

**IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEX
DISCRIMINATION OR SEXUAL HARASSMENT
(INCLUDING SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING):**

If you or someone you know may have been a victim of the behaviors listed above or any other type of violence, you are strongly encouraged to seek immediate assistance.

**ASSISTANCE CAN BE OBTAINED 24 HOURS A DAY, 7 DAYS A
WEEK, FROM
THE BELMONT ABBEY COLLEGE POLICE
DEPARTMENT
(LOCATED AT 300 DREXEL CT
AND AVAILABLE BY PHONE AT 704-400-6200).**

During business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact one of the following individuals:

Rod Golding, Title IX Coordinator
704-562-9330; roderickgolding@bac.edu

For additional information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, see **Exhibit A** attached to this document.

SECTION I. SEX DISCRIMINATION AND HARASSMENT POLICY

1.01 Notice of Nondiscrimination

Belmont Abbey College ("BAC"), in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations ("Title IX") and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate on the basis of race, color, national origin, sex, pregnancy, disability, age, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, access to, or employment in, its programs and activities, except as otherwise permitted by law.

Discrimination and harassment are antithetical to the values and standards of the BAC community; are incompatible with the safe, healthy environment that the BAC community expects and deserves and will not be tolerated. BAC is committed to providing programs, activities, and an education and work environment free from discrimination and harassment. BAC is also committed to fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

Inquiries concerning discrimination or harassment on the basis of sex may be referred to BAC's Title IX Coordinator, Mr. Roderick Golding. Exhibit A to this document provides Mr. Golding's contact information.

Inquiries concerning discrimination or harassment based on a protected characteristic or status other than sex may contact the director of Human Resources and Operations (for employees) or the vice president of student affairs (for students). Exhibit A also provides their contact information.

Individuals may also make inquiries regarding discrimination or harassment to the U.S. Department of Education's Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone 800-421-3481; email: OCR@ed.gov.

Overview of This Policy.

Belmont Abbey College ("Belmont Abbey" or the "College") is a Catholic, Benedictine learning community committed to developing each member of the college community in mind, faith, and character for a life of meaningful work and service. Our identity as a Catholic, Benedictine institution is central to all we do and teach at Belmont Abbey College.

Belmont Abbey is owned by and affiliated with the Southern Benedictine Society of North Carolina, Inc., whose members are Benedictine Monks. The Monks founded the college on the basis of, and as an expression of, their Catholic faith. The Monks and the College itself believe that the Bible is the divinely inspired Word of God and thus has authority for all Christian life. On the basis of the Catholic faith, the Monks and the College also believe that the Church was founded by Jesus Christ and given authority by him authentically to interpret the Word of God and to teach with binding authority on questions of faith and morals. This authoritative teaching includes teaching about human sexuality and provides norms for morally acceptable behavior.

We affirm the dignity of all human beings and distinguish the inalienable dignity of each person from the behavioral choices a person makes. We believe that, as Catholics, we are called to treat all people with charity and respect, including those whose beliefs and behaviors differ from the teachings of the Catholic

Church. We are not able, however, in good conscience to support or affirm choices and behaviors that conflict with our identity as a Catholic, Benedictine institution. We will make institutional decisions in light of this policy regarding housing, student admission and retention, appropriate conduct, employment, hiring and retention, and other matters.

The College is committed to maintaining and strengthening an environment founded on civility and respect. The College also is committed to providing programs, activities and an educational environment free from sex discrimination. The College is committed to fostering a community that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of reports of Sexual Misconduct, and in furtherance of that commitment, this Policy sets forth available resources ([Exhibit A](#)), describes prohibited conduct, and establishes procedures for responding to reports of Prohibited Conduct.

1.02 Prohibition on Sex Discrimination and Harassment, Retaliation, and Providing False Information or Interfering with a Grievance Process

This Policy prohibits discrimination and harassment on the basis of sex. BAC strongly encourages the prompt reporting of, and is committed to timely and fair resolution of, complaints of sex discrimination and harassment.

Sexual Harassment, as defined by Title IX and herein,¹ is a specific type of sex discrimination/harassment that includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking and that BAC addresses using its Title IX Sexual Harassment Grievance Procedures, as required by Title IX.

This Policy also prohibits Retaliation, as defined by Title IX and herein. Complaints alleging Retaliation may be filed with the Title IX Coordinator and, at the discretion of the Title IX Coordinator, may be addressed under BAC's Title IX Sexual Harassment Grievance Procedures or other grievance procedures adopted by BAC.

Additionally, any individual who knowingly files a false Formal Complaint or who interferes with a BAC grievance process may be subject to disciplinary action. Interference with a grievance process may include, but is not limited to, attempting to coerce, compel, or prevent an individual from providing testimony or relevant information; removing, destroying, or altering documentation relevant to an investigation; or providing false or misleading information to BAC officials who are involved in the investigation and/or resolution of a Formal Complaint, or encouraging others to do so.

1.03 Reporting and Period of Limitations

A Complaint of Sexual Misconduct may be filed at any time, regardless of the length of time between the alleged Sexual Misconduct and the decision to file the Complaint. However, the College strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in reporting may compromise the subsequent investigation, particularly if neither the alleged victim nor the Respondent is employed by or enrolled at the College at the time.

Any person (whether or not alleged to be the victim) may report sex discrimination or harassment, including Sexual Harassment, in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator listed in [Exhibit A](#), or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).

¹ Capitalized terms used herein are defined in Section 1.06.

BAC *strongly encourages* all employees and other members of the BAC community to promptly report concerns regarding suspected or known discrimination/harassment on the basis of sex to the Title IX Coordinator.

In addition to the Title IX Coordinator, BAC has designated the following employees as individuals with the authority to institute corrective measures on behalf of BAC: President; Executive Vice President for Administration and Finance; Provost; Vice President for Advancement; Athletics Director; Associate Vice President of Human Resources and Operations; and Vice Provost and Dean of Students. Accordingly, these employees are *required* to report discrimination and harassment on the basis of sex to the Title IX Coordinator.

Additionally, BAC has designated the following employees as confidential resources for students.

Mr. Glen Aitken, Counselor – 704-461-5065

Ms. Merideth Wilson, Counselor – 704-461-5077

Information about sex discrimination or harassment shared with these confidential resources typically will not be reported to other BAC personnel (including the Title IX Coordinator), to the Respondent, or to others, unless the disclosing individual gives their consent to the disclosure or the law requires it (as may be the case with abuse involving a minor or under conditions involving imminent physical harm, for example). (Confidential resources may report *non-identifying* statistical information to the Title IX Coordinator for recordkeeping and compliance purposes.)

BAC will address allegations of sex discrimination and harassment appropriately no matter the length of time that has passed since the alleged conduct. However, BAC strongly encourages prompt reporting to preserve evidence for a potential legal or disciplinary proceeding. Delay may compromise the ability to investigate, particularly if the individuals involved in the alleged conduct are no longer BAC students or employees.

HOW AND WHERE TO REPORT ALLEGED SEXUAL MISCONDUCT

For information regarding seeking medical assistance and emotional support as well as important contact information for local law enforcement agencies and hospitals, see Exhibit A attached to this Policy.

Because Sexual Misconduct may in some instances constitute both a violation of College policy and criminal activity, and because the College grievance process is not a substitute for instituting legal action, **the College encourages individuals to report alleged Sexual Misconduct promptly to campus officials and to law enforcement authorities, where appropriate.**

Individuals may choose not to report alleged Sexual Misconduct to such campus officials and/or law enforcement authorities. The College respects and supports the individual's decision with respect to reporting; nevertheless, the College may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations at issue.

(a) Reporting to Local Law Enforcement:

Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may contact any of the following for assistance in filing a complaint with local law enforcement:

- (i)** The Belmont Abbey Campus Police Department, 24 hours a day, seven days a week, available by phone at 704-461-6200 and located in Raphael Arthur Hall residence hall,

- (ii) The College's Title IX Coordinator, Mr. Roderick Golding, from 8:00 a.m. to 5:00 p.m., Monday through Friday, available by phone at 704-461-6713 or by email at roderickgolding@bac.edu and located in Stowe Hall, Suite 115.
- (iii) The Office of Residence Life, from 8:00 a.m. to 5:00 p.m. Monday through Friday, available by phone at 704-461-6893 and located in O'Connell Hall.

Individuals may inform law enforcement authorities about Sexual Misconduct and discuss the matter with a law enforcement officer without making a formal criminal complaint (or a College Complaint). Individuals who make a formal criminal complaint may also choose to pursue a College Complaint simultaneously.

A criminal investigation into the matter does not exempt the College from conducting its own investigation. However, the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence. In the event of such a delay, the College may take interim measures when necessary to protect the alleged victim and/or the College community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate the matter is determinative of whether Prohibited Conduct, for purposes of the Policy, has occurred.

(b) Reporting to College Administration:

Individuals may choose not to report alleged Sexual Misconduct to campus officials. The College respects and supports the individual's decisions with respect to reporting; however, if information about Sexual Misconduct comes to the attention of the College, the College may (1) start an investigation even in the absence of a filed Complaint and/or (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

Anyone wishing to make a Complaint under this Policy should contact one of the following individuals or offices:

- (i) Title IX Coordinator. The College's Title IX Coordinator is Mr. Roderick Golding, whose office is located in Stowe Hall, Suite 115. Mr. Golding may be contacted during business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) by phone at 704-461-6713 or by email at roderickgolding@bac.edu.
- (ii) Campus Police Department. The Belmont Abbey Campus Police Department is located in Raphael Arthur residence hall. The Campus Police Department is also available by phone at 704-461-6200. Campus Police Officers are available 24 hours a day, seven days a week.
- (iii) Office of Residence Life. The Office of Residence Life is located O'Connell Hall. The Office of Residence Life is available during business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) by phone at 704-461-6893.
- (iv) Human Resources Office. The Human Resources Office is located Stowe Hall, Suite 115. The Human Resources Office is available during business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) by phone at 704-461-6714.

If any of the parties designated above is the Respondent or is otherwise at issue in a Complaint, or if an individual is otherwise uncomfortable making a complaint to one or more of the parties listed above, he or she may report alleged Sexual Misconduct to any other party or office listed above.

If an employee of the Belmont Abbey Campus Police Department, the Office of Residence Life, or the Human Resources Office receives a report of alleged Sexual Misconduct, that employee must promptly notify the College's Title IX Coordinator. An individual may report alleged Sexual Misconduct to a faculty or staff member other than those referenced above. No member of the College community may discourage an individual from reporting alleged incidents of Sexual Misconduct.

Reports of sexual misconduct can be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Human Resources office, or by any other means that results in the Human Resources office receiving the person's verbal or written report.

1.04 Applicability of Policy and Grievance Procedures

This Policy applies to any allegation of Sexual Misconduct made by or against a Student or an employee of the College or a third party, regardless of where the alleged Sexual Misconduct occurred, if the conduct giving rise to the report is related to the College's academic, educational, athletic, or extracurricular programs or activities. The College's disciplinary authority, however, may not extend to third parties who are not Students or employees of the College. Additionally, although there is no geographical limitation to invoking this Policy, Sexual Misconduct that is alleged to have occurred at a significant distance from the College and/or outside of College property may be more difficult for the College to investigate.

The Title IX Sexual Harassment Grievance Procedures apply only to allegations of Sexual Harassment in BAC's Education Program or Activity (as defined herein).²

BAC will address allegations of other types of sexual harassment (i.e., that do not meet the definition of Title IX Sexual Harassment) by: (1) using other student and employee conduct disciplinary procedures deemed appropriate by the Title IX Coordinator in consultation with other BAC administrators; and/or (2) with Supportive Measures, which are defined and discussed in more detail herein.

1.05 Rights of Parents

When a student Complainant or Respondent is a minor or has a guardian appointed and their parent or guardian has the legal right to act on the student's behalf, then the parent or guardian may file a Formal Complaint on behalf of the student, although the student would be the "Complainant." In such a situation, the parent or guardian may exercise the rights granted to the student under this Policy, including requesting Supportive Measures and participating in a grievance process. Similarly, the parent or guardian may accompany the student to meetings, interviews, and hearings during a grievance process to exercise rights on behalf of the student, while the student's Advisor of choice may be a different person from the parent or guardian. Whether or not a parent or guardian has the legal right to act on behalf of an individual would be determined by state law, court orders, child custody arrangements, or other sources granting legal rights to parents or guardians.

Additionally, FERPA and its implementing regulations address the circumstances under which a parent or guardian is permitted to inspect and review a student's education records. However, in circumstances in which FERPA would not grant a party the opportunity to inspect and review evidence in connection with a grievance process, pursuant to Title IX and its implementing regulations, the student has an opportunity to do so, and a parent or guardian who has a legal right to act on behalf of the student has the same opportunity.

1.06 Definitions Applicable to Policy and Grievance Procedures

Capitalized terms used herein are defined as follows.

"Actual Knowledge" means notice of Sexual Harassment or allegations of Sexual Harassment to BAC's Title IX Coordinator; President; Executive Vice President for Administration and Finance; Provost; Vice President for Advancement; Athletics Director; Associate Vice President of Human Resources and

² And, at the discretion of the Title Coordinator, to related allegations of Retaliation.

Operations; and Vice Provost and Dean of Students. **“Notice”** as used in this paragraph includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator.³

Assigned Title IX Coordinator. The “Assigned Title IX Coordinator” means either the Title IX Coordinator or the Deputy Title IX Coordinator assigned by the Title IX Coordinator to handle a given Complaint.

“Clery Act” refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

“Complainant” refers to the individual who is alleged to have been subject to Prohibited Conduct. A Complainant may be:

1. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
2. A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient’s education program or activity at the time of the alleged sex discrimination.

Confidential Employee refers to designated College Employees who are relieved of the obligation to report individualized information about a reported or witnessed incident of Prohibited Conduct to the Civil Rights Director/Title IX Coordinator and to whom a Complainant may speak confidentially.

Consent. “Consent” is informed, freely and actively given and mutually understandable words or actions that indicate a willingness to participate in mutually agreed-upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from:

- 1) Silence, passivity, or lack of resistance alone;
- 2) A current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else);
- 3) Attire;
- 4) The buying of dinner or the spending of money on a date; or
- 5) Consent previously given (i.e., consenting to one sexual act does not imply consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, intimidation, coercion or the threat expressed or implied, of bodily injury. Whether a party used intimidation or coercion to obtain consent will be determined by reference to the perception of a

³ This standard is not met through imputation of knowledge based solely on vicarious liability or constructive notice. This standard also is not met when the only individual with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one to whom notice of Sexual Harassment or allegations of Sexual Harassment constitutes Actual Knowledge.

reasonable person found in the same or similar circumstances.

Consent may never be given by:

- a) Minors, even if the other participant did not know the minor's age;
- b) Mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled; or
- c) Persons who are incapacitated (whether as a result of drugs, alcohol or otherwise), unconscious, asleep or otherwise physically helpless or mentally or physically unable to make informed, rational judgments. The use of alcohol or drugs does not diminish one's responsibility to obtain Consent and does not excuse conduct that constitutes Sexual Misconduct under this Policy.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness to continue and capacity to consent. Neither party should make assumptions about the other's willingness to continue.

Dating Violence. "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 following factors:
 - a) the length of the relationship,
 - b) the type of relationship, and
 - c) the frequency of interaction between the persons involved in the relationship.

"Day" means a calendar day, unless otherwise specified.

Deputy Title IX Coordinator(s). The College's "Deputy Title IX Coordinators" will be designated.

The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of Title IX-related Complaints. The Title IX Coordinator may, at his or her discretion, assign any of the Deputy Title IX Coordinators as the Assigned Title IX Coordinator in connection with a given Complaint.

Domestic Violence. "Domestic Violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited 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 North Carolina, as applicable, 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 North Carolina.

"Education Program or Activity" means all of BAC's operations and includes (1) locations, events, or circumstances over which BAC exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred; and (2) any building owned or controlled by a student organization that is officially recognized by BAC.

"Education Record" has the meaning assigned to it under FERPA.

“FERPA” is the Family Educational Rights and Privacy Act, a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 C.F.R. § 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.

Final Outcome Letter. The Hearing Panel shall provide the Complainant and Respondent with a Final Outcome Letter that is contemporaneous written notice of the written determination of the Hearing Panel. The Final Outcome Letter must include findings of fact, conclusions, and a rationale for any determination regarding responsibility and any disciplinary sanctions imposed on the Respondent.

“Formal Complaint” a document filed by a Complainant, or signed by the Title IX Coordinator, alleging Title IX Sexual Harassment against a Respondent and requesting that the college investigate the allegation of Title IX Sexual Harassment. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, and must contain the Complainant’s physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.

Hearing Panel. A panel consisting of trained faculty and staff that assemble to hear Formal Complaints and responses regarding allegations of prohibited conduct.

“Incapacitated” means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

Investigation:

Upon receiving a Formal Complaint, the Title IX Coordinator will decide whether to sign the Formal Complaint to initiate the investigation process by considering factors such as:

1. The seriousness / nature of the allegations;
2. Whether the alleged behavior or conduct presents a threat to individuals other than the Complainant;
3. Whether effective measures can be put in place to protect the Complainant against continued physical or psychological harm or retaliation;
4. Whether delaying an investigation could reasonably result in the destruction or deterioration of potential evidence to corroborate or refute the allegations;
5. Whether the College has received other reports allegedly committed by the same individual(s); and
6. Any other information that has a reasonable bearing on the decision.

Investigation Report – an investigation report fairly summarizing relevant evidence prepared by the investigator at the conclusion of the investigation.

Mandatory Reporter A faculty or staff member with any knowledge (including firsthand observation) about a known or suspected incident of prohibited conduct must report the incident to the College’s Title IX Coordinator (Excluded from this requirement are the College’s Strictly Confidential Resources. Also excluded from this requirement are College students who are also employees, except the Resident Advisors.) No employee is authorized to investigate or resolve Complaints without the involvement of the College’s Title IX Coordinator or an Assigned Title IX Coordinator.

Prohibited Conduct refers to any form of legally prohibited discrimination, harassment, and retaliation that is also prohibited under this Policy.

Respondent. A “Respondent” is an individual who has been accused of committing prohibited conduct.

“Retaliation” means (1) any adverse action (including direct and indirect intimidation, threats, coercion, discrimination, or harassment (including charges for conduct violations that do not involve sex discrimination or harassment or Sexual Harassment but that arise out of the same facts or circumstances as a report or Formal Complaint of sex discrimination or harassment or a report or Formal Complaint of Sexual Harassment) that is (2) threatened or taken against a person (a) for the purpose of interfering with any right or privilege secured by Title IX; or (b) because the person has made a report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Title IX.⁴

Sexual Exploitation. “Sexual Exploitation” means any act of taking non-Consensual, unjust or abusive sexual advantage of another person for one’s own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual Exploitation includes, but is not limited to:

- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such person;
- Prostituting another person (i.e., personally gaining money, privilege or power from the sexual activities of another);
- Non-Consensual videotaping, photographing, or audio-taping of sexual activity and/or distribution of these materials via media such as, but not limited to, the Internet;
- Exceeding the boundaries of Consent (e.g., allowing another person to observe Consensual sex without the knowledge of or Consent from all participants);
- Voyeurism; and
- Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.

“Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

(1) an employee of the BAC conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct. (commonly referred to as *quid pro quo* harassment);

(2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to BAC’s Education Program or Activity; or

(3) **“Sexual Assault”** means any actual, attempted, or threatened sexual act with another person without that person’s Consent. Sexual Assault includes but is not limited to:

- i) Rape and attempted Rape;
- ii) Intentional and unwelcome sexual touching (including disrobing or exposure), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without effective Consent, of a person’s breasts, buttocks, groin, or genitals (or clothing covering such areas), or coercing, forcing, or attempting to coerce or force another to touch

⁴ Retaliation does not include (1) the exercise of rights protected under the First Amendment; (2) charging an individual with making a materially false statement in bad faith in the course of a grievance proceeding (provided, however, that a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith); or (3) good faith actions lawfully pursued in response to a report of prohibited conduct.

- you, themselves, or a third party with any of these body parts or areas when such touching would be reasonably and objectively offensive;
- iii) Any sexual act in which there is force, violence, or use of duress or deception upon the victim;
 - iv) Any sexual act perpetrated when the victim is unable to give Consent; and
 - v) Sexual intimidation, which includes but is not limited to:
 - a. Threatening, expressly or impliedly, to commit a sexual act upon another person without his or her Consent,
 - b. Stalking or cyber-stalking, and
 - c. Engaging in indecent exposure.

(4) **“Dating Violence,”** as defined in 34 U.S.C. § 12291(a)(10): violence committed by a person—(A) who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship;

(5) **“Domestic Violence,”** as defined in 34 U.S.C. § 12291(a)(8): felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or has cohabitated with the alleged victim as a spouse or intimate partner, by a person similarly situated to a spouse of the alleged victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth alleged victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction; or

(6) **“Stalking,”** as defined in 34 U.S.C. § 12291(a)(30): engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Student. A “Student” is any person who is registered at the College or enrolled at the College (a) at the time of the alleged prohibited conduct *and* (b) at the time a Formal Complaint is filed.

“Supportive Measures” are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant and/or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to BAC’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or BAC’s educational environment or deter Sexual Harassment.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus. BAC will maintain as confidential any Supportive Measures provided to a Complainant or a Respondent, to the extent that maintaining such confidentiality would not impair BAC’s ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Title IX Coordinator. The College’s “Title IX Coordinator” is Mr. Roderick Golding, who may be contacted by phone at or by email at roderickgolding@bac.edu. The Title IX Coordinator has ultimate oversight responsibility for handling Title IX–related complaints and for identifying and addressing any patterns or systemic problems involving prohibited conduct. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or College processes, incidents, patterns or problems related to prohibited conduct on campus or in College programs. All allegations involving prohibited conduct should be directed to the Title IX Coordinator.

Title IX Pool. A group of individuals comprised of college employees (faculty and staff) and non-employees (e.g., external legal professionals, consultants) who have completed a mandatory college Title IX Training on the current Title IX regulations, and impartiality, bias, and evidentiary relevance. These individuals must remain free from conflicts of interest and may not have served as the investigator or the Title IX Coordinator for the specific matter in which they serve on the hearing panel.

SECTION II. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES

A. APPLICABILITY, COMPLAINT INTAKE, AND OVERARCHING PROVISIONS

2A.01 Applicability of Grievance Procedures

As noted above, these Grievance Procedures apply to allegations of Sexual Harassment in BAC's Education Program or Activity (and to related Retaliation, at the discretion of the Title IX Coordinator). BAC treats Complainants and Respondents equitably by providing remedies to a Complainant where BAC makes a determination of responsibility for Sexual Harassment against a Respondent under these Grievance Procedures and also by following these Grievance Procedures before imposing any disciplinary sanctions against a Respondent for Sexual Harassment.

2A.02 Obligation to Respond and Initial Outreach to Complainant

When BAC has Actual Knowledge of Sexual Harassment (or allegations thereof) against a person in the United States in its Education Program or Activity, BAC is obligated to respond and to follow Title IX's specific requirements, which are addressed and incorporated in these Grievance Procedures.

Promptly upon receiving allegations of Sexual Harassment against a person in the United States in BAC's Education Program or Activity, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint and to explain to the Complainant the process for filing a Formal Complaint.

Initial Meetings with the Assigned Title IX Coordinator.

- (i) Alleged Victim's Initial Meeting with the Assigned Title IX Coordinator.** As soon as is practicable, the Assigned Title IX Coordinator will contact the Complainant to schedule an initial meeting. At this initial meeting, the Assigned Title IX Coordinator will, as applicable:
- 1)** provide the alleged victim a copy of this Policy;
 - 2)** explain avenues for formal resolution and informal resolution (mediation) of a Formal Complaint;
 - 3)** explain the steps involved in a Sexual Misconduct investigation;
 - 4)** discuss confidentiality standards and concerns with the alleged victim;
 - 5)** provide the alleged victim a Sexual Misconduct Formal Complaint Form (a copy of which is attached to this Policy as Exhibit C) and determine whether the alleged victim wishes to file a Formal Complaint and participate in the College's investigation and resolution of the Formal Complaint⁵;
 - 6)** refer the Complainant to the College's Counseling Services office or other resources, as appropriate;

⁵ An alleged victim who elects to file a Complaint and participate in the College's investigation and resolution of the Complaint becomes a Complainant for the purposes of this Policy. Even when an alleged victim is not cooperative or requests that the College not pursue an investigation, Title IX requires the College to take reasonable action in response to the information known to it. Thus, the College may take such measures as are deemed appropriate by the Assigned Title IX Coordinator.

- 7) discuss protection from, and reporting of, Retaliation; and
- 8) discuss with the alleged victim, as appropriate, possible interim measures that can be provided to the alleged victim during the pendency of the investigative and resolution processes. The College may implement such measures if appropriate and reasonably available, whether a Formal Complaint has been filed (with either campus administrators or law enforcement agencies) or whether an investigation (by either campus administrators or law enforcement agencies) has commenced. Interim measures may include, but are not limited to:
 - a) issuing no-contact orders to prevent any contact between the alleged victim, the Respondent, witnesses, and/or third parties;
 - b) providing the alleged victim an escort to ensure that he or she can move safely between classes, work, and/or other activities;
 - c) changing an alleged victim's or a Respondent's on-campus housing, if any, to a different on-campus location and providing assistance from College support staff in completing the relocation;
 - d) arranging to dissolve a campus housing contract and offering a pro-rated refund;
 - e) changing work arrangements;
 - f) rescheduling class work, assignments, and examinations;
 - g) arranging for the alleged victim to take an incomplete in a class;
 - h) moving the alleged victim or the Respondent from one class section to another;
 - i) permitting a temporary withdrawal from the College;
 - j) providing alternative course completion options;
 - k) providing counseling services; and
 - l) providing academic support services.

Following the initial meeting with the alleged victim, the Assigned Title IX Coordinator will, if applicable, promptly determine the interim measures to be provided to the alleged victim. Such determination will be promptly communicated to the alleged victim (and in no event later than the point at which it is communicated to the Respondent) and the Respondent.

2A.03 Filing of a Formal Complaint

As noted in the Definitions section above, a Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment and/or retaliation against a Respondent and requesting that BAC investigate the allegation(s). At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in BAC's Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Exhibit A and the Formal Complaint Form listed in Exhibit B. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the Formal Complaint.

When the Title IX Coordinator believes that, with or without the Complainant's desire to participate in a grievance process, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under these Grievance Procedures. Furthermore, initiation of a Formal Complaint by the Title IX Coordinator is not sufficient alone to imply bias or that the Title IX Coordinator is taking a position adverse to the Respondent.

Once a Formal Complaint is initiated, an alleged victim will be referred to as a "Complainant," and an alleged perpetrator will be referred to as a "Respondent."

Requests Not to Investigate and Refusals to File a Formal Complaint or to Cooperate.

Alleged victims may (i) request that the College not investigate the information or allegation(s) reported, (ii) refuse to file a Formal Complaint, and/or (iii) refuse to cooperate in the investigation and/or resolution of allegation(s).

The College takes such requests and decisions seriously; however, such requests and decisions may limit the College's ability to investigate and take reasonable action in response to a Formal Complaint. In such cases, the College will evaluate such requests and decisions in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment.

In order to make such an evaluation, the Assigned Title IX Coordinator may conduct a preliminary investigation into the alleged prohibited conduct and may weigh such requests and decisions against the following factors:

- (i) the seriousness of the alleged prohibited conduct;
- (ii) the alleged victim's age;
- (iii) whether there have been other Formal Complaints of prohibited conduct against the Respondent;
- (iv) the Respondent's right to receive information about the allegations if the information is maintained by the College as an "education record" under FERPA; and
- (v) the applicability of any laws mandating disclosure.

The Assigned Title IX Coordinator will inform the person requesting that the College not pursue an investigation, refusing to file a Formal Complaint and/or refusing to participate in the investigation or resolution of allegations of prohibited conduct if the College intends to pursue investigation and/or resolution in spite of the person's request or refusal.

Regardless of an individual's requests or decisions, Title IX requires the College to take reasonable action in response to the information known to it. Thus, the College may take such measures as are deemed necessary by the Assigned Title IX Coordinator.

Additionally, even if the College cannot take disciplinary action against the Respondent because of a refusal to file a Formal Complaint or participate in the investigation and/or resolution of allegations, to the extent practicable and appropriate, the College will take prompt action to limit the effects of the alleged prohibited conduct and to prevent its recurrence. For instance, the College may issue a "no-contact" order or take other appropriate interim measures to ensure an individual's safety even in the absence of a formal proceeding.

The Formal Complaint or other information regarding alleged prohibited conduct may also be used as an anonymous report for data collection purposes under the Clery Act.

2A.04 Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide the Complainant and any known Respondent written notice of these Grievance Procedures and of the allegations of conduct potentially constituting Sexual Harassment, including sufficient details known at the time and with at least five days to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known.

The written notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice also will inform the parties that they may have an Advisor of their choice, who may be, but is not required to be, an attorney and that at appropriate junctures the parties and their Advisors may review and inspect evidence collected during the investigation. Additionally, the written notice will inform the parties of BAC's prohibition on knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, BAC decides to investigate allegations of Sexual Harassment involving the Complainant or Respondent that are not included in the original written notice of allegations, BAC will provide notice of the additional allegations to the parties whose identities are known.

Respondent's Initial Meeting with the Assigned Title IX Coordinator. If the alleged victim wishes to pursue a formal or informal resolution through the College or if the College otherwise deems that further investigation is warranted, as soon as is reasonably practicable after the Assigned Title IX Coordinator has issued the Notice of Allegations and investigation, the Assigned Title IX Coordinator will schedule an initial meeting with the Respondent. During the initial meeting with the Respondent, the Assigned Title IX Coordinator will, as applicable:

- 1) provide the Respondent, in writing, sufficient information consistent with state and federal privacy laws and, if applicable, the alleged victim's request for confidentiality, to allow him or her to respond to the substance of the allegation, including, if possible, the name of the Complainant and the alleged victim (if not the Complainant) and the date, location and nature of the alleged Sexual Misconduct;
- 2) provide the Respondent a copy of this Policy;
- 3) explain the College's procedures for formal resolution and informal resolution (mediation) of the Formal Complaint;
- 4) explain the steps involved in a Sexual Misconduct investigation;
- 5) discuss confidentiality standards and concerns with the Respondent;
- 6) discuss non-Retaliation requirements with the Respondent;
- 7) inform the Respondent of any interim measures already determined and being provided to the Complainant and the alleged victim (if not the Complainant) that directly affect the Respondent (e.g., changing his or her class schedule, or moving him or her to an alternate residence hall);
- 8) refer the Respondent to the College's Counseling Services office and other resources, as appropriate; and discuss with the Respondent, as appropriate, possible interim measures that can be provided to the Respondent (such as those set forth above) during the pendency of the investigative and resolution processes. The College may implement such measures if appropriate and reasonably available, whether a Formal Complaint has been filed or whether an investigation by either campus administrators or law enforcement agencies has commenced.

2A.05 Dismissal

BAC will investigate the allegations in a Formal Complaint; however, BAC *will* dismiss a Formal Complaint or a portion of the allegations therein if (1) the conduct alleged in the Formal Complaint, even if substantiated, would not constitute Sexual Harassment; (2) (unless the Formal Complaint is signed by the Title IX Coordinator) at the time of filing the Formal Complaint the Complainant was not participating in or attempting to participate in BAC's Education Program or Activity; (3) the conduct alleged in the Formal Complaint did not occur in BAC's Education Program or Activity; or (4) the conduct alleged in the Formal

Complaint did not occur against an individual in the United States. Such a dismissal may take place at the conclusion of the investigation or at any time prior to the conclusion of the investigation.

Additionally, BAC *may* dismiss a Formal Complaint or a portion of the allegations therein if (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed at BAC; or (3) despite efforts to do so, BAC is unable to gather evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

In the event the Title IX Coordinator determines that dismissal of a Formal Complaint or a portion of the allegations is appropriate, the Title IX Coordinator will promptly notify the parties in writing of the dismissal and the reasons for it. Dismissal does not impair BAC's ability to proceed with any appropriate investigatory or disciplinary actions under the Sex Discrimination and Harassment Policy or another BAC policy or procedure and/or to provide Supportive Measures to the parties.

Either party may appeal a decision to dismiss a Formal Complaint or a portion of the allegations on the following grounds by submitting a written appeal to the Title IX Coordinator within five days of the issuance of the written notice of the dismissal: (1) procedural irregularity that affected the decision to dismiss; (2) new evidence that was not reasonably available at the time of dismissal and that could affect the outcome of the matter; or (3) the Title IX Coordinator or other participant in the dismissal having a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the decision to dismiss.

The Title IX Coordinator will promptly notify the other party of the appeal, and the non-appealing party may submit a response to the appeal within three days of notification of the appeal.

The Title IX Coordinator will appoint an appeal officer and will contemporaneously share the appeal officer's name and contact information with the Complainant and the Respondent.

Within two days of such appointment, the Complainant, or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias on the part of the appeal officer. The Title IX Coordinator will consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

The Title IX Coordinator will forward the Formal Complaint and any documents upon which the dismissal decision was based, as well as the appeal and any response to the appeal to the appeal officer.

Within seven days of receipt of those materials, the appeal officer will determine whether any of the grounds for appeal warrant overturning or modifying the dismissal. The decision by the appeal officer is final.

2A.06 Advisors

The Complainant and the Respondent may be accompanied to any meeting or proceeding under these Grievance Procedures by the Advisor of their choice, who may be, but is not required to be, an attorney. BAC will not limit the choice or presence of the Advisor for either the Complainant or the Respondent in any meeting or grievance proceeding.

Advisors, however, are not allowed to disrupt any such meeting or proceeding or to speak on behalf of the Complainant or the Respondent, with the exception of cross-examination during any Live Hearing conducted under these Grievance Procedures, which must be conducted by an Advisor and never personally by the Complainant or the Respondent.

Parties must provide the name and contact of their Advisor to the Title IX Coordinator in writing as soon as reasonably possible and must provide updated information if their Advisor changes.

If a party does not have an Advisor present at the Live Hearing, BAC will provide, without any charge to that party, an Advisor of BAC's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Absent accommodation for a disability, the Complainant and the Respondent may not be accompanied by more than one Advisor or by other individuals during meetings or proceedings under these Grievance Procedures.

2A.07 Amnesty

BAC considers the reporting and adjudication of Sexual Harassment to be of paramount importance. BAC does not condone underage drinking or the use of illegal drugs; however, BAC may extend amnesty to Complainants, Respondents, witnesses, and others involved in a grievance process from punitive sanctioning for illegal use of drugs and/or alcohol when evidence of such use is discovered or submitted in the course of a grievance process. Similarly, BAC may, in its discretion, provide amnesty for other conduct code violations that are discovered in the course of a grievance process.

2A.08 Timing

BAC will make every reasonable effort to ensure that the investigation and resolution of a Formal Complaint occurs in as timely and efficient a manner as possible. The timelines set forth in these Grievance Procedures are guidelines and may be altered for good cause with written notice to the Complainant and the Respondent of any delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity; natural disasters, pandemic restrictions, and similar occurrences; or the need for language assistance or accommodation of disabilities.

BAC will strive to complete its investigation and resolution of a Formal Complaint (not including an appeal, if applicable) within 90 days of the receipt of the Formal Complaint, absent extenuating circumstances. Live Hearings generally will take place within 20 days of the conclusion of the investigation. Within seven days of the conclusion of the Live Hearing, both the Complainant and the Respondent will receive a final outcome letter.

In extraordinary circumstances, either party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator will review the request and will make a determination with regard to the request within three days.

2A.09 Written Notice of Meetings

BAC will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all Live Hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

2A.10 Effect of Corollary Criminal Investigation

BAC's investigation may be delayed temporarily while criminal Investigator are gathering evidence. In the event of such a delay, BAC will implement any appropriate Supportive Measures and will evaluate the need for other actions necessary to assist or protect the Complainant, the Respondent, and/or the BAC community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate a matter is determinative of whether Sexual Harassment has occurred in the eyes of BAC.

2A.11 Emergency Removal and Administrative Leave

BAC may remove a Respondent from BAC's Education Program or Activity on an emergency basis, provided that BAC first undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and does so in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.

Additionally, BAC may place a non-student employee Respondent on administrative leave during the pendency of BAC's response to allegations of Sexual Harassment provided that it does so in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

2A.12 Effect of Respondent Withdrawal, Graduation, or Resignation During Grievance Process

At the discretion of BAC, if a Formal Complaint is dismissed because of or in connection with a Respondent's withdrawal, graduation, or resignation from BAC, BAC may reinstate and further investigate and resolve the Formal Complaint if the Respondent later seeks to re-enroll or work again at BAC.

2A.13 Privacy and Disclosure

Except as may be permitted by FERPA or as required by law or to carry out any investigation or resolution of sex discrimination or harassment allegations, BAC will keep private the identity of any individual who has made a report or Formal Complaint of sex discrimination or harassment (including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any Respondent, and any witness.

BAC may report alleged Sexual Harassment to local law enforcement if warranted by the nature of the allegations at issue, and BAC administrators will share information regarding alleged Sexual Harassment, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Harassment, and address the effects of the Sexual Harassment. Additionally, information regarding alleged Sexual Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.

To comply with FERPA, Title IX, and other applicable laws and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, grievance processes carried out under these Grievance Procedures are not open to the general public. Accordingly, documents prepared in connection with such processes; documents, statements, or other information introduced in interviews, meetings, and proceedings; and the final outcome letter may not be disclosed outside of those processes except as may be required or authorized by law.

As permitted by and subject to the limitations of FERPA, BAC reserves the right to notify parent(s) or guardian(s) of a student Respondent of the outcome of any investigation involving that Respondent, redacting names of any other students who do not consent to the disclosure of their information. At the written request of a party, BAC may include a party's Advisor on communications and share access to documents, including the investigation report. This access is subject to the Advisor's acknowledgment and agreement to maintain the confidentiality of the documents. While BAC strongly encourages parties to maintain privacy in connection with a grievance process, BAC does not prohibit parties from discussing the allegations under investigation or in any way inhibit the parties from gathering or presenting relevant

evidence. In addition, BAC's policy does not prohibit disclosure of the final outcome letter by either the Complainant or the Respondent.

2A.14 Confidentiality.

- (i) Standard of Confidentiality (Applicable to All Complaints).** The College will respect and will make every feasible effort to properly preserve the confidentiality of the information shared by and the identities of the parties involved in Sexual Misconduct matters.

In keeping with this respect for confidentiality (and except as set forth in Section II(d)(ii) below), information regarding alleged Sexual Misconduct will generally be disclosed by College personnel only as follows:

- 1) The College's Responsible Employees will (and are obligated to) report information regarding alleged Sexual Misconduct to the Title IX Coordinator.
- 2) College personnel will (and are obligated to) handle information regarding alleged Sexual Misconduct in accordance with applicable local, state, and federal laws. For example, under conditions of potential imminent harm to the community, the College may be required by federal law to inform the community of the occurrence of the alleged incident(s) of Sexual Misconduct. Similarly, information regarding the alleged Sexual Misconduct may be used as an anonymous report for data collection purposes under the Clery Act.
- 3) College personnel may report alleged Sexual Misconduct to local law enforcement if warranted by the nature of the allegations at issue.
- 4) College administrators will share information regarding alleged Sexual Misconduct, as appropriate and necessary, in order to address and resolve the Formal Complaint at issue, prevent the recurrence of similar Sexual Misconduct, and address the effects of the Sexual Misconduct.

Please note that the College cannot control disclosures by students or third parties.

(ii) Strict and Heightened Confidentiality.

- 1) **Strict Confidentiality.** Individuals may discuss alleged Sexual Misconduct in strict confidence with College employees working in the following offices ("Strictly Confidential Resources"):
 - (a) The College's Counseling Services; and
 - (b) Campus Ministry.

This means that Personally Identifiable Information shared with Strictly Confidential Resources is not part of students' or employees' College records and will not be reported to other College personnel, to the Respondent, or to others (unless the disclosing individual gives his or her consent to the disclosure or the law requires it (as may be the case with alleged Sexual Misconduct involving a minor or under conditions of imminent physical harm, for example)).

Strictly Confidential Resources are not Responsible Employees and therefore are not required to (and will not, absent direction from the disclosing individual to do so) report incidents of alleged Sexual Misconduct to the Title IX Coordinator. For purposes of clarity, please understand that College employees who are not Strictly Confidential Resources are Responsible Employees. Communications made to Responsible

Employees (and others) are not entitled to the same confidentiality protections as those made to Strictly Confidential Resources.

- 2) **Heightened Confidentiality.** If information regarding alleged Sexual Misconduct is shared with a Responsible Employee, the Responsible Employee is obligated to report that information to the Title IX Coordinator. If the alleged victim to whom the information pertains desires that the Title IX Coordinator not share the information with the Respondent or with others, even as appropriate and necessary to address the allegations, such individual must request that the College apply heightened confidentiality to such information. This request must be made to the Title IX Coordinator.

The College takes requests for heightened confidentiality seriously; however, such requests may limit the College's ability to investigate and take reasonable action in response to a Formal Complaint.⁶ The College must therefore evaluate heightened confidentiality requests in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment. In order to make such an evaluation, the Title IX Coordinator may conduct a preliminary investigation into the alleged Sexual Misconduct and may weigh requests for heightened confidentiality against the following factors:

- (a) the seriousness of the alleged Sexual Misconduct;
- (b) the alleged victim's age;
- (c) whether there have been other Formal Complaints of Sexual Misconduct against the Respondent;
- (d) the Respondent's right to receive information about the allegations if the information is maintained by the College as an "education record" under FERPA; and
- (e) the applicability of any laws mandating disclosure.

The Title IX Coordinator will inform the person requesting heightened confidentiality of the College's limitations on maintaining heightened confidentiality and whether the College intends to pursue investigation and/or resolution in spite of the person's request.

Even when the College determines to abide by a request for heightened confidentiality (and even if such request limits the College's ability to take disciplinary action against the Respondent):

- (i) To the extent practicable and appropriate, the College will take prompt action to limit the effects of the alleged Sexual Misconduct and to prevent its recurrence. For instance, the College may take appropriate interim measures to ensure an individual's safety even in the absence of a College proceeding.
- (ii) Information regarding the alleged Sexual Misconduct may be included in College records, as necessary and appropriate.
- (iii) College personnel will (and are obligated to) handle information regarding alleged Sexual Misconduct in accordance with applicable local, state, and federal

⁶ A Respondent has a right to know the name of the accuser and information regarding the nature of the allegations in order to defend against the Complaint; thus, the College may not be able to both adjudicate the Complaint and maintain the confidentiality of the Complainant during that process.

laws. For example, under conditions of potential imminent harm to the community, the College may be required by federal law to inform the community of the occurrence of the alleged incident(s) of Sexual Misconduct. Similarly, information regarding the alleged Sexual Misconduct may be used as an anonymous report for data collection purposes under the Clery Act.

Please note that the College cannot control disclosures by students or third parties.

2A.15 Conflicts of Interest, Bias, and Training

BAC will ensure that any individual designated by BAC as a Title IX Coordinator, investigator, decision-maker, or informal resolution facilitator under these Grievance Procedures does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If any employee designated to participate in the investigation or resolution of a Formal Complaint is the Respondent or a relevant witness, then the Title IX Coordinator will appoint another employee to perform their duties. (If the Title IX Coordinator is the Respondent, then the President will appoint another employee to perform their duties.)

BAC also ensures that Title IX Coordinators, Investigator, decision-makers, Advisors, and informal resolution facilitators receive training, as applicable, on the definition of Sexual Harassment; the scope of BAC's Education Program or Activity; how to conduct an investigation and grievance process, including Live Hearings, appeals, and informal resolution processes; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

BAC further ensures that decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, and that Investigator receive training on issues of relevance to create an Investigation Report that fairly summarizes relevant evidence. Additionally, BAC ensures that decision-makers receive training on any technology to be used at live hearings.

Materials used to train Title IX Coordinators, Investigator, decision-makers, Advisors, and informal resolution facilitators will not rely on sex stereotypes and promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

2A.16 Burden of Proof

At all times, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on BAC, not on either of the parties. The standard of proof will be the preponderance of the evidence, which means that the evidence more likely than not demonstrates a finding of responsibility on the part of the respondent.

2A.17 Presumption of No Responsibility until Determination

Respondents are presumed to be not responsible for alleged Prohibited Conduct until BAC makes a determination regarding responsibility pursuant to these Grievance Procedures.

2A.18 Objective Evaluation of All Relevant Evidence; Credibility Determinations

The Investigator and decision-makers under these Grievance Procedures will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.

2A.19 Academic Freedom

BAC affirms its commitment to academic freedom but notes that academic freedom does not allow any form of Prohibited Conduct. BAC recognizes that an essential function of education is a probing of opinions and an exploration of ideas, some of which, because they are controversial, may cause students and others discomfort. This discomfort, as a product of free academic inquiry within a faculty member's area(s) of expertise, shall in no way be considered or construed to constitute Sexual Discrimination. Academic inquiry may involve teaching, research and extramural speech. Furthermore, nothing in this document shall be interpreted to prohibit bona fide academic requirements for a specific BAC program or activity. When investigating Formal Complaints that a party or the Title IX Coordinator believes may involve issues of academic freedom, the Title IX Coordinator will consult with the Vice President for Academic Affairs with respect to contemporary academic practices and standards.

2A.20 Documentation

BAC will retain documentation (including but not limited to any Formal Complaint, notifications, recording or transcripts of interviews, Investigation Report, written findings of fact, petitions for appeal, notifications of decisions (including the final outcome letter), audio recordings of Live Hearings, and written communication with the Complainant and Respondent), for no less than seven years.

2A.21 Consolidation of Formal Complaints

BAC may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, by more than one Complainant against one or more Respondents, or by one party against the other party where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in these Grievance Procedures to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

2A.22 Individuals with Disabilities

BAC will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in BAC's grievance processes. Student requests for accommodation must be made to Ms. Kimberly Stallings, Coordinator of Accessibility Services at 704-460-6228 or kimberlystallings@bac.edu. All other requests for accommodation must be made to Mr. Rod Golding at roderickgolding@bac.edu.

B. THE INVESTIGATION

2B.01 Appointment of Investigator and Challenging of the Same

The Assigned Title IX Coordinator's Initial Determination Not to Proceed.

The Assigned Title IX Coordinator will determine that further investigation of a Formal Complaint should be conducted unless it is clear on the face of the Formal Complaint and/or based on the Assigned Title IX Coordinator's initial meetings with the parties that no reasonable grounds exist for believing that the Respondent engaged in Prohibited Conduct.

In the event that the Assigned Title IX Coordinator determines that further investigation is not warranted, he or she will determine and document (in consultation, as necessary, with the Complainant, Respondent, and other College administrators) the appropriate resolution of the Formal Complaint and inform the parties of the same.

The Complainant and/or the Respondent may appeal the Assigned Title IX Coordinator's decision in writing to the college's Vice President for Finance, Administration, and Operations within ten days of receipt of the notice of closure.⁷ Following the receipt of an appeal, the Vice President for Finance, Administration, and Operations will make a determination as to whether the Formal Complaint should proceed or the case should be closed and whether any additional or different remedial action is necessary. The Vice President of Finance will notify the Complainant and the Respondent concurrently of his or her decision, which shall be final.

The Appointment of the Investigator.

If the Assigned Title IX Coordinator determines that further investigation is warranted, he or she will promptly appoint an Investigator and will share his or her name and contact information with the Complainant and the Respondent and will forward the Formal Complaint to the Investigator.

Within three days of such appointment, the Investigator, the Complainant or the Respondent may identify to the Assigned Title IX Coordinator in writing any real or perceived conflicts of interest posed by assigning such Investigator to the matter. The Assigned Title IX Coordinator will carefully consider such statements and will assign a different individual as Investigator if it is determined that a material conflict of interest exists.

2B.02 The Investigator's Activities

Upon receipt of the Formal Complaint, the Investigator will promptly begin his or her investigation.

Notice of Investigation and Allegations– The Investigator shall notify the Complainant and Respondent in writing that an investigation of the Formal Complaint has been opened ("notice of investigation" or "NOIA"). The notice must include sufficient details known at the time and provide the Respondent with sufficient time to prepare a response before any initial interview. Sufficient details include:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged

⁷ If the Vice President of Finance, Administration, and Operations is the Complainant or Respondent, then the Title IX Coordinator will appoint another College administrator to stand in the Vice President of Finance, Administration, and Operations role in performing the duties under this Policy.

- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to identify to the Civil Rights Director/Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share the College's work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Details on how a party may request disability accommodations during the Resolution Process
- An instruction to preserve any evidence that is directly related to the allegations

Amending Notice – If, in the course of an investigation, the Investigator decides to investigate allegations about the Complainant or Respondent that are not included in the notice of investigation, the Investigator must provide notice of the additional allegations to the parties whose identities are known.

The Investigator shall take proceed with the investigation, including taking the following measures:

- 1) conducting interviews with the Complainant, the Respondent, and third-party witnesses (including expert witnesses, where applicable) and summarizing such interviews in written form;
- 2) visiting, inspecting, and taking photographs at relevant sites; and
- 3) where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies).

Throughout the investigation, the Investigator will remain neutral.

The Investigator will complete a written Investigation Report that includes items such as summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question (the "Investigation Report"). The Investigator will share the Investigation Report with the Assigned Title IX Coordinator, who will distribute it, concurrently, to the Complainant and the Respondent. All parties to whom the Investigation Report is distributed pursuant to this Policy must maintain it in confidence.

2B.03 The Investigation Report and Evidence Review

The Investigator will prepare a written Investigation Report that fairly summarizes relevant evidence and includes items such as the Formal Complaint, written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of relevant evidence, and summaries or copies of relevant electronic records.

Prior to the completion of the Investigation Report, the Investigator will send to each party and the party's Advisor, if any, an electronic or hard copy of any evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including (1) any evidence upon which BAC does not intend to rely in reaching a determination regarding responsibility; and (2) both inculpatory and exculpatory evidence.

The parties have ten days from the time that the evidence is provided to submit to the Investigator a written response to the evidence. In the response, the parties may address the relevancy of any evidence that the parties believe should be included in or excluded from the Investigation Report and may also address any further investigation activities or questions that they believe are necessary. If a party wishes to submit additional evidence at this stage, they should explain how the evidence is relevant and why it was not previously provided.

If, before issuance of the Investigation Report, the Investigator gathers or receives additional evidence that is directly related to the allegations in the Formal Complaint, the Investigator must send it to the Parties and the Parties must have at least ten (10) days to submit a written response.

At least ten days prior to the Live Hearing, the Investigator will send an electronic or hard copy of the Investigation Report to each party and the party's Advisor, if any. Any response a party wishes to make to the Investigation Report may be included in that party's pre-hearing statement, which is discussed more below in Section 2C.05.

Due to the sensitive nature of the Investigation Report, neither the parties nor their Advisors may copy, publish, photograph, print, image, record or in any other manner duplicate the report. Parties who violate these restrictions may be disciplined, and Advisors who violate these restrictions may be disciplined and/or be barred from further participation in the grievance process.

Nothing in this document restricts the ability of either party to discuss the allegations under investigation or to gather, preserve, and/or present relevant evidence.

2B.04 Submission of Evidence; Expert Witnesses

Any evidence that the parties wish for the Live Hearing officer/panel to consider should be presented to the Investigator as early as possible during the investigation process. Evidence that is not submitted in a timely manner and prior to finalization of the Investigation Report will be excluded from the Live Hearing.

Similarly, all relevant witnesses should be identified to the Investigator as early as possible during the investigation. The hearing officer/panel will not call or consider written statements from witnesses who were not identified to the Investigator and interviewed during the investigation.

Any party who wishes to present testimony from an expert witness should identify that witness by providing the witness's name, contact information, and a summary of (1) the witness's qualifications to offer expert testimony; and (2) any opinions the witness expects to offer related to the allegations or evidence. Any evidence upon which the witness relies must be provided to the Investigator and will be made available to the other party and his/her Advisor, as well as to any expert witness the other party has identified. This information must be provided as early as possible in the investigation and in no event later than finalization of the Investigation Report. The parties must make any expert witnesses available to be interviewed by Investigator and to testify at the Live Hearing. If an expert witness is not available to provide live testimony at the hearing, the hearing officer/panel must disregard any information submitted by that expert.

C. HEARING AND APPEALS

2C.01 The Formal Resolution Process

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution pursuant to section 2.D.01 below, following the investigation, the appointed hearing officer/panel will conduct a Live Hearing in which they may question the Complainant, the Respondent, and any witnesses whose testimony the hearing officer/panel deems relevant. During the Live Hearing, the hearing officer/panel and the parties may also question the Investigator as necessary to clarify information provided in the Investigation Report.

Respondent's Acknowledgement of Responsibility.

At any time the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Prohibited Conduct. In such a situation, the Assigned Title IX Coordinator will propose sanction(s) for the Respondent. If either the Complainant or the Respondent objects to such proposed sanction(s), then the Hearing Panel will convene for the exclusive purpose of determining a sanction, which determination may be subject to appeal pursuant to Sections 2C.18 through 2C.25 of this Policy.

2C.02 Appointment of the Hearing Officer/Panel and Challenging of the Same

The Title IX Coordinator will appoint a hearing officer/panel, who will administer the Live Hearing, serve as the decision-maker regarding responsibility, and (as applicable) assign sanctions. The hearing officer/panel may be a BAC employee or non-employee. The Title IX Coordinator will contemporaneously share the hearing officer's/panel name(s) and contact information with the Complainant and the Respondent. The Title IX Coordinator will provide to the hearing officer/panel the Formal Complaint, all evidence directly related to the allegations, the parties' written responses to the evidence, and the Investigation Report.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the hearing officer/panel. The Title IX Coordinator will carefully consider such statements and will promptly assign a different hearing officer/panel if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2C.03 Notice of the Live Hearing

Promptly after the appointment of the hearing officer/panel and no less than seven (7) days prior to the Live Hearing, the hearing officer/panel will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time, and location of the hearing. Any modifications to the hearing date, time, or location will be provided in writing to both parties prior to the date of the hearing.

2C.04 Pre-Hearing Submissions

Each party may submit a written statement to the hearing officer/panel that includes any response the party wishes to make to the Investigation Report. Each party's pre-hearing statement must be submitted at least five days prior to the Live Hearing. The hearing officer/panel will share the statement with the other party, who may submit a response within two days.

2C.05 Failure to Appear

If any party, Advisor, or witness fails to appear at the Live Hearing after having been provided proper notice of the Live Hearing as set forth above, then absent extenuating circumstances, the hearing

officer/panel will proceed with the Live Hearing and issuance of their responsibility determination and, as applicable, sanction recommendation. BAC will provide an Advisor to any party who attends the Live Hearing unaccompanied.

Conduct of the Live Hearing

2C.06 Evidence

A Title IX Live Hearing does not take place within a court of law and is not bound by formal rules of evidence.

The College shall make all evidence that is relevant and is not impermissible and has been obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source, available at any hearing to give each party equal opportunity to refer to such evidence during the Live Hearing, including for purposes of examination of witnesses.

Impermissible Evidence – The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

No New Evidence – Neither the Investigator nor the parties may introduce witnesses or evidence at the Live Hearing that was not disclosed during the investigation.

Witnesses– No fewer than seven (7) days before the Live Hearing, the Complainant and Respondent each may submit to the Assigned Title IX Coordinator a written list of individuals the party intends to call as witnesses. A panel member may do the same. The parties and panel members will not be permitted to call witnesses who were not identified in accordance with this subsection. The Assigned Title IX Coordinator shall provide any witness lists from a party to the other party at least three (3) days before the Live Hearing.

Privacy – The Live Hearing is conducted privately, informally, and does not apply traditional rules of courtroom evidence.

2C.07 Live Hearing

A Live Hearing may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the Live Hearing virtually, with technology enabling participants simultaneously to see and hear each other.

At the request of either party, the College must provide for the Live Hearing to occur with the parties located in separate rooms with technology enabling the Hearing Panel and parties to simultaneously see and hear the party or the witness answering questions. Such requests must be submitted to the Assigned Title IX Coordinator at least three (3) days prior to the Live Hearing.

2C.08 Attorneys

If a party intends to bring an attorney as the party's Advisor, the party must notify the Assigned Title IX Coordinator in writing at least seven (7) days prior to the hearing.

The College expects Advisors, including attorneys, to adjust their schedules to allow them to attend the Live Hearing or hearings when scheduled. The College does not typically change scheduled meetings to accommodate an Advisor's inability to attend. The College will, however, make reasonable provisions to allow an Advisor who cannot attend in person to attend a Live Hearing by telephone, video and/or virtual meeting technologies as may be convenient and available.

2C.09 Recording or Transcript

The College must create an audio or audiovisual recording, or transcript, of any Live Hearing and make it available to the parties for inspection and review. The recording or transcript is the property of the Belmont Abbey College.

2C.10 Disability Accommodations

The College will make reasonable accommodations for parties or witnesses with a documented disability as needed. If a party or witness would like to request an accommodation, the party or witness should notify the Chair at least seven (7) days prior to the Live Hearing.

2C.11 Order of Live Hearing

The Live Hearing is presided over by the chair of the hearing panel. So as to facilitate a prompt and equitable resolution, the order of the Live Hearing is subject to modification at the discretion of the chair of the Hearing Panel.

- The Investigator may provide introductory remarks at the commencement of the Live Hearing.
- Based on the Final Investigation Report and any witness lists submitted by the Complainant and Respondent, the Hearing Panel Chair will call the witnesses, including the Complainant and Respondent.
- The Hearing Panel will question each witness.
- When the Hearing Panel finishes questioning a witness, the Investigator may question the witness.
- After a party is questioned by the Hearing Panel and the Investigator, the party may make a statement as to other relevant matters.
- When the Hearing Panel and the Investigator finish questioning a witness, the Complainant and then the Respondent, through their Advisors, may question the witness.
- After the party has his or her opportunity to make a statement as to other relevant matters, the other party, through the other party's Advisor, may question the party.

The chair of the Hearing Panel may permit additional questioning by the Investigator, Hearing Panel, Complainant and Respondent, so long as the Complainant and Respondent are provided equal

opportunity to question the witness.

A party's examination of the other party or of any witnesses must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.

If a party does not have an Advisor present at the Live Hearing, the College shall provide, without fee or charge to that party, an Advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct examination of witnesses on behalf of that party. When the College has the responsibility to select the Advisor, the Assigned Title IX Coordinator will typically choose that person from among the members of the Title IX Pool.

Only relevant questions may be asked of a party or witness.

The chair of the Hearing Panel must allow:

- each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below; or
- each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, subject to the following procedures for evaluating and limiting questions:
 - Before a Complainant, Respondent, or witness answers a question from a party's Advisor, the chair of the Hearing Panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - Duplicative questions are not relevant.
 - All questions must be asked in a respectful, non-abusive manner. The chair of the Hearing Panel may reject a question that is harassing, intimidating, or abusive, even if the substance of the question would otherwise be relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, 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.

Questions or evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege, unless that person has waived the privilege, is not relevant.

The Investigator, Complainant, and Respondent may provide closing remarks after the presentation of evidence is concluded and before the Hearing Panel begins deliberations. Closing remarks in a Title IX hearing are only for summarizing existing evidence and may not exceed five minutes in duration. No new facts, witness names, or other evidence may be introduced during closing remarks. Should the Investigator, Complainant, or Respondent wish to deliver closing remarks, that person must submit a written summary of the closing remarks to the Hearing Panel before the hearing begins. The chair of the Hearing Panel will stop any party or the investigator from delivering irrelevant testimony or from exceeding the allotted time for closing remarks.

2C.12 Determination

The Hearing Panel must issue a written determination regarding responsibility.

2C.13 Evaluation of Evidence

The Hearing Panel shall use the preponderance of the evidence (“more likely than not”) standard when determining responsibility. That is to say, the Hearing Panel will determine whether it is more likely than not that the Respondent committed the alleged Prohibited Conduct.

The Hearing Panel shall make an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and credibility determinations may not be based on a person’s status as a Complainant, Respondent, or witness.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made by the Hearing Panel.

2C.14 Exclusion of Privileged Information

The Hearing Panel shall not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

2C.15 Absence from Hearing

The Hearing Panel may not draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the Live Hearing or refusal to answer cross-examination or other questions.

2C.16 Contents of Determination

The Final Outcome Letter is the written determination of the Hearing Panel and must include:

- Identification of the allegations potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College’s code of conduct and policies to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and 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; and
- The College’s procedures and permissible bases for the Complainant and Respondent to appeal.

The written determination of the Hearing Panel may incorporate by reference portions of the Final investigation report, so long as the Final investigation report is included as an appendix to the written determination.

2C.17 Notice of Determination

The Hearing Panel must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

2C.18 Appeal

The Complainant and Respondent may appeal from a determination regarding responsibility, and from an Investigator's dismissal of a Formal Complaint or any allegations therein.

2C.19 Bases for Appeal

The Complainant and Respondent may appeal on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or when dismissal was made, that could affect the outcome of the matter; or
- The Assigned Title IX Coordinator, Investigator, or members of the Hearing Panel had a conflict of interest for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

2C.20 Request to Appeal

In order to appeal, a party must submit a written request to appeal to the Assigned Title IX Coordinator within seven (7) days of receipt of the written determination. The request to appeal must include a written statement explaining the basis for the appeal.

Upon receipt of a request to appeal, the Assigned Title IX Coordinator shall notify the other party in writing that an appeal has been filed. The notification of appeal shall include notice of the allegations, if notice was not previously provided to the Respondent. The Assigned Title IX Coordinator will also:

- implement appeal procedures equally for the parties;
- ensure that the Vice President of Finance, Administration, and Operations (the decisionmaker for the appeal) did not take part in an investigation of the allegations or dismissal of the Formal Complaint;
- ensure that the Director of Human Resources has been trained consistent with the Title regulations;
- communicate to the parties in writing that the College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- notify the parties in writing of the result of the appeal and the rationale for the result.

The other party may submit a written statement in support of, or challenging, the outcome.

Any written statement from the other party must be submitted to the Assigned Title IX Coordinator within seven (7) days after notice that an appeal has been filed. The Assigned Title IX Coordinator shall provide a copy to the party that submitted the request to appeal.

2C.21 Appeal Officer

The Appeal Officer is appointed by the President of the College to review appeals of the Hearing Panel decisions under the Assigned Title IX Policy. The Appeal Officer shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Appeal Officer cannot be one of the members of the Hearing Panel, the Investigator, nor the Assigned Title IX Coordinator.

2C.22 Submission to Appeal Officer

After the time for submission of a response to a request for appeal has passed, the Assigned Title IX Coordinator shall submit the appeal to the Appeal Officer.

2C.23 Objective Review

The Appeal Officer shall make an objective evaluation of the appeal, including, as applicable, all relevant evidence – including both inculpatory and exculpatory evidence – and credibility determinations may not be based on a person’s status as a Complainant, Respondent, or witness.

2C.24 Appellate Review

The Appeal Officer reviews the decision of the Hearing Panel to determine if it is clearly erroneous. A decision is clearly erroneous when, although there is evidence to support it, the reviewer is left with the definite and firm conviction that a mistake has been committed.

2C.25 Decision

The Appeal Officer shall provide a written decision on the appeal. The Appeal Officer must provide the written decision to the parties simultaneously.

2C.26 Disciplinary Sanctions

Types of Sanctions – Sanctions are divided into two categories: (1) primary sanctions, and (2) secondary sanctions. If a Student or Employee is found responsible for a violation within the scope of this Procedure, the Hearing Panel must impose a primary sanction as specified under this Procedure. With the approval of the President of the College, the Assigned Title IX Coordinator may adopt Hearing Panel guidance manuals that specify a more precise sanctioning range for specific types of violations.

The sanctioning range provides the appropriate range of primary sanction options for the specific type of violation.

The presence of Mitigating Factors tends to indicate that the lower range of the sanctioning range is appropriate. Mitigating Factors include facts such as genuine contrition, a request for leniency by the Complainant, and other evidence that the Respondent did not act with malicious intent.

The presence of Aggravating Factors tends to indicate that the upper range of the sanctioning range is appropriate. Aggravating Factors include facts such as the use of force or physical violence, a request for enhanced sanctions by the Complainant, and other evidence that the Respondent acted with malicious intent.

The presence of Compounding Factors tends to indicate that the sanction should be higher than the specified sanctioning range. Compounding Factors are facts such as a prior history of misconduct.

The Hearing Panel may, but is not required to, impose a secondary sanction. Secondary sanctions can include, but are not limited to, training, meetings, and restrictions on the activities of the Student or Employee.

2C.27 Definitions of Primary Sanctions for Students

The range of primary sanctions for Students includes the following, in order from least severe to most severe:

- “Reprimand,” which means a written warning that the Student’s behavior was in violation of the Assigned Title IX and Title IX Policy and should not be repeated.
- “Probation” is a period of observation and evaluation of a Student’s conduct. The Student receives written notice of the seriousness of the misconduct, which includes the probability of a more severe sanction, including expulsion, if the Student commits a similar or related violation during the probationary period.
During the probationary period and subject to appeal, a Student is ineligible to participate in an international study abroad program, hold an officer position in a student organization, or be hired by the Office of Student Affairs, including as a Resident Assistant.
A Student on Probation will typically have Secondary Sanctions, which may include requirements or restrictions including, but not limited to, community service, educational classes, and/or prohibition from participation in co-curricular activities.
- “Level I Probation,” which means that the Student found responsible is placed on probation for a specified period of time (e.g., a specified number of semesters, or until a specific date).
- “Level II Probation,” which means that the Student found responsible is placed on probation for the remainder of their time at the College.
- “Suspension,” which means that the Student is suspended from enrolling in courses at the College for a specified period of time (e.g., a specified number of semesters, or until a specific date).
- “Expulsion,” which means that the Student is permanently barred from enrolling in courses at the College.

2C.28 Definitions of Primary Sanctions for Employees

The range of primary sanctions for Employees, including faculty and staff, includes the following, in order from least severe to most severe:

- “Written Warning,” which means a written warning that Employee’s behavior was in violation of the Assigned Title IX Policy and should not be repeated.
- “Leave Without Pay,” which means that the Employee is placed on leave from work for a specified period of time and will not be paid during that time.
- “Termination,” which means that the Employee’s employment with the College is ended. Termination for a tenured faculty member involves revocation of tenure.

2C.29 Designated Sanction Ranges for Specific Offenses

- The range of sanctions for sex discrimination is warning through expulsion or termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Quid Pro Quo harassment is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Hostile Environment harassment is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Rape is suspension through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Fondling is warning through suspension (termination for employees). Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Incest is warning through probation. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Statutory Rape is warning through suspension (termination for employees). Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Stalking is probation through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Dating/Domestic Violence is probation through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Sexual Exploitation is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The range of sanctions for Retaliation is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

D. INFORMAL RESOLUTION

2D.01 Determination of Formal Versus Informal Resolution

At any time before the issuance of the hearing officer's/panel's responsibility determination, the parties may elect to resolve the Formal Complaint through the informal resolution process, provided that (1) the parties both voluntarily consent in writing to such resolution; (2) both parties are students or employees of BAC; and (3) the Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving that specific Formal Complaint. Otherwise, a Formal Complaint that is not dismissed will proceed to a Live Hearing. Informal resolution is not an appropriate mechanism for resolving a Formal Complaint by a student against an employee.

Informal resolution may not be selected for less than all of the misconduct alleged in the Formal Complaint. If the parties agree to informal resolution (and informal resolution is appropriate for all of the allegations at issue), then all of the allegations must be resolved according to the informal resolution process.

Either party has the right to terminate the informal resolution process at any time and proceed with formal resolution (i.e., a full investigation and Live Hearing). Furthermore, the Title IX Coordinator may, where appropriate, terminate informal resolution and proceed with the formal resolution process instead.

Formal versus Informal Resolution.

At any time before the Assigned Title IX Coordinator appoints the Hearing Panel, the Complainant may elect to resolve his or her Formal Complaint through the informal resolution (mediation) process in accordance with this Policy, provided that (i) the Complainant is the alleged victim, (ii) the Respondent agrees to such resolution, (iii) the Complainant and the Respondent are both Students or are both employees of the College, (iv) the Assigned Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the Formal Complaint, and (v) the Formal Complaint does not involve Sexual Assault. Otherwise, a Formal Complaint that is not closed pursuant to the Assigned Title IX Coordinator's initial determination or evaluation of the Investigation Report will proceed to formal resolution in accordance with this Policy.

INFORMAL RESOLUTION (MEDIATION)

Informal resolution is only appropriate if (i) the Complainant requests it, (ii) the Respondent agrees to it, (iii) the Complainant and the Respondent are both Students or are both employees of the College, (iv) the Assigned Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the Formal Complaint, and (v) the Formal Complaint does not involve Sexual Assault. All parties must give voluntary, informed, written consent before a Formal Complaint can be resolved informally.

Informal resolution may not be selected for less than all of the Prohibited Conduct alleged in the Formal Complaint (for example, the parties may not choose to resolve a claim of Sexual Assault according to the formal resolution process but mediate all other claims). If the parties agree to informal resolution (and informal resolution is appropriate for all of the claims at issue), then all of the claims must be resolved according to the informal resolution process.

Either party has the right to terminate the informal resolution process at any time and proceed with formal resolution. Furthermore, the Assigned Title IX Coordinator may, where appropriate, terminate or decline to initiate informal resolution, and proceed with formal resolution instead. In such cases, statements or disclosures made by the parties in the course of the informal resolution process may be considered in the subsequent formal resolution proceedings.

2D.02 The Informal Resolution Process.

- (i) The Mediation; the Presiding Officer.** When the Complainant's Formal Complaint is to be resolved according to the informal resolution process, there will be a mediation overseen by a Presiding Officer. The purpose of the mediation is to allow an opportunity for resolution of the Formal Complaint without using the formal resolution process. The Assigned Title IX Coordinator will appoint the Presiding Officer.
- (ii) Notice of the Mediation.** Promptly after the Assigned Title IX Coordinator has appointed the Presiding Officer, the Assigned Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent, setting forth (1) the date, time and location of the mediation, and (2) the name of the individual selected to serve as the Presiding Officer. If only a portion of the alleged misconduct justifies continuing to adjudication, the Assigned Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the mediation.

Any party may challenge the participation of the Presiding Officer by submitting a written objection to the Assigned Title IX Coordinator within three days of receipt of the notice of the mediation. Such objection must state the specific reason(s) for the objection. The Assigned Title IX Coordinator will evaluate the objection and determine whether to change the Presiding Officer. Failure to submit a timely and proper objection will constitute a waiver of any right of objection. Any substitution of the party serving as the Presiding Officer will be provided in writing to both parties at least one day prior to the date of the mediation.

2D.03 Facilitated Resolution

The informal resolution facilitator will meet separately with each party to review the informal resolution process and the allegations in the Formal Complaint and to identify the outcome that each party seeks from the informal resolution process. If the facilitator determines that it would be productive for both parties to attend a resolution meeting, the facilitator will provide written notice to the Complainant and the Respondent setting forth the date, time, and location of that meeting. At the request of either party or at the discretion of the informal resolution facilitator, the meeting may occur with the parties in different locations or meetings with parties may take place on different dates.

Both the Complainant and the Respondent are expected to participate in the informal resolution process. If either party fails to participate, the Title IX Coordinator may direct that the Formal Complaint be resolved using a full investigation and Live Hearing or may reschedule the meeting.

During informal resolution, the parties may: (1) engage one another in the presence of, and/or facilitated by, the informal resolution facilitator; (2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the informal resolution facilitator); (3) relay their wishes and expectations regarding the future; and/or (4) come to an agreed-upon resolution of the allegations in the Formal Complaint.

Participation in the informal resolution process is completely voluntary, and either party, the informal resolution facilitator, or the Title IX Coordinator may terminate the process at any time.

No Contact Prior to Mediation. The parties may not contact each other outside of the mediation, even to discuss the mediation.

Attendance. Both the Complainant and the Respondent are expected to attend the mediation. If either party fails to appear at the mediation, and such party was provided proper notice of the mediation as set

forth above, then absent extenuating circumstances, the Presiding Officer may direct that resolution of the Formal Complaint be determined according to the formal resolution process set forth above.

The Mediation.

- 1) Rights of the Parties.** During the mediation, the parties may
 - a)** confront each other in the presence of, and facilitated by, the Presiding Officer,
 - b)** communicate their feelings and perceptions regarding the incident and the impact of the incident, and
 - c)** relay wishes and expectations regarding protection in the future.

2D.04 Resolution

The informal resolution facilitator will attempt to facilitate the parties' resolution of the Formal Complaint. If this process results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to factors including the extent to which the resolution will protect the safety of the Complainant and the entire BAC community), the resolution will be reduced to writing, which will conclude the process and close the Formal Complaint.

2D.05 Written Resolution Agreement

To be effective, any agreement reached during the informal resolution process must be memorialized in writing and signed by the parties, the informal resolution facilitator, and the Title IX Coordinator. If a Respondent completes all measures agreed to in the written resolution agreement, no further process is available with regard to the allegations in the Formal Complaint.

Measures that parties agree to in the informal resolution process may include (but are not limited to):

- 1) Alcohol education classes for the Respondent;
- 2) Completion of online sexual harassment training;
- 3) Completion of an intervention program;
- 4) Regular meetings with an appropriate individual, unit or resource;
- 5) Permanent or temporary no contact order;
- 6) Restrictions for participation in certain activities, organizations, programs or classes;
- 7) Change in residential assignment or restrictions on access to certain residence halls or apartments;
- 8) Restriction of participation in certain events;
- 9) Reflection paper or written apology;
- 10) Counseling sessions; and/or
- 11) The Respondent's completion of an educational or behavioral plan.

2D.06 Termination of Informal Resolution Process

At any time prior to completing a written resolution agreement, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint. If either party terminates the informal resolution process or BAC determines that the informal resolution process is no longer appropriate, the formal resolution process outlined in Section C of this policy will promptly resume.

2D.07 Confidentiality of Information Shared

Any information that the parties share during the informal resolution process may not be used in any other investigation or proceeding at BAC.

In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the informal resolution process is not open to the general public. Accordingly, documents prepared in anticipation of the mediation (including the Investigation Report and the notice of the mediation) and other information introduced at the mediation may not be disclosed outside of the mediation, except as may be required or authorized by law.

2D.08 Timeframe

The informal resolution process generally will be completed within 20 days of the parties' agreement to the informal resolution process.

2D.09 Appeal

A resolution reached pursuant to the informal resolution process is final and not subject to appeal.

2D.10 Records

A resolution reached through the informal resolution process will not be included in a student Respondent's student conduct record or in an employee Respondent's personnel record, unless the inclusion of such information is agreed to as part of the informal resolution of the matter. The Title IX Coordinator will retain a record of the written resolution agreement for no less than seven years.

EXHIBIT A

Suggested Actions for People Who Have Experienced Sexual Harassment

If you have experienced Sexual Harassment, BAC's first priority is to help you take steps to address your safety, medical needs and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a criminal or BAC Formal Complaint.

1. Ensure Your Physical Safety.

You may seek help from **local law enforcement agencies** or by contacting the **BAC Police Department**. The BAC Police Department can assist you with contacting local law enforcement and can help you obtain transportation to the local law enforcement office. Officers are on duty at the BAC Police Department 24 hours a day, seven days a week.

2. Seek Medical Assistance and Treatment.

Local options for medical care include **BAC Wellness and Counseling Center** and **Gaston Memorial Hospital**. It is crucial that you obtain medical attention as soon as possible after a sexual assault, for example, to determine the extent of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

Employees at the BAC Campus Police can help you obtain transportation to a local hospital and can help you contact a support person, such as a family member, a friend, or a roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 120 hours.

Even if you have not decided whether to file charges, it is advisable to have the evidence collection kit completed so that you can better preserve the options of obtaining a protective order and/or filing criminal charges at a later date.

Important Contact Information

Resources for Parties

Title IX & Coordinator

Mr. Rod Golding

704-461-6713

roderickgolding@bac.edu

Campus Police Department

704-400-6200

University Police Officers are available 24/7.

Student Health Center

704-461-6877

M-F 9AM – 4PM

Division of Residence Life

704-461-7371

M-F 9AM – 5PM

Office of Human Resources

Ms. Cheryl Trotter

704-461-6714

cheryltrotter@bac.edu

Counseling Center

704-461-5065

M-F 9AM – 4PM

Important Contact Information

Community Resources

Local Law Enforcement Agencies can be reached by calling 911.

Gaston Memorial Hospital is located at 2525 Court Drive, Gastonia, NC 28054. The Emergency Department can be reached at 704-834-2000.

AVID Sexual Assault Crisis Program is located at 214 E. Franklin Boulevard, Gastonia, NC 28052. The Crisis Program can be reached at 704-864-7704.

It is advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before an evidence collection kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

3. Obtain Emotional Support

The Counseling Center can help students sort through their feelings and begin the recovery process. The professionals at the Counseling Center are trained to provide crisis intervention on short-term and emergency issues. The Counseling Center can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services are strictly confidential, are not part of students' records, and will not be reported to other BAC personnel.

Employees may contact the Employee Assistance Program to obtain emotional support (available at: 888-628-4824).

4. Obtain Information/Report Misconduct

You are encouraged to report incidents of sexual assault to BAC's Title IX Coordinator (even if you have filed a report directly with law enforcement). The Title IX Coordinator can help you access resources and can provide you with support and information, including information on BAC's procedures for investigating and addressing instances of sexual assault.