

BELMONT ABBEY COLLEGE
SEXUAL MISCONDUCT POLICY AND PROCEDURES

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BELMONT ABBEY COLLEGE
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IF YOU OR SOMEONE YOU KNOW MAY HAVE BEEN A VICTIM OF SEXUAL ASSAULT OR ANY OTHER TYPE OF SEXUAL MISCONDUCT PROHIBITED UNDER THIS POLICY, YOU ARE STRONGLY ENCOURAGED TO CONSULT EXHIBIT A TO THIS POLICY AND TO SEEK IMMEDIATE ASSISTANCE FROM ONE OR MORE OF THE SOURCES LISTED THERE.

ARTICLE I. INTRODUCTION

(a) Notice of Nondiscrimination.

As a recipient of federal funds, Belmont Abbey College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, Sexual Misconduct (as defined below) constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to Belmont Abbey College's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights. Belmont Abbey College's Title IX Coordinator is Mr. Roderick Golding, whose office is located in Stowe Hall, Suite 115. Mr. Golding may be contacted by phone at 704-461-6713 or by email at roderickgolding@bac.edu.

(b) 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 (Article II), and establishes procedures for responding to reports of Sexual Misconduct (Articles III-VI).

The College will make this Policy and information about recognizing and preventing Sexual Misconduct readily available to all Students and other members of the College community.

(c) Applicability of This Policy.

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.

In the case of allegations of Sexual Misconduct, unless otherwise stated, this Policy supersedes and applies in lieu of all other procedures and policies set forth in any other document containing College policies and / or procedures.

(d) 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.

(e) Definitions Applicable to this Policy.

Capitalized terms used in this Policy but not defined have the meanings set forth in Exhibit B.

ARTICLE II. STATEMENTS OF POLICY

(a) Prohibition on Sexual Misconduct.

This Policy is designed to protect the rights and needs of alleged victims and Respondents. Creating a safe environment is the responsibility of all members of the College community.

The College strongly encourages prompt reporting of all types of Sexual Misconduct and is committed to fostering a community that promotes timely and fair resolution of Sexual Misconduct cases. To that end, the College has defined Sexual Misconduct broadly to include any unwelcome conduct of a sexual nature, and the College will investigate all allegations of Sexual Misconduct.

However, not all unwelcome conduct of a sexual nature rises to the level of warranting adjudication and/or discipline pursuant to this Policy. Although the College will investigate all allegations of Sexual Misconduct, this Policy uses the term "Material Sexual Misconduct," as defined in Exhibit B, to identify those acts of Sexual Misconduct that do warrant adjudication under, and discipline pursuant to, this Policy.

(b) Prohibition on Retaliation.

Retaliation against any person for filing, supporting, or providing information in good faith in connection with a Complaint of Sexual Misconduct is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other College disciplinary procedures, as deemed appropriate in the College's discretion. Any person who feels that he or she has been subjected to Retaliation should make a report to the Assigned Title IX Coordinator.

(c) Prohibition on Providing False Information.

Any individual who knowingly files a false report or Complaint under this Policy, who knowingly provides false information to College officials or who intentionally misleads College officials who are involved in the investigation or resolution of a report or Complaint may be subject to disciplinary action.

(d) 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 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 Complaint.¹ 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 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.

¹ 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.

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 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.

(b) Requests Not to Investigate and Refusals to File a 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 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 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 Sexual Misconduct and may weigh such requests and decisions against the following factors:

- (i) the seriousness of the alleged Sexual Misconduct;
- (ii) the alleged victim's age;
- (iii) whether there have been other Complaints of Sexual Misconduct 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 Complaint and/or or refusing to participate in the investigation or resolution of allegations of Sexual Misconduct 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 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 Sexual Misconduct 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 Complaint or other information regarding alleged Sexual Misconduct may also be used as an anonymous report for data collection purposes under the Clery Act.

(c) Limited Immunity.

The College considers the reporting and adjudication of Sexual Misconduct cases on campus to be of paramount importance. The College does not condone underage drinking or the use of illegal drugs; however, the College may extend limited immunity from punitive sanctioning in the case of illegal alcohol or drug use to victims, witnesses and those reporting incidents and/or assisting the victims of Sexual Misconduct, provided that they are acting in good faith in such capacity and, in limited circumstances, may also extend such immunity to a Respondent.

(e) Individuals with Disabilities.

The College will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined in this Policy. Requests for accommodations must be made to the Office of Students with Disabilities located in the Academic Resource Center, lower of Vincent Taylor Library.

**ARTICLE III.
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 Material Sexual Misconduct, 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.

A faculty or staff member with any knowledge (including firsthand observation) about a known or suspected incident of Sexual Misconduct 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.

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.

ARTICLE IV. PROCEDURES APPLICABLE TO ALL COMPLAINTS OF SEXUAL MISCONDUCT

(a) Overview.

(i) Oversight. The Assigned Title IX Coordinator will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of reports of Sexual Misconduct to the College.

(ii) Conflicts. If any administrator designated by this Policy to participate in the investigation or resolution of a Complaint is the Respondent (including, but not limited to, the Title IX Coordinator), then the Executive Vice President of Finance will appoint another College administrator to perform such person's duties under this Policy. (If the Executive Vice President of Finance is the Respondent, then the Title IX Coordinator will appoint another College administrator to perform the Executive Vice President of Finance's duties under this Policy.)

(iii) Support Persons. Parties and witness may be accompanied by a support person of their choice during any meeting or interview held pursuant to this Policy. The support person may consult with the person her or she is there to support but may not participate in the meeting or interview by asking or answering questions or by making statements to the interviewer(s).

(iv) Timing. The College will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The College's investigation and resolution of a Complaint (not including an appeal, if applicable) will generally be completed within a reasonably prudent time of the receipt of the Complaint, absent extenuating circumstances.

Any party may request an extension of any deadline by providing the Assigned 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 Assigned Title IX Coordinator may modify any deadline contained in this Policy as necessary and for good cause.

(v) Interim Measures. If at any point during the complaint, investigative or disciplinary processes, the Assigned Title IX Coordinator deems it necessary for the protection of any member of the College community the Assigned Title IX Coordinator may take actions such as the following:

1) For Student Respondents:

- a)** requesting that the Registrar cause a transcript hold to be placed on the Respondent's transcript; or
- b)** requesting that the Dean of Residence Life:
 - i)** summarily suspend the Respondent from campus housing on an interim basis and/or restrict his or her movement on campus, or
 - ii)** summarily suspend the Respondent;

2) For employee Respondents, requesting that the individual authorized to make personnel decisions regarding the employee at issue:

- a)** take such steps as are reasonable, appropriate and necessary to restrict the Respondent's movement on campus; or
- b)** reassign or place on administrative leave such Respondent.

These actions may be appealed to the Executive Vice President of Finance, whose decision regarding their imposition will be final.

(b) 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 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 Complaint Form (a copy of which is attached to this Policy as Exhibit C) and determine whether the alleged victim wishes to file a Complaint and participate in the College's investigation and resolution of the Complaint²;
- 6) refer the Complainant to the College's Counseling Services office or other resources, as appropriate;
- 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

² 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.

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.

(ii) 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's initial meeting with the alleged victim, 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 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
- 9) 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.

(c) The Investigation.

(i) The Assigned Title IX Coordinator's Initial Determination.

The Assigned Title IX Coordinator will determine that further investigation of a Complaint should be conducted unless it is clear on the face of the 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 Material Sexual Misconduct.

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 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 Executive Vice President of Finance within ten days of receipt of the notice of closure.³ Following the receipt of an appeal, the Executive Vice of Finance will make a determination as to whether the Complaint should proceed or the case should be closed and whether any additional or different remedial action is necessary. The Executive Vice President of Finance will notify the Complainant and the Respondent concurrently of his or her decision, which shall be final.

(ii) 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 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.

(iii) The Investigator's Activities and Report.

Upon receipt of the Complaint, the Investigator will promptly begin his or her investigation, taking steps such as

- 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 should obtain, where applicable and where possible, the written consent of any third-party witnesses to the disclosure, as contemplated by this Policy, of any Personally Identifiable Information contained in the Complaint, the Investigative Report, and/or any other documents the disclosure of which is contemplated by this Policy in order to further the resolution of the Complaint.⁴

³ If the Chief Financial Officer is the Respondent, then the Title IX Coordinator will appoint another College administrator to stand in the Chief Financial Officer's shoes in performing the duties under this Policy.

⁴ If the Investigator is unable to obtain the consent of such third-party witnesses, he or she will redact the Investigative Report to the extent necessary to avoid inappropriate disclosure of such witness's Personally Identifiable Information, while ensuring that such redaction does not prevent resolution of the Complaint.

The Investigator will complete a written investigative 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 "Investigative Report"). The Investigator will share the Investigative Report with the Assigned Title IX Coordinator, who will distribute it, concurrently, to the Complainant and the Respondent. All parties to whom the Investigative Report is distributed pursuant to this Policy must maintain it in confidence.

(iv) The Assigned Title IX Coordinator's Evaluation of the Investigative Report.

The Assigned Title IX Coordinator is responsible for determining and documenting, based on the Investigative Report and other available information, whether reasonable grounds exist to believe that the Respondent engaged in Material Sexual Misconduct.

The Assigned Title IX Coordinator will direct that the case will proceed unless it is clear from the Complaint and the Investigative Report that no reasonable grounds exist for believing that the conduct at issue constitutes Material Sexual Misconduct. The Assigned Title IX Coordinator will specify which allegations and, if applicable, which other, related alleged misconduct, will go forward for resolution under this Policy.

If the Assigned Title IX Coordinator finds no reasonable grounds to believe that the Respondent engaged in Material Sexual Misconduct, then the Assigned Title IX Coordinator will determine (in consultation, as necessary, with the Complainant, Respondent, and other College administrators) and document the appropriate resolution of the Complaint and will promptly notify the parties of that determination.

The Complainant and/or the Respondent may appeal the Assigned Title IX Coordinator's decision in writing to the Executive Vice President of Finance of the College within 10 days of receipt of a notice of closure. Following the receipt of an appeal, the Executive Vice President of Finance will make a determination as to whether the Complaint should proceed to resolution pursuant to Article V or Article VI of this Policy or the case should be closed and whether any additional or different remedial action is necessary. The Executive Vice President of Finance will notify the Complainant and the Respondent concurrently of his or her decision, which shall be final.

(d) Formal versus Informal Resolution.

At any time before the Assigned Title IX Coordinator appoints the Sexual Misconduct Panel, the Complainant may elect to resolve his or her Complaint through the informal resolution (mediation) process in accordance with Article VI of 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 Complaint, and (v) the Complaint does not involve Sexual Assault. Otherwise, a Complaint that is not closed pursuant to the Assigned Title IX Coordinator's initial determination or evaluation of the Investigative Report will proceed to formal resolution in accordance with Article V of this Policy.

ARTICLE V. FORMAL RESOLUTION

(a) Respondent's Acknowledgement of Responsibility.

At any time the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Assigned Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without any further proceedings and without any further rights of appeal by any party. If either the Complainant or the Respondent objects to such proposed sanction(s), then the Sexual Misconduct Panel will convene for the exclusive purpose of determining a sanction, which determination may be subject to appeal pursuant to Section V(b)(v) of this Policy.

(b) The Formal Resolution Process.

In the case of formal resolution, a Sexual Misconduct Panel will determine whether the Respondent engaged in Material Sexual Misconduct and which sanctions, if any, are appropriate. To do so, the Sexual Misconduct Panel will review the Investigative Report and other available evidence and will interview the Complainant, Respondent, and witnesses as the Panel deems necessary.

(i) The Sexual Misconduct Panel. The Assigned Title IX Coordinator will appoint the members of the “Sexual Misconduct Panel,” to include at least three faculty and/or staff members. The Assigned Title IX Coordinator will designate one member of the Panel as the Chair of the Panel. The Assigned Title IX Coordinator will share the Complaint and the Investigative Report with the Chair and, if only a portion of the misconduct alleged in the Complaint justifies continuing to formal resolution, the Assigned Title IX Coordinator will specify which part(s) of the alleged misconduct will be the subject of formal resolution.

(ii) Notice of the Composition of the Panel. Promptly after appointing the members of the Panel, the Assigned Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent, setting forth the names of the individuals selected to serve on and chair the Panel. If only a portion of the alleged misconduct justifies continuing to formal resolution, the Assigned Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of formal resolution.

The parties may challenge the participation of any member of the Panel by submitting a written objection to the Assigned Title IX Coordinator within three days of receipt of the notice of the composition of the Panel. Such objection must state the specific reason(s) for the objection. The Assigned Title IX Coordinator will evaluate the objection and determine whether to alter the composition of the Panel. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Panel. Any changes in the composition of the Panel will be provided in writing to both parties.

(iii) Submission of Written Materials by the Parties. Within five days of receipt of the notice of composition of the Panel, the Complainant and the Respondent may provide the Chair of the Panel with (1) a list of witnesses, if any, that they propose that the Panel call and a brief description of each proposed witness’s connection to and/or knowledge of the issues in dispute, and (2) a written statement of position.

(iv) Hearing Panels.

- 1) Both parties will have the opportunity to appear before a Hearing Panel. The Hearing Panel also will interview other individuals as it deems necessary.

- 2) The Respondent may choose not to appear before the Hearing Panel; however, his or her exercise of that option will not preclude the Panel from making a determination regarding the Complaint filed against the Respondent.
- 3) The hearings will be live with both claimants, respondents, witnesses and their support persons appearing simultaneously. Either party may request that the hearing take place virtually in order to avoid being in the presence of the other party.
- 4) Any person appearing before the hearing panel may be cross examined by the support person of the opposing party. At no time will the claimant or the respondent be allowed to cross examine anyone appearing before the panel.
- 5) Questions regarding the claimant's sexual predisposition or past sexual behavior are not relevant, unless such questions and evidence are offered to prove someone other than the respondent committed the conduct alleged or provide specific incidents with respect to the respondent or prove consent. The chairman of the Hearing Panel will ensure that questions of this nature are allowed only when these criteria are met.

(v) Outcome.

- 1) **The Decision of the Panel.** Following the conclusion of its interviews, the Panel will confer and by majority vote determine whether the evidence (including the information provided in and by the Investigative Report, the parties' written statements, if any, and the testimony of the parties and witnesses) establishes that it is more likely than not⁵ that the Respondent committed Material Sexual Misconduct.
- 2) **Sanctions.**
 - a) **Generally.** Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for Sexual Misconduct, or both. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the College, disciplinary probation, expulsion from campus housing, mandated counseling, and/or educational sanctions deemed appropriate by the Panel. The Panel will determine recommended sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The Panel will forward its determinations regarding sanctions to the Assigned Title IX Coordinator.
 - b) **Implementation of Sanctions.** Sanctions imposed are not effective until the resolution of any timely appeal pursuant to Section V(b)(v), below. However, if it is advisable in order to protect the welfare of the Complainant or the College community, the Panel may recommend and the Assigned Title IX Coordinator may determine that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted.

⁵ In other words, the standard of proof will be the preponderance of the evidence standard.

- 3) Final Accommodations and Corrective Action.** In addition to any sanctions imposed on the Respondent, promptly following the Panel's issuance of a determination of responsibility, the Assigned Title IX Coordinator will determine the final accommodations to be provided to the Complainant, if any, and the Assigned Title IX Coordinator will communicate such decision to the Complainant and, to the extent that it affects him or her, to the Respondent. Such accommodations may include, but are not limited to those listed in the discussion above regarding interim measures.

The Assigned Title IX Coordinator will also take steps, where necessary, to prevent the further harassment of or Retaliation against the Complainant, the victim, or third parties, such as informing them about how to report subsequent problems, following-up with them to ensure that there are no subsequent problems, providing trainings for the College community, and providing Sexual Misconduct-related or other counseling for the Respondent. The Assigned Title IX Coordinator will also, where appropriate, take steps to prevent the harassment of the Respondent.

Furthermore, the Assigned Title IX Coordinator will take prompt corrective action if the Complainant or the victim (if not the Complainant) experiences Retaliation or is subjected to further Sexual Misconduct or if the original sanctions imposed on the Respondent are ineffective to protect the safety and well-being of the Complainant or other members of the College community. In cases involving Sexual Harassment, the Assigned Title IX Coordinator will also take reasonable steps to eliminate any hostile environment that has been created, such as conducting trainings and disseminating informational materials. In taking the above-outlined steps, the Assigned Title IX Coordinator will make every reasonable effort to minimize the burden on the Complainant.

- 4) Final Outcome Letter.** The Panel will issue a written decision letter (the "Final Outcome Letter") concurrently to the Respondent and the Complainant.

For employee and third-party Respondents, the Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible or a statement that the Respondent was found not to have violated this Policy, and (3) the sanctions imposed on the Respondent. Where appropriate, the Final Outcome Letter may set forth names of other individuals, such as a victim or witness, if such other individuals provide their written consent to such inclusion.

For student Respondents alleged to have committed Sexual Assault and/or Non-forcible Sex Acts, the Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible or a statement that the Respondent was found not to have violated this Policy, and (3) the sanctions imposed on the Respondent, if any (setting forth only a description of the disciplinary action taken, the date of its imposition, and its duration), and where appropriate, it may set forth names of other individuals, such as a victim or witness, if such other individuals provide their written consent to such inclusion.

For student Respondents alleged to have committed any other form of Sexual Misconduct, the Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible or a statement that the Respondent was found not to have violated this Policy, and (3) the

sanctions imposed on the Respondent, if any (setting forth only a description of the disciplinary action taken, the date of its imposition, and its duration), and where appropriate, it may set forth names of other individuals, such as a victim or witness, if such other individuals provide their written consent to such inclusion. To the extent that the sanctions imposed on the Respondent do not constitute part of the Complainant's "education record" (as that term is defined by FERPA), then such information will be redacted from the version of the Final Outcome Letter that is provided to the Complainant.

- 5) Confidentiality and Disclosure.** 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 formal resolution process is not open to the general public. Accordingly, documents prepared in connection with the formal resolution process may not be disclosed outside of that process except as may be required or authorized by law.

If it is determined, however, that the Respondent committed Material Sexual Misconduct, College policy does not prohibit the further disclosure of the Final Outcome Letter by either the Complainant, the victim (if not the Complainant) or the Respondent.

- (vi) Appeals.** The Complainant or the Respondent may appeal the decision of the Panel and/or the sanction imposed on the Respondent within 14 calendar days from the date of the Final Outcome Letter. The decision of the Panel and the sanction imposed on the Respondent may, if desired, be appealed simultaneously.

- 1) Appeals of the Decision of the Panel Regarding Responsibility for Sexual Misconduct.** The only permissible grounds for an appeal are any one of the following:

- (a) Availability of germane new evidence
- (b) Procedural errors that significantly impacted the outcome
- (c) A conflict of interest in a decision maker

Appeals of the decision of the Panel must be made in writing to the Executive Vice President of Finance of the College, unless the Respondent is a member of the faculty or the Executive Staff, in which case appeals must be made in writing to the Chair of the Board of Trustees, who will refer the matter to the Executive Committee of the Board of Trustees (the "Executive Committee"). The Assigned Title IX Coordinator will promptly inform the other party (i.e., the Complainant or the Respondent) of the filing of the appeal.

The Executive Vice President of Finance (or the Executive Committee, in the case of a Respondent who is a member of the faculty or the Executive Staff) will make a determination (i) that the decision of the Panel should stand; or (ii) that the decision of the Panel should be overturned.

In the event that the Executive Vice President of Finance or Executive Committee determines that the decision of the Panel should be overturned, the Executive Vice President of Finance or Executive Committee will specify, after consultation with the Assigned Title IX Coordinator and other College administrators, as necessary, the

appropriate steps to be taken to come to a final resolution of the Complaint. The Executive Vice President of Finance or Executive Committee will notify the Complainant and the Respondent concurrently of the decision or action.

2) Appeals of Sanctions.

The sanctions imposed on the Respondent may be appealed on grounds that the severity of the sanction imposed is incommensurate to the gravity of the Sexual Misconduct for which the Respondent was found responsible. A claimant may appeal the severity of the sanctions as not appropriate, but they are not entitled to specify sanctions. Respondents may also appeal severity of sanctions.

Appeals must be made in writing to the Executive Vice President of Finance of the College, unless the Respondent is a member of the faculty or the Executive Staff, in which case appeals must be made in writing to the Chair of the Board of Trustees, who will refer the matter to the Executive Committee. The Assigned Title IX Coordinator will promptly inform the other party (i.e., the Complainant or the Respondent) of the filing of the appeal.

The Executive Vice President of Finance or Executive Committee will make a determination (a) that the decision of the Panel should stand; or (b) that the decision of the Panel should be overturned. In the event that the Executive Vice President of Finance or Executive Committee determines that the decision of the Panel should be overturned the Executive Vice President of Finance or Executive Committee will specify (after consultation with the Assigned Title IX Coordinator and other College administrators, as necessary) the final sanctions to be imposed on the Respondent. The Executive Vice President of Finance or Executive Committee will notify the Complainant and the Respondent concurrently of the decision.

(vii) Documentation. The College will retain documentation (including but not limited to the written Complaint, notifications, the Investigative Report, any written findings of fact, petitions for appeal, and any written communication between the parties), for at least seven years. Documentation pertaining to terminations, expulsions or educational sanctions may be retained indefinitely.

ARTICLE VI. 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 Complaint, and (v) the Complaint does not involve Sexual Assault. All parties must give voluntary, informed, written consent before a complaint can be resolved informally.

Informal resolution may not be selected for less than all of the misconduct alleged in the 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.

(a) The Informal Resolution Process.

(i) The Mediation; the Presiding Officer. When the Complainant's 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 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.

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

(iv) 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 Complaint be determined according to the formal resolution process set forth above.

(v) 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.

2) Resolution. During the mediation, the Presiding Officer will attempt to facilitate the parties' resolution of the Complaint. If the mediation results in a resolution between the parties and the Assigned Title IX Coordinator finds the resolution to be appropriate

under the circumstances (giving consideration to the extent to which the resolution will protect the safety of the Complainant and the entire school community), the informal disciplinary procedure will be concluded and the Complaint will be closed. If the parties are unable to reach a resolution, the formal resolution process outlined in Article V of this Policy will promptly commence.

(vi) Privacy and Disclosure. 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 Investigative 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.

(b) Documentation. The College will retain any documentation of the mediation for at least seven years.

EXHIBIT A

to

SEXUAL MISCONDUCT POLICY AND PROCEDURES

Suggested Actions for Victims of Sexual Assault

While all types of Sexual Misconduct are inappropriate and taken seriously by the College, actions involving Sexual Assault (as defined in Exhibit B) are particularly concerning. Thus, if you are the victim of a Sexual Assault, the College'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 criminal or College disciplinary charges.

1. Ensure Your Physical Safety.

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

2. Seek Medical Assistance and Treatment.

Local hospitals can provide medical care. It is crucial that you obtain medical attention as soon as possible after a Sexual Assault to determine the possibilities 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 a local hospital can help you obtain transportation to Gaston Memorial Hospital and can help you contact a support person, such as a family member, a friend or roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 72 hours. Even if you have not decided to file charges, it is advisable to have the evidence collection kit completed so that you can preserve the options of obtaining a protective order and filing charges at a later date. Local hospitals administer

Important Contact Information

College Resources

Belmont Abbey 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 by phone at 704-461-6713 or by email at roderickgolding@bac.edu.

The **Belmont Abbey Campus Police Department** is located in Raphael Arthur residence hall and is available by phone at 704-461-6200. College Security Officers are available 24/7.

Belmont Abbey College Health Services is located The Haid and is available by phone at 704-461-6877. The office is staffed from 9:30 a.m. until 4:30 p.m. Monday through Friday.

The **Belmont Abbey College Office of Residence Life** is located in O'Connell Hall and is available by phone at 704-461-6893. The office is staffed from 8a.m. – 5p.m., Monday through Friday.

The **Belmont Abbey College Human Resources Office** is located Stowe Hall, Suite 115 and is available by phone at 704-461-6714. The office is staffed from 8a.m. – 5p.m., Monday through Friday.

The **Belmont Abbey College Counseling Center** is located The Haid and is available by phone at 704-461-5065. The Center is staffed from 8a.m. – 5p.m., Monday through Friday.

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.

evidence collection kits. Individuals may go directly to a local hospital or may be referred to the hospital by Belmont Abbey College Health Services.

In order to best preserve evidence for an evidence collection kit, it may be advisable to avoid showering, bathing, going to the bathroom or brushing your teeth before the 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 Information / Report Misconduct

You are encouraged to report incidents of Sexual Misconduct to the College's Title IX Coordinator (even if you have filed a report directly with law enforcement). Further information about how to report Sexual Misconduct is provided in the body of the Belmont Abbey College Sexual Misconduct Policy and Procedures. College personnel can help you access resources and can provide you with support and information, including information on the College's procedures for investigating and addressing instances of Sexual Misconduct.

EXHIBIT B
to
SEXUAL MISCONDUCT POLICY AND PROCEDURES

Definitions

- (i) 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.
- (ii) Clery Act.** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) 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.
- (iii) Complainant.** A “Complainant” is an individual who reports or files a Complaint. A Complainant may be someone other than the person who may have been subjected to the Sexual Misconduct.
- (iv) Claimant.** A Claimant is someone who claims to have been subjected to Sexual Misconduct who chooses to file a Complaint and participate in the College’s investigation and resolution of the alleged Sexual Misconduct.
- (v) Complaint.** A “Complaint” is an allegation of Sexual Misconduct asserted against another party and reported to or filed with the College.
- (vi) 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 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 reasonable 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.

(vii) 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.

(viii) Day. A "day" is a business day, unless otherwise specified.

(ix) Deputy Title IX Coordinator(s). The College's "Deputy Title IX Coordinators" are:

- 1) Mr. Paul Lyon, Associate Athletic Director, whose office is located in the Wheeler Center and who may be contacted by phone at 704-461-5048 or by email at paullyon@bac.edu;
- 2) Ms. Cierra Skyers, Director of Residence Life, whose office is located in the Resident Life Office in O'Connell and who may be contacted by phone at 704-461-6892 or by email at cierraskyers@bac.edu@bac.edu;

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.

(i) 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.

(ii) FERPA. The Family Educational Rights and Privacy Act ("FERPA") is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 CFR Part 99. FERPA protects the privacy of student education records. FERPA grants to parents or 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.

(iii) Final Outcome Letter. "Final Outcome Letter" is defined in Section V(b)(iv)(4).

(iv) Investigative Report. "Investigative Report" is defined in Section IV(d)(ii).

(v) Investigator. The "Investigator" is a neutral fact-finder who is designated by the Assigned Title IX Coordinator to investigate a Complaint.

(vi) Material Sexual Misconduct. "Material Sexual Misconduct" is Sexual Misconduct that, taking into account the totality of the circumstances, is sufficiently serious and significant to warrant adjudication under, and discipline pursuant to, this Policy. Specifically, to determine whether Sexual Misconduct rises to the level of Material Sexual Misconduct, consideration will be given to the following criteria: (1) the type, frequency and duration of the conduct (the more severe the conduct, the less the need to show a repetitive series of incidents, particularly if the harassment is physical), (2) the identity of and relationship between the alleged harasser and the alleged victim, (3) the number of individuals involved, (4) the age and sex of the alleged harasser and the alleged victim, (5) the location of the incidents and the context in which they occurred, and (6) whether there have been similar incidents.

(vii) Panel Hearing. A panel consisting of trained faculty and staff that assemble to hear claims and responses regarding allegations of sexual misconduct.

(viii) Personally Identifiable Information. Personally Identifiable Information (as that term is defined by FERPA) includes, but is not limited to

- 1) a Student's name;
- 2) the name of a Student's parent(s) or other family members;
- 3) the address of a Student or a Student's family;
- 4) a personal identifier, such as a Student's social security number, student number, or biometric record;
- 5) other indirect identifiers, such as a Student's date of birth, place of birth, or mother's maiden name;
- 6) other information that, alone or in combination, is linked or linkable to a specific Student and that would allow a reasonable person in the College community, who does not have personal knowledge of the relevant circumstances, to identify the Student with reasonable certainty; or

7) Information requested by a person whom the College reasonably believes knows the identity of the Student to whom the education record relates.

(ix) Rape. “Rape” is the act of sexual intercourse or penetration (anal, oral or vaginal), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without Consent, including vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

(x) Respondent. A “Respondent” is an individual who has been accused of committing Sexual Misconduct by the report or filing of a formal or informal Complaint.

(xi) Responsible Employees. The College’s “Responsible Employees” are all College employees not designated as “Strictly Confidential Resources” in Section II of the Policy.

(xii) Retaliation. “Retaliation” means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

(xiii) Sexual Assault. “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:

- 1) Rape and attempted Rape;
- 2) 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 you, themselves, or a third party with any of these body parts or areas when such touching would be reasonably and objectively offensive;
- 3) Any sexual act in which there is force, violence, or use of duress or deception upon the victim;
- 4) Any sexual act perpetrated when the victim is unable to give Consent; and
- 5) 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.

(xiv) 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:

- 1) Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such person;

- 2) Prostituting another person (i.e., personally gaining money, privilege or power from the sexual activities of another);
- 3) 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;
- 4) Exceeding the boundaries of Consent (e.g., allowing another person to observe Consensual sex without the knowledge of or Consent from all participants);
- 5) Voyeurism; and
- 6) Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.

(xv) Sexual Harassment. “Sexual Harassment” is any unwelcome verbal, nonverbal, written, electronic or physical conduct of a sexual nature. Examples of Sexual Harassment include instances in which:

- 1) Submission or consent to the behavior is reasonably believed to carry negative or positive consequences for the individual’s education, employment, on-campus living environment, or participation in a College activity. This form of Sexual Harassment is commonly known as “Quid Pro Quo”. Examples of this type of sexual harassment include:
 - a) pressuring an individual to engage in sexual behavior for some educational or employment benefit, or
 - b) making a real or perceived threat that rejecting sexual behavior will carry a negative educational or employment consequence for the individual.
- 2) The behavior is so severe or pervasive that it has the effect of substantially interfering with the individual’s work or educational performance by creating an intimidating, hostile, or demeaning environment for employment, education, on-campus living, or participation in a College activity. Examples of this type of sexual harassment include:
 - a) one or more instances of Sexual Assault;
 - b) persistent unwelcome efforts to develop a romantic or sexual relationship;
 - c) unwelcome sexual advances or requests for sexual favors;
 - d) unwelcome commentary about an individual’s body or sexual activities;
 - e) repeated and unwelcome sexually-oriented teasing, joking, or flirting; and
 - f) verbal abuse of a sexual nature.

Sexual harassment also includes acts of intimidation, bullying, aggression or hostility based on gender or gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

(xvi) Sexual Misconduct. “Sexual Misconduct” means any unwelcome conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women, and it can occur between people of the same or different sex. The College encourages reporting of all Sexual Misconduct. Sexual Misconduct includes but is not limited to:

- 1) Dating Violence;

- 2) Domestic Violence;
- 3) Non-forcible sex acts, which are unlawful sexual acts where Consent is not relevant, such as sexual contact with an individual under the statutory age of Consent, as defined by State law, or between persons who are related to each other within degrees wherein marriage is prohibited by law;
- 4) Sexual Assault;
- 5) Sexual Exploitation;
- 6) Sexual Harassment; and
- 7) Stalking.

(xvii) Stalking. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) fear for his or her safety or the safety of others; or
- 2) suffer substantial emotional distress.

(xviii) Student. A “Student” is any student who is registered at the College or enrolled at the College (a) at the time of the alleged Sexual Misconduct *and* (b) at the time a Complaint is filed.

(xix) Title IX Coordinator. The College’s “Title IX Coordinator” is Mr. Roderick Golding, whose office is Stowe Hall, Suite 115 and who may be contacted by phone at 704-461-6713 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 Sexual Misconduct. 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 Sexual Misconduct on campus or in College programs. All allegations involving Sexual Misconduct should be directed to the Title IX Coordinator.

(xx)

EXHIBIT C
BELMONT ABBEY COLLEGE SEXUAL MISCONDUCT POLICY AND PROCEDURES

SEXUAL MISCONDUCT COMPLAINT FORM

Today's date: _____

Information Regarding the Complainant:

Name of the Complainant:

Complainant's Phone Number:

The Complainant is (please check one):

☐

a faculty member

☐

a student

☐

a staff member

☐

not affiliated with

the College

For faculty, staff, & students, indicate whether ☐ current or ☐ former

Information Regarding the Respondent:

Name of the Respondent:

The Respondent is (please check one):

☐

a faculty member

☐

a student

☐

a staff member

☐

not affiliated with

the College

For faculty, staff, & students, indicate whether ☐ current or ☐ former

Information Regarding the Alleged Sexual Misconduct:

Time and date of the alleged Sexual Misconduct:

Location of the alleged Sexual Misconduct:

☐

on

campus:

☐

off

campus:

Witnesses or third parties who may have information regarding the alleged Sexual Misconduct:

Please provide a brief description of the alleged Sexual Misconduct:

You may wish to consider including, among other things, some or all the following information in your description: the gender of the parties, the relationship between the parties, whether one or more of the parties were under the influence of alcohol or drugs at the time of the alleged Sexual Misconduct, whether the Respondent used pressure or force (physical or otherwise) in the course of the alleged Sexual Misconduct, & the frequency (if applicable) of the alleged Sexual Misconduct.

Please feel free to use the reverse side of this form or additional pages to continue your description, if desired.

Signature of the Complainant:
