

# SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING PROHIBITION POLICY

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## I. Purpose

In accordance with the Violence Against Women Reauthorization Act of 2013, Title IX of the Education Amendment of 1972, Title VII of the Civil Rights Act of 1964, the Illinois Human Rights Act, the Clery Act and the Illinois Preventing Sexual Violence in Higher Education Act, all of which prohibit discrimination based upon sex, including but not limited to sexual assault and other forms of sexual misconduct and/or reporting of such acts. John A. Logan College (College) is committed to maintaining a safe and healthy educational and employment environment that is free from sexual misconduct sexual assault, domestic violence, dating violence and stalking and adopts the following standards of conduct for all members of the College community, including employees, students, contractors and visitors.

## II. Statement of Policy

Our community expects that all interpersonal relationships and interactions – especially those of an intimate nature – be grounded in mutual respect, open communication, and clear consent.

To this end, Sexual Assault, Domestic Violence, Dating Violence and Stalking, are unacceptable and are not tolerated at John A. Logan College. These terms are defined below in “Definitions of Prohibited Conduct.” Retaliation, as defined below, is also prohibited.

The College encourages anyone who has been subjected to Sexual Assault, Domestic Violence, Dating Violence and/or Stalking to seek appropriate help and to report the incident promptly to the police and/or College officials. The College has professional staff that will assist students, faculty and/or staff members to get help, including immediate medical care, counseling and other essential services. Specific policies, methods for reporting, including confidential reporting, and resources are described below.

As a general matter, The College will take prompt action to investigate reports of Sexual Assault, Domestic Violence, Dating Violence and/or Stalking and, where appropriate, to impose sanctions. The applicable procedures will depend on whether the alleged offender is a student, faculty, or staff member.

Students, faculty, and staff who violate this Policy may face discipline up to and including expulsion or termination as outlined below.

The College's Policy applies to students, employees, contractors, or third parties whenever the misconduct occurs:

- A. On College property; or
- B. Off College property if;
  - 1. The conduct was in connection with a College or College-recognized program or activity; or
  - 2. Otherwise has a connection to the College.

Sexual Assault is an extreme form of sexual harassment. For more information about sexual discrimination and harassment, which is also prohibited by the College's policies, please see the Policy on Sexual Harassment. If a report includes allegations of Sexual Assault, Domestic Violence, Dating Violence or Stalking, then the process and procedures set forth in this Policy will be followed in the assessment, investigation and resolution of the complaint. In no event shall a complaint proceed simultaneously through more than one internal College procedure.

## III. Definitions

- A. **Consent:** Consent is knowing, voluntary and clear affirmative permission by word or action, to engage in mutually agreed upon sexual activity. Consent may not be inferred from silence, passivity, or a lack of active resistance. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some

sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent may be withdrawn at any time. A person may be incapable of giving consent due to the person's age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force or the threat of either invalidates consent.

- B. **Dating Violence:** The term dating violence means violence committed by a person 1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and 2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- C. **Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Illinois, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Illinois.
- D. **Incapacitated or Incapacitation:** An individual who is incapacitated is unable to give consent. States of incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact.

Alcohol or drug use is one of the prime causes of incapacitation. Where alcohol or drug use is involved, incapacitation is a state beyond intoxication, impairment in judgment, or "drunkenness." Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is incapacitated, and therefore unable to give consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Making decisions about the potential consequences of sexual contact;
- Appraising the nature of one's own conduct;
- Communicating consent to sexual contact; or
- Communicating unwillingness to engage in sexual contact.

Where an individual's level of impairment does not rise to incapacitation, it is still necessary to evaluate the impact of intoxication on consent. In evaluating whether consent was sought or given, the following factors may be relevant:

- Intoxication may impact one's ability to give consent and may lead to incapacitation (the inability to give consent).
- A person's level of intoxication is not always demonstrated by objective signs; however, some signs of intoxication may include difficulty walking, poor judgment, difficulty communicating, slurred speech, or vomiting.
- An individual's level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism.

No matter the level of an individual's intoxication, if that individual has not affirmatively agreed to engage in sexual contact, there is no consent.

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### AND STALKING POLICY PROHIBITION (CONTINUED)

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Anyone engaging in sexual contact must be aware of both their own and the other person's level of intoxication and capacity to give consent. The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether consent is effectively sought and freely given. If there is any doubt as to the level or extent of one's own or the other individual's intoxication or incapacitation, the safest course of action is to forgo or cease any sexual contact. An individual's intoxication is never an excuse for or a defense to committing sexual assault and it does not diminish one's responsibility to obtain consent.

- E. **Retaliation:** Any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging sexual discrimination, harassment or misconduct or any person cooperating in the investigation of such allegations (including testifying, assisting or participating in any manner in an investigation) is strictly prohibited. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by the College's Policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the allegations of sexual discrimination, harassment or misconduct.

- F. **Sexual Assault:** Any nonconsensual sexual act proscribed by Federal, tribal, or State law including when the victim lacks capacity to consent, including both sexual intercourse without consent and sexual contact without consent.

Sexual Intercourse without Consent means having or attempting to have sexual intercourse with another individual without consent as defined below. Sexual intercourse means vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.

Sexual Contact without Consent means having sexual contact with another individual without Affirmative Consent, as defined below. Sexual contact means the touching of the person's breasts, anal, groin or genital areas, or other intimate body parts for the purpose of sexual gratification.

- G. **Sexual Exploitation:** Occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual non-consensual voyeurism, knowingly transmitting HIV or a sexually transmitted disease to another, or exposing one's genitals to another in non-consensual circumstances.
- H. **Sexual Misconduct:** Includes sexual assault, sexual exploitation, dating violence, domestic violence, sexual violence and stalking.
- I. **Sexual Violence:** Physical sexual acts perpetuated against a person's will or where a person is incapable of giving consent (e.g. due to the person's age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion.
- J. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress.
- K. **Threat:** Any oral or written expression or gesture that could be interpreted by a reasonable person as conveying intent to cause harm to persons or property.

**IV. Administration**

A. Title

1. The College has designated the Executive Director of Human Resources as the Title IX Coordinator.

Dept. of Human Resources

Address: 700 Logan College Rd, Carterville, IL 62918

Telephone: 618-457-7676, Ext. 8589

Email: claybrewer@jalc.edu

2. Responsibilities of the Title IX Coordinator include:

- Overseeing the College's response to all Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.
- A Title IX complaint includes complaints alleging sexual discrimination, including sexual harassment as well as sexual misconduct, sexual violence, sexual assault, domestic violence, dating violence and stalking (as those terms are defined herein) which involve a College student, visitor or employee.
- Being informed of all reports and complaints raising Title IX issues, including those initially filed with another individual or office or if the investigation will be conducted by another individual or office.
- Ensuring that adequate training is provided to students, faculty and staff on Title IX issues.
- Coordinating Title IX investigations, involving employees and students, including overseeing the investigation of facts relative to a complaint and recommending appropriate sanctions against the perpetrator and remedies for the complaint.

--With respect to complaints that involve a College employee, vendor or visitor, the Department of Human Resources will manage the investigation into the allegations and will recommend appropriate sanctions against the employee and interim measures, if any, for an employee.

--With respect to complaints that involve a student, the Vice President for Instructional Services and Title IX Coordinator will manage the investigation and recommend appropriate sanctions against the student and interim measures, if any, for a student.

--With respect to complaints that involve both a student and an employee, the Title IX Coordinator, the Department of Human Resources and the Deputy Title IX Coordinators shall jointly coordinate the investigation and interim measures.

- Ensuring appropriate interim measures for a student victim and/or complainant upon learning of a report or complaint of sexual misconduct.
  - Ensuring that appropriate policies and procedures are in place via campus police for working with law enforcement and coordinating services with local victim advocacy organizations and services providers, including rape crisis centers.
3. Promoting an educational and employment environment which is free of sexual discrimination, harassment and gender bias.
  4. The College has designated Adrienne Barkley-Giffin, Brian Bechtel, Christina Loyd and Johnna Herren as Deputy Title IX Coordinators.

5. Responsibilities of the Deputy Title IX Coordinators:

- Working in conjunction with the Title IX Coordinator to ensure compliance for matters involving students, including assistance with coordination of training, education, communications, and administration of complaint procedures for complaints against students.

6. Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to the United States Department of Education's Office for Civil Rights:

Office for Civil Rights, Chicago Office U.S. Department of Education Citigroup Center  
500 W. Madison Street. Suite 1475  
Chicago. IL 60661-4544  
Telephone: (312) 730-1560 Email [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

**V. Option for Assistance Following an Incident of Sexual Assault**

A. Immediate Assistance

1. On and Off-Campus Counselors and Advocates. Attached as Appendix A – Resource and Referral Options, find a list of on and off-campus counselors and advocates that can provide an immediate confidential response for employees and students in an emergency situation.
2. Emergency Response. Anyone who experiences or observes an emergency situation should immediately call 911 and/or the College Police Department at 618-985-5550.
3. Off-Campus Health Care Options. Victims may seek treatment for injuries, preventive treatment for sexually transmitted disease, and other health services by contacting the providers identified on Appendix A - Resource and Referral Options.

B. Ongoing Off Campus Counseling, Advocacy and Support for Students and Employees. This information can also be found at Appendix A - Resource and Referral Options.

**VI. Reporting and Confidentially Disclosing Sexual Assault**

The College encourages all victims of sexual assault (and bystanders), to talk to somebody about what happened so that victims (and bystanders) can get the support they need and so that the College can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality:

- Some employees are required to maintain complete or near complete confidentiality,
- Some employees are required to report all the details of an incident (including identities of the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees, called "Responsible Employees," constitutes a report to the College and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

The various reporting and confidential disclosure options available are set forth in further detail below:

**A. Privileged and Confidential Communications**

Confidential Counselors. Professional, licensed counselors who provide mental-health counseling (including those counselors who act in that role under the supervision of a licensed counselor (referred to as Counselors) are not required to report any information about an incident to the Title IX Coordinator without a victim's permission. The College has designated Carolyn Gallegly and Christy McBride as confidential employees. Contact information for such confidential Counselors is included in Appendix A-Notification of Rights and Options.

A victim who speaks to a confidential Counselor must understand that, if the student victim wants to maintain confidentiality, the College's ability to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator(s) may be diminished.

Even so, these Counselors will still assist the victim in receiving other necessary protection and support, such as student victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A student victim who at first requests confidentiality may later decide to file a complaint with the College or report the incident to law enforcement, and thus will have the incident fully investigated. These counselors will provide the victim with assistance if the victim wishes to do so.

Note: While these Counselors may maintain a victim's confidentiality vis-a-vis the College, they may have reporting or other obligations under state law. Any College employee who suspects or receives knowledge that a minor student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, is required to:

1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline; and 2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office. Also note: If the College determines that the alleged perpetrator(s) pose(s) a serious and immediate threat to the College community, College Police may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

**B. Reporting to "Responsible Employees"**

A College employee who has the authority to redress sexual harassment, including sexual assaults, who has the duty to report incidents of sexual misconduct, or who an individual could reasonably believe has this authority or duty is a Responsible Employee. Most College employees, including but not limited to supervisors, managers, coaches and faculty are responsible employees. A list of Responsible Employees is available through the Title IX Coordinators. When a victim tells a Responsible Employee about an incident of sexual harassment including sexual assault, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A Responsible Employee must report to the Title IX Coordinator and, if applicable, all relevant details about the alleged sexual misconduct shared by the victim so that the College can determine what happened, including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the College's response to the report and those with a "need to know." The following categories of employees are the College's Responsible Employees:

- College Administrators
- Title IX Coordinator and Deputy Coordinators
- Supervisors and Managerial Staff
- Faculty
- Campus Police
- Coaches

A complete list is available through the Title IX Coordinators.

Before a victim or bystander reveals any information to a Responsible Employee, the employee should ensure that the victim understands the employee's reporting obligations and, if the victim wants to maintain confidentiality, direct the victim to the confidential resources referenced above.

If the victim wants to tell the Responsible Employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request, but

cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the victim's request for confidentiality.

**C. Student Requesting Confidentiality from the College: How the College Will Weigh the Request and Respond**

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

If the College honors the request for confidentiality, a victim must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be diminished. The College may not be able to honor a victim's request in order to provide a safe environment for all students and employees.

The College has designated the following individual(s) to evaluate requests for confidentiality:

- Title IX Coordinator
- Vice-President for Instructional Services
- Director of Campus Police
- Legal Counsel

If the College determines that it cannot maintain a victim's confidentiality, the College will inform the student victim at the earliest point possible and will, to the extent possible, only share information with people responsible for handling the College response and those with a "need to know."

If the College determines that it can respect a victim's request for confidentiality, the College will also take immediate action as necessary to protect and assist the student victim. If a victim's request for confidentiality limits the College's ability to formally investigate a particular allegation, the College may take steps to limit the effects of the alleged sexual discrimination, misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Such action may include, but is not limited to providing increased monitoring, supervision or security at locations or activities where the alleged misconduct occurred.

**VII. Employee Reporting and Disclosing Sexual Misconduct of a Student or Employee**

In addition to the reporting requirements for Responsible Employees, all College employees who have information regarding sexual misconduct of a student or employee are encouraged to report it to the Title IX Coordinator or any Responsible Employee. Failure of a College employee to report sexual misconduct will subject the employee to discipline, up to and including discharge, except where the victim has requested confidentiality and reporting is not otherwise legally required.

**VIII. Other Procedures for Making a Report of Sexual Assault or Other Sexual Violence, Dating Violence, Domestic Violence or Stalking**

Although the College strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the local police. Campus Police will assist any victim who wants to make an investigative report. Campus Police will also assist any victim with notifying the police department where the incident occurred if they so desire. A victim can contact the Campus Police Department by calling 618-985-5550 or dial "0" from a campus phone. In the event of any emergency situation, a victim or observer should call 911 for assistance.

Campus Police has procedures in place that serve to be sensitive to those who report sexual assault, domestic violence, dating violence, and stalking, including informing individuals about their right to

file criminal charges as well as the availability of medical, counseling and support services, and additional remedies to prevent contact between a complainant and an accused party, such as housing, academic, transportation and working accommodations, if reasonably available. Victims should contact the Title IX Coordinator or a Deputy Title IX Coordinator.

After an incident of sexual assault, the victim should consider seeking medical attention as soon as possible at the nearest hospital or medical facility. Victims can contact Campus for assistance if needed. Medical attention is available 24 hours a day to assist sexual assault victims. See Appendix A – Resource and Referral Options.

In Illinois, evidence may be collected even if the victim chose not to make a report to law enforcement. If the complainant desires full confidentiality he/she should speak with a confidential Counselor, a clinic nurse or an off campus victim advocate. The College provides confidential individual counseling for students and employees. Individuals may choose to make a confidential report with them. Campus Police does take third party reports. With the victim's permission, the confidential Counselor may file a report on the details of the incident without revealing the victim's identity to the Campus Police. The purpose of a confidential report is to attempt to comply with the victim's wish to keep the matter confidential while taking steps to ensure the safety of the victim and others. If the College honors the request for confidentiality, the victim must understand that the College's ability to meaningfully make accommodations, investigate the incident and pursue disciplinary action against the alleged offender(s) may be limited. It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that evidence to prove the criminal activity may be preserved. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to investigators or the police.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with someone and taking steps to preserve evidence in the event that the victim changes his/her mind at a later date.

#### **IX. Interim Measures**

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

- Assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which could include the College obtaining a no-contact order, helping to change working arrangements or course schedules (including for the alleged perpetrator(s) pending the outcome of an investigation) or adjustments for assignments or tests; and
- Inform the victim of the right to report a crime to campus or law enforcement and provide the victim with assistance if the victim wishes to do so.

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

Because the College is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of such incidents (including non-identifying reports) will also prompt the



College to consider broader remedial action- such as increased monitoring, supervision, or security

at locations where the reported incident occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

**X. Miscellaneous**

- A. Take Back the Night and other public awareness events, such as candlelight vigils, protests, survivor "speak outs" or other forums in which students disclose incidents are not considered notice to the College of sexual discrimination, harassment or misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College may provide information about students' Title IX rights at these events
- B. Electronic Reporting: Although the College encourages victims to talk to someone, the College provides for an online system for electronic reporting for use by victims or bystanders. The system will notify the user (before s/he enters information) that entering personally identifying information may serve as notice to the College for the purpose of triggering an investigation. Electronic reports can be filed via the College's email system and callers will generally receive a response within 12 hours with a list of available resources absent an emergency. See Appendix A – Resource and Referral Options for email address.
- C. Anonymous Reporting: The College also provides for an anonymous reporting system for victims or bystanders. See Appendix A - Resource and Referral Options for phone number.
- D. Off-Campus Counselors and Advocates: Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the victim requests the disclosure and signs a consent or waiver form. Contact information for such off-campus resources is at Appendix A - Resource and Referral Options.

Note. While off-campus counselors and advocates may maintain a victim's confidentiality vis-a-vis the College, they may have reporting or other obligations under state law. Clery Act Reporting Obligations: Pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act," 20 USC 1092(f)). The College maintains a public crime log and publishes an Annual Security Report ("ASR") available to all current students and employees. The ASR documents three calendar years of select campus crime statistics (including statistics regarding incidents of dating violence, domestic violence, and stalking). Security policies and procedures and information on the basic rights guaranteed to victims of sexual assault. The Clery Act also requires the College to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees.

**XI. Title IX Complaint Investigation Procedures**

**A. Formal Investigation Process**

- 1. Initiation of Investigation by Title IX Coordinator: Upon receipt of a complaint of sexual misconduct under this Policy by a student victim or complainant, the Title IX Coordinator will appoint a trained investigator who will initiate a prompt, fair, and thorough investigation. The investigation will be coordinated by the Title IX Coordinator and/or one of the Deputy Coordinators (if a student), and the College will generally conclude the investigation within 60 calendar days or less. Where the allegations are complex or other factors delay the investigative process an extension may be granted by the Title IX Coordinator.

With respect to sexual misconduct complaints that relate to a College employee, the Title IX Coordinator and Department of Human Resources will manage the investigation into the allegations made against the College employee and will recommend appropriate

sanctions against the College employee. If the investigation involves both an employee or third party and a student, the Title IX Coordinator, Department of Human Resources and a Deputy Coordinator will jointly manage the investigation.

2. Interim Measures Provided: During the investigation, the Title IX Coordinator and/or a Deputy Coordinator (as applicable) will determine whether the victim and/or complainant receives interim measures as set forth above, and will advise the victim and/or complainant of the right to file a complaint with College Police or law enforcement agencies.
3. Notice to Respondent of Allegations: Generally, within 10 business days of receipt of a complaint by the Title IX Coordinator, the respondent will be given written notice of the general allegations against him/her (unless release of the evidence would endanger the health or safety of victim(s) or witness(es)).
4. Due Process Rights of Victim and/or Complainant and Respondent
  - a. The victim and/or complainant and respondent will each be afforded the right to present information and witnesses relevant to his or her case.
  - b. When the victim and/or complainant or respondent is requested to appear at an investigatory meeting or proceeding related to a complaint, he or she may be accompanied by an advisor. An advisor is defined as a family member, peer, staff/faculty member of the College, or a union representative. It does not include legal counsel or an attorney at law.
  - c. If the respondent is a College employee, then the College may follow any employee misconduct investigation procedures outlined in other applicable employee policies or collective bargaining agreement.
  - d. Evidence Considered: A trained investigator(s) will interview and receive evidence from the victim, complainant, respondent and any witnesses identified during the course of the investigation. The victim's prior sexual history with anyone other than the respondent will not be considered during the investigation or any proceeding related to a complaint. The mere fact of a current or previous consensual dating or sexual relationship between the victim and respondent does not itself imply consent.
5. Preservation of Evidence: Any physical evidence gathered by the investigator will be preserved by Campus Police.
6. Concurrent Criminal Investigation: The existence of a concurrent criminal investigation by law enforcement agencies will not necessarily delay or interrupt the investigation procedures outlined herein. However, the law enforcement agency may request that the College investigation be temporarily suspended. In such cases, the College will evaluate the law enforcement agency's request to determine whether and for how long to suspend its investigation.
7. Report of Investigation: At the conclusion of the investigation, the trained investigator will prepare a thorough report outlining the complaint, investigation conducted and all relevant evidence obtained; the investigator's conclusions with an explanation of reasoning and/or support for such conclusions; and recommendations for sanctions or other remedial action as appropriate. The investigator will submit his/her report to the Title IX Coordinator and a Deputy Coordinator (if a student is involved).

**B. Determination**

1. Determination: For student cases, the Title IX Coordinator and/or Deputy Coordinator (as appropriate) shall review the investigator's report and all evidence gathered to determine whether the student engaged in sexual misconduct in violation of College policy. The

determination of violations shall be made based on the preponderance of evidence, meaning whether it is more likely than not that this policy was violated.

For employee cases, the Title IX Coordinator will determine whether the employee engaged in sexual misconduct in violation of College policy.

2. Notice to Respondent: Generally, within seven (7) business days after receipt of the investigator's report (or some reasonable extension thereof), the Title IX Coordinator or the Deputy Coordinator will notify the student via certified mail, return receipt requested, of his/her determination. If the Title IX Coordinator or Deputy Coordinator determines that the respondent has violated the College's prohibition of sexual misconduct, this notification will also advise the student respondent of
  - a. Disciplinary sanctions; and
  - b. If a student, the right to appeal the determination and sanctions in accordance with the Appeal Procedures set forth below.

Employee respondents may follow any appeal or grievance process under any other applicable College Policies.

3. Notice to Victim and/or Complainant: Concurrently with the notice provided to respondent, the Title IX Coordinator or Deputy Coordinator (for students) will notify the victim and/or complainant of his/her determination. If the Title IX Coordinator or Deputy Coordinator determines that the respondent has violated the College's prohibition of sexual misconduct this notification will also advise the victim and/or complainant of:
  - a. Any individual remedies offered or provided to the victim and/or complainant,
  - b. Disciplinary sanctions imposed on the respondent that directly relate to the victim and/or complainant,
  - c. The right to appeal the determination and sanctions in accordance with the Appeal Procedures below: and

**C. Sanctions, Protective Actions, and Remedies**

1. Sanctions: Students who have violated the College's prohibition on sexual misconduct are subject to any sanctions set forth in the College's Code of Student Conduct or other Program policies, up to and including expulsion.

College employee respondents who have violated the College's prohibition of sexual misconduct will be subject to disciplinary action up to and including termination.

2. Protective Actions: The College may take protective measures as appropriate, including no-contact orders, trespass notices, or other protective measures. College Police will enforce court ordered no-contact, restraining and/or protective orders to the fullest extent.
3. Remedies: The College will administer remedies for the victim and/or complainant depending upon the specific nature of the complaint. In addition, the College may administer remedies for the College community as a whole.

Remedies for the victim and/or complainant may include, but are not limited to:

- Assisting the victim and/or complainant to change his/her academic and/or work environment if requested and if reasonably available;
- Providing an escort to ensure that the victim and/or complainant can move safely between classes, work and/or activities;
- Ensuring that the victim and/or complainant and the respondent do not attend the same classes;
- Identifying counseling services;

- Identifying medical services;
- Providing academic support services, such as tutoring;
- Arranging for the victim and/or complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the victim and/or complainant's academic record; and
- Reviewing disciplinary actions taken against the victim and/or complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the victim and/or complainant being disciplined.

Remedies for the College community as a whole may include, but are not limited to.

- Offering counseling, health, mental health, or other holistic and comprehensive victim services to all students and employees affected by sexual discrimination, harassment, and/or misconduct;
- Designating an individual from the College's counseling center to be available to assist victims of sexual discrimination, harassment and/or misconduct whenever needed;
- Developing materials on sexual discrimination, harassment and misconduct for campus-wide distribution to students, employees, and/or third-parties;
- Creating a committee of students and College officials to identify strategies for preventing and addressing sexual discrimination, harassment and misconduct; and
- Conducting periodic climate surveys to identify how students and employees perceive and experience sexual discrimination harassment and misconduct at the College.

**XII. Title IX Appeal Procedures for Student Victims and/or Complainants and Student Respondents**

**A. Appeal Request**

A victim and/or complainant or a student respondent who wishes to appeal the decision reached by the Title IX Coordinator or his/her designee at the conclusion of a formal investigation must submit a written request for appeal to the Appeal Board (AB). This request must be submitted to the Title IX Coordinator within 10 business days after receipt of the Title IX Coordinator/Deputy Coordinator's letter of determination. The appeal request must be typewritten, must indicate if the requestor wishes to appear in person before the AB, and must state the grounds for appeal. Appeals must be made on the basis of one or more of the following grounds:

1. Procedural error was committed.
2. The finding of facts contained in the decision included inaccurate information.
3. Specific evidence considered during the investigation is objectionable
4. Evidence not offered during the investigation is now available. In such cases, the new evidence must be described.
5. The sanction imposed is lenient, excessive or otherwise inappropriate.

Within 10 business days after receipt of the appeal request, the Title IX Coordinator or his designee will decide whether to grant the appeal based on whether the appeal meets one of the above enumerated grounds for appeal and shall inform the appellant by certified mail, return receipt request. If the appeal is granted, the matter will be referred to the AB, and the Hearing Procedures for the AB set forth below will be followed. In the event of an appeal, the decision(s) of the AB will be final in all cases, other than for cases resulting in a recommendation for suspension or expulsion.

In the event a student victim and/or complainant or a student respondent does not appeal within the required 10 business day period, the decision of the Title IX Coordinator and/or Deputy Coordinator will be final.

If the victim or respondent is a College employee, then any employee misconduct appeal procedures are as outlined in other applicable College policies, including grievance procedure.

**B. Establishment of the Standing AB**

A standing AB will hear cases and make recommendations on appropriate disciplinary cases referred to it or appealed to it by student victims, complainants and/or students who are the subject of disciplinary actions involving disciplinary suspension and expulsion. The AB will be established each fall and each member shall receive training as required by law. It will be composed of the following persons to be appointed by the College President:

- Dean for Student Services
- Dean for Academic Affairs
- Dean for Financial Operations
- Associate Dean for Admissions (alternate)
- Associate Dean for Education Technology (alternate)

None of the above-named persons may sit in any case in which they have a direct personal interest or played a role in the underlying investigation. Decisions in this regard will be made by the AB as a whole. The College President may appoint interim members as required.

**C. Hearing Procedures for the AB**

1. The hearing will be closed to the public.
2. The victim and/or complainant and respondent shall each be entitled to appear in person with an advisor (as defined above) and present his/her case to the AB, and call witnesses in his/her behalf.

When requested by the victim, the AB shall make arrangements so that the victim and respondent do not have to be in the same room at the same time (such as by arranging for participation via videophone, closed circuit television, video conferencing, or other means).

3. The hearing will begin with a presentation by the Title IX Coordinator/Deputy Coordinator of his/her determination, followed by a presentation by the appellant. The appellee may present his/her case as well.
4. The Title IX Coordinator/Deputy Coordinator, appellant and appellee may present information in oral and written form, by witnesses and/or through documents. The parties will be given an opportunity to question witnesses, except that the respondent may under no circumstances personally or through his/her advisor question the victim.
5. The AB reserves the right to hear the testimony of witnesses separately, so that the witnesses will not hear each other's testimonies.
6. Pertinent and relevant information will be reviewed by the AB without regard for the legal rules of evidence.
7. The Title IX Coordinator/Deputy Coordinator, appellant and appellee may make closing statements at the conclusion of the hearing on both the issue of misconduct and the issue of the recommended discipline.
8. An audio recording of the proceedings will be created and a record will be made

available to either party upon request.

9. The AB will render its written decision within 10 business days after the hearing, absent extenuating circumstances. The decision will be to affirm, reverse or modify the Title IX Coordinator/Deputy Coordinator's determination as to the violation of College policy and the sanction imposed (if any).
10. If a student respondent is found not to have engaged in sexual misconduct in violation of College policy, and if coursework has been missed as a direct result of the action taken against the student respondent, appropriate action will be taken to assist the student respondent in completing the course(s).
11. In all cases other than suspension or expulsion, the decision of the AB is final.
12. If the decision of the AB is to suspend or expel the student respondent, that decision will be transmitted to the Vice President for Instructional Services. The student respondent will then have two business weeks after the decision to appeal to the Vice President for Instructional Services via the grievance procedure. The appeal/grievance will consist of the student respondent's written statement of disagreement with the decision and argument for reversal, relevant documentation and the recording or transcript of the AB hearing. The Vice President for Instructional Services will review relevant information before making a decision. The Vice President for Instructional Services will render a decision to uphold the suspension or expulsion or to take other appropriate action.

**XIII. Procedures Governing Complaints Solely Involving Employees and/or Third Parties**

An employee or third party should notify the Title IX Coordinator/Vice President for Instructional Services if he or she believes that the College, its employees or agents have engaged in sexual misconduct in violation of Board Policy.

The Title IX Coordinator/Vice President for Instructional Services will address the complaint promptly and thoroughly as follows:

**A. Filing a Complaint**

An employee or third party (hereinafter "Complainant") who wishes to avail him or herself of this procedure may do so by filing a complaint with the Title IX Coordinator/Vice President for Instructional Services, or his or her designee. The Title IX Coordinator/Vice President for Instructional Services will request the Complainant to provide a written statement regarding the nature of the complaint and will request a meeting with the Complainant. The Title IX Coordinator/Vice President shall assist the Complainant as needed.

**B. Investigation**

Each complaint shall be investigated promptly, thoroughly, impartially, and as confidentially as possible. The Title IX Coordinator/Vice President for Instructional Services or his or her designee will investigate the complaint or appoint a qualified person to undertake the investigation on his/her behalf. As a general rule, all complaints will be investigated, even when the Complainant requests that nothing be done. The investigator will inform potential complainants, complainants, and witnesses that the College prohibits any form of retaliation against anyone who, in good faith, brings a complaint or provides information to the individual investigating a complaint.

**XIV. Training, Prevention and Education**

**A. For Students and Employees**

The College will review on an ongoing basis, its sexual misconduct prevention and education programming to ensure students and employees are provided substantive opportunities for training annually to learn about sexual misconduct including primary prevention, bystander

## **SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE**

### **AND STALKING POLICY PROHIBITION (CONTINUED)**

**8317**

intervention, risk reduction, consent, reporting methods, relevant College policies and procedures, retaliation, survivor strategies, the impact of trauma relevant definitions, and other pertinent topics. Students will also receive a copy of this Policy and the related protocols.

#### **B. For Employees**

The College will also provide annual survivor-centered and trauma-informed training to employees involved in: the receipt of a report of a student sexual violence; referral or provision of services to a survivor; any campus complaint resolution procedure for sexual violence.

#### **XV. Training for Designated Employees**

The Title IX Coordinator, Deputy Coordinators, College Police, Responsible Employees, investigators, victim advocates, counselors, legal counsel and anyone else involved in responding to, investigating or adjudicating sexual misconduct incidents must receive education and training on primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures confidentiality requirements relevant College policies and procedures, retaliation the impact of trauma, relevant definition, and other pertinent topics. The College will annually review its training offerings to identify ways in which to enhance its effectiveness.

#### **XVI. Publication**

The College shall prominently publish on its website, timely update and make available: its comprehensive policy; student notification of rights, contact information for Title IX coordinators; confidential resources and advisors and counseling services; and an explanation of responsibilities of Title IX coordinators, responsible employees; campus Police officials and mandated reporters.

#### **XVII. Task Force**

The College will also establish a campus-wide task force or participate in a regional task force focused on improving coordination between community leaders and service providers to prevent sexual violence. The task force shall meet a minimum of twice per year.

#### **XVIII. Reporting**

The College will comply with all reporting requirements established by the Board of Higher Education Act and the Preventing Sexual Violence in Higher Education Act.

ADOPTED: **JANUARY 24, 2017**  
AMENDED:  
REVIEWED:  
LEGAL REF.: **110 ILCS 155/1 ET.SEQ.**  
CROSS REF.: **8312, SEXUAL HARASSMENT OF STUDENTS**



**APPENDIX A  
RESOURCE AND REFERRAL OPTIONS**

*Sexual Assault/Harassment, Dating/Domestic Violence and Stalking  
It is always your right to decide to choose whether or not you report to the police and/or College Officials*

| <b>CONFIDENTIAL REPORTING</b>   | <b>VICTIM ASSISTANCE AND ADVOCACY</b>   | <b>MEDICAL ASSISTANCE</b>   | <b>CONTACT LAW ENFORCEMENT OR CAMPUS POLICE</b>   | <b>FILE A COMPLAINT/ASK FOR ACCOMMODATIONS</b>  |
|---|---|---|---|---|
| <p>Carolyn Gallegly<br/>Student Success Center<br/>Room C218A, Ext. 8290</p> <p>Christy McBride<br/>Testing Services<br/>Room C205D, Ext. 8496</p> <p>-----</p> <p>Optional:<br/>The Women's Center<br/>24-Hour Crisis Hotline<br/>800.334.2094<br/>TTY: 866.979.6636</p> <p>Carbondale Office<br/>618.549.4807</p> <p>Marion Satellite Office<br/>618.993.0803</p> | <p><b>The Women's Center</b><br/><a href="http://www.thewomensctr.org">www.thewomensctr.org</a></p> <p>24-Hour Crisis Hotline<br/>800.334.2094<br/>TTY: 866.979.6636</p> <p>Carbondale Office<br/>618.549.4807</p> <p>Marion Satellite Office<br/>618.993.0803</p> <p>Benton Office<br/>618.438.4118</p> <p>National Sexual Assault Hotline<br/>800-656-4673</p> <p>National Domestic Violence Hotline<br/>800-799-7233</p> | <p>Heartland Regional Medical Center, Marion, IL<br/>618.998.7000</p> <p>Herrin Hospital<br/>618.942.2171</p> <p>Marshall Browning Hospital<br/>Du Quoin, IL<br/>618.542.2146</p> <p>Memorial Hospital of Carbondale<br/>618.549.0721</p> | <p>JALC Campus Police<br/>Room E120<br/>618.985.5550</p> <p>Du Quoin Police Department<br/>618.542.2131</p> <p>West Frankfort Police Dept.<br/>618.435.6112</p> <p>Williamson Co. Sheriff's Dept.<br/>618.998.2247</p> <p><b>IN THE EVENT OF IMMEDIATE ASSISTANCE, DIAL 911</b></p> | <p>Title IX Coordinator<br/>Clay Brewer<br/>Room C116, Ext. 8589</p> <p>Deputy Title IX Coordinators:</p> <p>Adrienne Barkley Giffin<br/>Room B29, Ext. 8287</p> <p>Brian Bechtel<br/>Room E120, Ext. 8218</p> <p>Christina Loyd<br/>Room E120, Ext. 8218</p> <p>Johnna Herren<br/>Room C116, Ext. 8473</p> |