format

The hearing will be live and will provide the Parties an opportunity to address the Decision Maker in person. Participants may be physically present in the same geographic location, or at the College's discretion, some or all of the hearing may be conducted remotely, using virtual platforms (i.e., video conferencing). Upon request to the Title IX Coordinator, a Party may participate in the hearing remotely. Such requests for remote participation should be made at least two (2) days in advance of the scheduled hearing.

5. Pre-Hearing Conferences

At least three (3) days prior to the hearing, the Title IX Coordinator and the Decision Maker(s) will meet with the parties and their advisors, separately, for the purposes of conducting a pre-hearing conference. At the pre-hearing conference, the Decision Maker(s) will review these procedures, the Rules of Decorum, and the proposed hearing schedule and the parties will be permitted to ask questions.

6. Impact Mitigation Statements

The Parties will be permitted, but not required, to prepare a written Impact/Mitigation Statement relevant to any sanctions. The Parties may submit the statement up until the start of a hearing. The statements are distributed to the Decision Maker(s) and the parties only if the Decision Maker(s) finds the Respondent responsible. The Title IX Coordinator will provide the Impact/Mitigation Statements to the Parties with a copy of the Decision Maker(s)'s written decision.

7. Hearing Procedures

Typically, the format of the hearing will be as follows:

a. Opening Instructions

The hearing will begin with opening instructions by the Hearing Chair. The Parties will be afforded the opportunity to ask questions about the format of the hearing and these procedures at the conclusion of the Chair's opening instructions.

b. Testimony

The Decision Maker(s) will determine the order of testimony. The Decision Maker(s) will question the Party or witness first, followed by cross examination of a Party by the other Party's advisor. In the case of witness testimony, the Decision Maker(s) will question the witness first, followed by a cross-examination of the witness, first by Complainant's advisor and next, by the Respondent's advisor.

During cross-examination, the Party's advisor will be permitted to ask the opposing Parties and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent, or witness responds to a question by a Party's advisor, the Decision Maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The Decision Maker(s) retain authority to ask questions at any time during testimony, including during cross examination by the advisors.

c. Closing Remarks by the Hearing Chair

At the conclusion of testimony, the Hearing Chair will conclude the proceedings with brief closing remarks.

8. Determination Regarding Responsibility and Notice of Outcome

Decision Maker(s) will determine whether Respondent is responsible of the alleged violation(s) of the Policy by a majority vote based upon a preponderance of the evidence standard. The Decision Maker(s) retains discretion regarding the weight or credibility to assign the evidence. If the Decision Maker(s) make a finding of responsibility, the Decision Maker(s) will determine the appropriate sanctions , in accordance with Section XII of this Policy by a majority vote.

In matters where a finding of responsibility is made, the Decision Maker(s) will consider the Impact/Mitigation statements of the parties prior to determining sanction.

The Decision Maker(s) will issue a written determination of findings that will include the procedural steps taken during the investigation, the specific prohibited conduct for which the Respondent was found responsible and not responsible with identification of the allegations potentially constituting Title IX sexual harassment, the findings of fact and the rationale for the Decision Maker(s)'s determinations regarding both responsibility and sanctions, whether remedies designed to restore or preserve equal access to the College's Education Program or Activity will be provided by the College to the Complainant, sanctions and remedies if the Respondent is found responsible, and, instructions and time limits for appeals.

The decision may incorporate and reference any portions of the proceedings, including the evidence file and investigative report, as the Decision Maker(s) deems appropriate. Both the Complainant and the Respondent will be simultaneously provided with a notice of outcome and the Decision Maker(s) written determination.

9. Hearing Record

An audio recording will be made of all hearings, but not of deliberations. The Parties may listen to the audio recording of the hearing. Access will be facilitated in a manner deemed appropriate by the Title IX Coordinator.

Individuals appearing before the Decision Maker(s), whether as a Party or witness, are prohibited from recording any portion of the hearing. The Decision Maker(s) members are also prohibited from recording any portion of the hearing.

The Decision Maker(s) has access to the hearing record. The hearing record will include: the audio recording and written transcript of the hearing, the Decision Maker(s)'s final determination, the final evidence file and investigative report, and if there is a determination of responsibility, the Parties' Impact/Mitigation Statements, and information concerning the Respondent's prior misconduct.

V. EVIDENTIARY CONSIDERATIONS

1. Relevance

Determinations regarding relevance of any proffered evidence will be subject to the following requirements:

- a. **Prior Sexual History of Complainant**
Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior are considered irrelevant unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- b. **Prior or Subsequent Conduct**
Prior or subsequent conduct of a Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of conduct prohibited by this policy by a Respondent, either before or after the incident in question, regardless of whether there has been a finding of a Policy violation, may be deemed relevant to a determination of responsibility.
- c. **Mental Health Condition, Treatment, or Diagnosis**
Generally, during both the investigation and any hearing to determine responsibility, evidence of the Party's mental health diagnosis or treatment is irrelevant.
- d. **Privilege**
The investigator(s) and Decision Maker(s) will not allow or rely upon or otherwise permit questions or evidence that is protected by a legally recognized privilege, unless the person holding such privilege has waived the privilege.

2. Newly Offered Evidence

If, after the issuance of the final evidence file and investigative report and prior to the issuance of the Decision Maker(s) decision, including at the hearing, a party or the investigator seek to present a witness or introduce evidence not offered prior to the hearing and not disclosed to the investigator, the Decision Maker(s) may grant admission of the evidence such request upon a showing that the witness or evidence is relevant, material, newly discovered, and could not have been discovered during the investigation with due diligence.

Where Decision Maker(s) permit a party to introduce a newly discovered witness or evidence, the Decision Maker(s) will reschedule or adjourn the hearing for the investigator to investigate the newly discovered witness or evidence and, if appropriate to amend the final evidence file and investigative report.

Appendix B: Procedures for the Formal Resolution of Formal Complaints of Non-Title IX Prohibited Conduct as Defined above in Section VII(2)

This procedure is for all matters for the Formal Resolution of Formal Complaints of Non-Title IX Prohibited Conduct as defined above in Section VII(2).

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, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator's 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 Non-Title IX Prohibited Conduct, the type of Non-Title IX 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 the Non-Title IX 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) 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) 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) 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 the Non-Title IX 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 the Non-title IX 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 Chief Student Affairs Officer 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 Complainant;
- 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.

Appendix C: Resources for Support

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:

- [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 Safety](#) – safety@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. 158