PATRICK HENRY COLLEGE

SEXUAL MISCONDUCT POLICY

APPROVED BY THE PRESIDENT ON OCTOBER 25, 2016
RECERTIFIED BY THE PRESIDENT ON AUGUST 4, 2025

ARTICLE I.
Introduction

Patrick Henry College is committed to maintaining and strengthening a Biblically sound environment founded on excellent moral character and respect for human dignity. Moral responsibility should be the norm. Sexual misconduct is entirely contrary to our values. The Biblical sense of the term "sexual misconduct" refers to any sexual activity outside of marriage, and this is the sense reflected in the PHC Honor Code and Community Standards. The policy outlined in this document refers to "sexual misconduct" as a legal category, insofar as all non-consensual sexual activity is forbidden by law. Although Patrick Henry College is not subject to the Clery Act or Title IX, the College is committed to maintaining policies and practices consistent with the goals of these laws in order to prevent sexual misconduct, educate students, employees, and other applicable third parties about our prohibition on sexual misconduct, foster prompt reporting, ensure timely and fair resolution of complaints, and provide dignified care and safety. This policy is the product of an alumni committee and a broad-based campus task force, with the input of legal counsel, and conforms with those laws.

A. Definitions

"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 where a person is incapable of giving consent, such as if the individual is a minor, if the individual is under the influence of alcohol or drugs, or if the individual has a disability that prevents the individual from having the capacity to give consent. Sexual misconduct can occur between strangers or acquaintances, including people involved in a romantic 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.

Sexual misconduct includes:

- Dating violence – violence committed by an individual who is or was in a romantic or intimate relationship with the complainant.
- Domestic violence – violence committed by a current or former spouse of the complainant.
- Sexual assault – actual or attempted sexual contact with another person without that person's consent.
- Sexual exploitation – occurs when an individual takes sexual advantage of another individual for the benefit of anyone other than that individual without consent. Examples of sexual exploitation include, but are not limited to, the following actions,

taken without consent: (i) prostitution, (ii) taking pictures of intimate body parts, and (iii) viewing another person's intimate body parts or sexual activity in a place where that person would have a reasonable expectation of privacy.

- Sexual harassment, including cyber-harassment – unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, or other verbal or nonverbal conduct of a sexual nature.
- Stalking – engaging in a course of conduct directed at a specific individual that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress.
- Sexual contact without consent – the touching of another person's intimate parts without consent, including that of a minor, or using force to cause another person to touch his/her own intimate parts or another's intimate parts.
- Sexual coercion – the use of pressure to compel another to initiate or continue sexual activity against the individual's will.
- Sexual battery – the touching of intimate parts of another person without consent.
- Sexual abuse – can refer to a wide range of unwanted, nonconsensual sexual activity or touching.

"Consent" must be voluntary, informed, and mutual. Consent can be withdrawn at any time. There is no consent when there is force, express or implied, or when intimidation, threats, coercion, or duress is used. Silence or absence of resistance does not necessarily imply consent, nor does past sexual history or dating. If an individual is mentally or physically impaired or incapacitated (such as because of a disability, because of drugs or alcohol, or because the individual is asleep), so that he/she cannot understand the nature, fact, or extent of the situation, there is no consent.

"Sexual Misconduct Response Coordinator" – The Sexual Misconduct Response Coordinator (SMRC) is the designated point person for implementing this policy. The SMRC will be a member of the faculty or administration outside the Office of Student Life. For purposes of this policy, the SMRC is the Vice President of Information Technology & Campus Services. [The current holder of that office is Jeff Good, (540)441-8902]. The President may appoint another individual to fill that role as needed.

B. Notice of Non-Discrimination

Patrick Henry College upholds a Biblical view of human dignity and equality and recognizes that all men and women are created equal. No student will be discriminated against on the basis of race, color, national or ethnic origin, sex, age, or disability.

C. Applicability of 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 having a relationship with the College, regardless of where or when the alleged sexual misconduct occurred. The College's disciplinary authority may not extend to third parties who are not students or employees of the College. There is no geographic limitation to the College's prohibition on sexual misconduct. As a result, this policy applies to both on-campus conduct and off-campus conduct that is associated with the college or that might reasonably be expected to have an adverse effect on students while on campus.

D. Period of Limitations

There is no period of limitations provided that the alleged offender must be still subject to college discipline at the time of the report. This means that the alleged offender is a current student, an employee, or have an ongoing-third party relationship (e.g., a contract worker on campus) Any report of sexual misconduct, no matter how remote in time, will be handled in accordance with this policy. However, complainants are strongly encouraged to report as soon as possible because remote-in-time allegations are more difficult to investigate and as the College may lack the ability to adjudicate the complaint or to impose discipline in a manner consistent with due process. Also, state statutes of limitations may remove criminal liability as an avenue to pursue.

ARTICLE II.
Statements of Policy

A. Sexual misconduct is prohibited. This policy applies to every instance of sexual misconduct.

B. Retaliation against any person for filing, supporting, or providing information in good faith in connection with a report of sexual misconduct is strictly prohibited.

Violations of this prohibition will be addressed through this policy and/or other disciplinary procedures. Any person who feels that he or she has been subjected to retaliation should make a report to the Sexual Misconduct Coordinator (SMRC).

C. Knowingly filing false information or a false complaint under this policy, or intentionally misleading College officials involved in the investigation or resolution of a complaint, is prohibited. Violations of this prohibition will be addressed through this policy and/or other disciplinary procedures.

D. Criminal Proceedings

Unless the College is required by law to do so, the choice of whether to report sexual misconduct to local law enforcement rests solely with the complainant. However, the College strongly encourages complainants to report crimes to local law enforcement and is committed to cooperating with local law enforcement during any investigation. This policy's provisions for care and safety will be in effect immediately upon receipt of the report by the College. However, when a report is made to local law enforcement, the SMRC and the Campus Safety Lieutenant will consult with local law enforcement to determine whether it is appropriate to immediately commence the adjudication and disciplinary provisions of this policy or to wait until a prosecutorial determination has been made by local authorities.

When the College receives a report pertaining to any sexual misconduct concerning a minor or when an employee of the College has reason to suspect that a minor has been subjected to sexual misconduct, the College will comply with its legal obligation to report this allegation to local law enforcement under VA Ann. Code § 63.2-1509.

E. Confidentiality

The College will make every feasible effort to protect the confidentiality of and prevent the disclosure of the identities of the parties involved in a sexual misconduct report to any third party; however, such confidentiality cannot be guaranteed. For example, information regarding alleged sexual misconduct must be handled in accordance with applicable law, which may limit the College's ability to maintain confidentiality. Information regarding alleged sexual misconduct may also be shared among College officials and administrators as appropriate and necessary.

Although the College cannot always control confidentiality violations by students or third parties, students and employees of the college who become aware of sexual misconduct allegations during the College's process under this policy are expected to maintain the confidentiality of all parties. Information about an allegation of sexual misconduct is to be divulged by an employee or student of the college only when the recipient needs to know the information in order to properly perform his or her duties under this policy.

Complainants and respondents may request that the College treat information regarding alleged sexual misconduct as confidential. The College will take such requests seriously; however, such requests may limit the College's ability to investigate and take reasonable action in response to a complaint. In such cases, the College will evaluate the request that a report of sexual misconduct remain confidential in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment. Specifically, the College will weigh the request for confidentiality against, among other things, the seriousness of the alleged offense, the complainant's age, other similar complaints, the safety of the complainant and others, and any applicable laws, before determining whether or not to honor a confidentiality request.

The College will not release confidential information to the parents of an adult student, or require an adult student to disclose confidential information to his or her parents, unless the student so chooses. However, in the event of sexual misconduct allegations concerning a minor, the College may contact the minor student's parents.

F. Immunity for Complainants

The College takes seriously all violations of legal, Biblical, and community standards, as articulated in Chapter 5 of the College Student Handbook. However, the College recognizes that sexual misconduct may occur under circumstances wherein the complainant did not uphold these standards. Protecting the safety of students and providing proper care for the complainant in the aftermath of alleged sexual misconduct will take priority over administering disciplinary action for these violations. Although the College retains the right to impose discipline on a complainant related to allegations involving other violations of College policy, such as the College's "Community Standards" policy, any such disciplinary process shall give substantial weight to the voluntary reporting and overall context of the incident reported so as not to hinder or impede the willingness of students to bring forth concerns or complaints under this policy.

ARTICLE III.
How and Where to File a Report of Sexual Misconduct

A. General Guidelines on Reporting

Any person may report an allegation of sexual misconduct, regardless of whether that person is the complainant, the accused, or a witness. The College strongly encourages complainants and witnesses to report sexual misconduct promptly. However, a report may be made at any time, regardless of how remote in time the alleged misconduct occurred.

Because sexual misconduct may violate the College's policy and applicable law, and because the College's process is not a substitute for initiating legal action, the College encourages complainants and witnesses to report sexual misconduct promptly both to College officials and to law enforcement authorities.

Individuals may choose not to report sexual misconduct to campus officials or law enforcement authorities; the College respects and supports the complainant's decision with respect to reporting. However, when the nature of the allegation warrants it, the College may notify law enforcement authorities. Such notification may be necessary, for example, if the College determines that an accused poses a danger to the community generally, or to others besides the complainant or if the complainant is a minor.

B. Reporting Sexual Misconduct

Individuals may file a complaint directly with local law enforcement agencies by dialing 911 and/or by filing a complaint with any of the following College points of contact:

- Campus Safety Director (540-441-8802)
- SMRC (540-441-8902)
- Health or Counseling Services

In the case of a school-affiliated counselor or nurse from whom the complainant has sought medical (physical or emotional) care, the counselor or nurse shall not report the reported conduct unless directed by the complainant so as to preserve the complainant's ability to obtain medical assistance confidentially.

Individuals may also report sexual misconduct to a member of the College's staff or faculty not referenced above, including Resident Assistants, in order to ensure that the first person to whom the complainant speaks can be a trusted friend or mentor. The responsibilities of that staff or faculty member are articulated in Paragraph D below.

Individuals may report sexual misconduct to law enforcement without making a report to the College; similarly, individuals may make a report to the College without reporting to local law enforcement. Individuals may seek the assistance of victim advocacy organizations that do not report directly to law enforcement, including RAINN (www.rainn.org) and others listed in an appendix to this policy, although seeking such assistance without notifying the College will not trigger the procedures under this Policy.

A criminal investigation does not preclude the College from conducting its own investigation, making its own determinations, and imposing sanctions regarding the alleged sexual misconduct. However, the SMRC and the Campus Safety Director will consult with law enforcement investigators to determine whether it is necessary to delay the College's investigation while criminal investigators are gathering evidence. In such a case, the College will nonetheless take prompt steps to ensure appropriate care and safety measures are put in place for the complainant and, where necessary, other potentially affected individuals.

Prosecutorial determinations, results of criminal investigations, and/or decisions by local law enforcement not to investigate allegations are in no way binding upon the College's investigative process and ultimate determination.

C. Form of a Complaint

Use of a standard form is strongly encouraged. This form is attached as an appendix to this policy, and can be found on the student portal. All College faculty and staff will have access to this form, so they can file a report and/or provide it to a student or other third party if

requested. However, a complaint can be lodged through other written means (letter, handwritten note, email, etc.) and the SMRC shall not decline to implement the procedures set forth in this Policy based upon the failure of any person to use a standard form.

D. Faculty and Staff Obligations to Report

A faculty or staff member with any knowledge (including direct observation) about a known or suspected incident of sexual misconduct (other than staff with professional or statutory confidentiality obligations, such as health care professionals or licensed counselors) must report the incident to the SMRC as soon as possible. No employee is permitted to investigate, resolve, or interfere in allegations of sexual misconduct without the express authorization of the SMRC and in accordance with this policy. When a complainant has reported sexual misconduct to a member of the faculty or staff, that individual may serve as a support person and accompany the complainant throughout the process articulated in this policy. See Article V, Section E of this Policy.

E. Anonymous Reporting

Sexual Misconduct may be reported anonymously, but it may be very difficult for the college to appropriately investigate and adjudicate anonymous complaints in the absence of corroborating information. Should the College receive an anonymous report of sexual misconduct, the SMRC will consider the contents of such a report and make a reasoned determination as to next steps. No such report will be disregarded solely because it is anonymous in nature.

ARTICLE IV.
Procedures Applicable to All Complaints of Sexual Misconduct

A. Oversight

The SMRC will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of reports filed with the College.

B. Conflicts

If any College administrator with duties under this policy is the complainant, respondent, or has a family member who is the complainant or the respondent, then the President will appoint another College administrator to perform that person's duties under this policy. If any College administrator with duties under this policy is a witness to sexual misconduct, or has a family member who is a witness to sexual misconduct, then the President may appoint another College administrator to perform that person's duties if, in the discretion of the President, it appears the College administrator will be conflicted. Any College administrator with duties

under this policy may recuse himself or herself for good cause; in those circumstances, an alternate shall be appointed in accordance with the above.

C. Time for Resolving Complaint

The College will make reasonable efforts 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 60 calendar days of the receipt of the Complaint, absent extenuating circumstances. Hearings, if any, will take place after the conclusion of the investigation.

Any party may request an extension of any deadline by providing the SMRC with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The SMRC may modify any deadlines contained in this Policy as necessary and for good cause.

D. Request for Withdrawal of Complaint

A complainant may determine after filing a report of sexual misconduct that he or she does not wish to pursue resolution of the allegations through the College. The College takes such requests seriously. However, complainants are advised that such requests may limit the College's ability to take action in response to a report.

The SMRC shall have sole authority to grant a request to withdraw a report of sexual misconduct. The College may, in its discretion, continue to investigate and adjudicate the report. Moreover, even if the College consents to the withdrawal of a report of sexual misconduct, such withdrawal does not preclude the College from taking appropriate action to ensure the safety of the complainant or the College-at-large and from taking disciplinary action against the respondent. Should a complainant decide to withdraw his or her report of sexual misconduct and not pursue resolution under this policy, he or she will be asked to sign a written withdrawal and waiver of liability form. No student or member of the faculty or staff shall encourage a complainant to withdraw a report of sexual misconduct.

E. Safety Measures

After receiving a report of sexual misconduct, the SMRC shall conduct an assessment of the severity of the alleged misconduct and any ongoing threat posed by the respondent to the complainant or others. If, at that time, or at any other point during the process, the SMRC reasonably believes that a respondent who is a member of the College community poses a substantial threat of harm to any member of the campus community; threatens or endangers College property; or disrupts the stability of normal College operations and functions; the SMRC will take appropriate action, which may include, but not be limited to, the following:

- With respect to student respondents, recommend that relevant College personnel:

- Suspend the respondent from campus housing on an interim basis and/or restrict his or her movement on campus
- Suspend the respondent's enrollment in the College
- Suspend or reassign the respondent's employment with the College, if respondent is also an employee

- With respect to employee respondents, recommend that the President:
  - Restrict respondent's movement on campus, or take other measures to ensure safety, in the President's discretion
  - Reassign respondent or place him or her on administrative leave

In any case, the SMRC may direct any relevant College personnel to institute protective measures during the process of adjudicating an allegation of sexual misconduct, including:

- Impose and enforce a no-contact order upon the respondent
- Facilitate changes in the complainant's, the respondent's, or any witness's class schedule, living arrangements, or work schedule
- Provide a security escort to classes
- Provide counseling services
- Provide support for academic workload, including extensions and changes in academic assignments as needed
- Facilitate the complainant's or a witness's temporary withdrawal from and return to College

F. Initial Meetings

Initial Meeting With Reporting Individual. As soon as possible after a report of sexual misconduct, the SMRC shall meet with the reporting individual. If the reporting individual is not the alleged victim, the SMRC will also contact the alleged victim to meet with him or her as soon as possible. At the initial meeting(s) with the complainant and/or reporting individual, the SMRC shall:

- Provide a copy of this policy
- Explain the confidentiality standards articulated in this policy, and discuss any concerns
- Encourage and offer to facilitate a report to local law enforcement

- Explain the avenues for formal and informal resolution of the alleged misconduct
- Explain the process for investigation and ultimate adjudication of sexual misconduct
- Refer the individual to medical treatment and counseling services as appropriate
- Discuss available interim measures for safety and comfort
- Determine the avenue of resolution sought by the complainant

Initial Meeting with Respondent. If the complainant wishes to pursue a formal or informal resolution through the College, or the SMRC determines that further investigation is warranted, the SMRC shall schedule a meeting with the respondent. If the complainant has elected to report to local law enforcement, the SMRC shall not contact the respondent until first coordinating with law enforcement officials to avoid interfering with a criminal investigation. At the meeting with the respondent, the SMRC shall:

- Provide the respondent, in writing, sufficient information consistent with state and federal privacy laws, to allow him or her to respond to the substance of the allegation. The document shall include the name of the complainant (unless the complainant has requested that his or her name not be released and the SMRC has agreed to honor this request), as well as the approximate date, location, and nature of the alleged sexual misconduct
- Explain the College's procedures for formal resolution and informal resolution
- Explain the process for investigation and ultimate adjudication of sexual misconduct
- Explain confidentiality standards articulated in this policy, and discuss any concerns
- Explain the College's policy with respect to retaliation, and advise the respondent against attempting to improperly influence the procedures for adjudication
- Inform the respondent of any interim measures already determined that directly affect the respondent (e.g., changing his or her class schedule, placement on administrative leave, etc.)
- Refer the respondent to medical treatment and counseling services as appropriate
- Notify the respondent not to contact the complainant or to discuss the allegations with any known witnesses, and advise respondent of the disciplinary consequences of violating such an order.

G. The Investigation

The SMRC shall order that an investigation of the report be conducted, unless it is clear on the face of the report and/or based on the SMRC's initial meetings with the parties, that no reasonable grounds exist for believing that the conduct at issue constitutes sexual misconduct. In making a determination that no reasonable grounds exist, the SMRC shall not make any judgments as to the credibility of the complainant or any witnesses, and shall construe all facts and inferences in the light most favorable to the complainant. If the SMRC determines that no reasonable grounds exist, the SMRC shall prepare a letter in which he or she provides a brief explanation of his or her reasoning. The SMRC shall provide a copy of this letter, absent extenuating circumstances, to all parties no more than ten days after making this determination.

If the SMRC determines an investigation should be conducted, the SMRC shall promptly appoint an investigator. Within three days of appointment, the investigator, the complainant, or the respondent may identify in writing any real or perceived conflicts of interest posed by assigning the investigator. Conflicts will be handled in accordance with Article IV.B.

Qualifications. The investigator shall be the Campus Safety Director, or, in cases of his or her unavailability, selected from the faculty or staff by the SMRC. In such cases, the investigator shall not be the Dean of Student Life or any of his or her subordinates.

The investigator shall begin investigation promptly upon receipt of the report, and shall coordinate as appropriate with any involved law enforcement agencies. The investigator shall gather the facts of the matter, interviewing the complainant, the respondent, and any witnesses and/or obtain signed, written statements from them. The investigator shall document all investigatory findings, draft an investigation report, and consult with the SMRC regarding the investigatory findings and report.

If no law enforcement investigation is open, or if the SMRC, in cooperation with local law enforcement, has determined that it will not damage a criminal investigation to release the report to the respondent, the SMRC shall release the report of investigation simultaneously to both parties, in a manner that does not require the parties to both be present together. The parties must then comply with the confidentiality standards set forth in this policy.

H. Formal Versus Informal Resolution

Upon receipt of the report of investigation, the SMRC shall meet with the complainant in person to discuss the investigation. At that meeting, the SMRC shall determine whether the complainant wishes to pursue formal or informal resolution. If the complainant has elected informal resolution, the SMRC shall make an independent determination as to the propriety of informal resolution of the case, and as appropriate initiate informal resolution under Article VI of this policy. If the complainant has elected formal resolution, or the SMRC has determined that informal resolution is inappropriate, or other qualifications for informal resolution are not met, the SMRC shall initiate formal resolution under Article V of this policy.

ARTICLE V.
Formal Resolution

A. Goals

The formal resolution process is designed to ensure that allegations of misconduct are thoroughly investigated and adjudicated by an objective hearing panel in a manner that respects the dignity of both parties, the complainant's right to be heard, and the respondent's right to due process.

B. Respondent's Acknowledgement of Responsibility Prior to Hearing

At any time prior to the hearing, the respondent may admit to the alleged sexual misconduct. In such a situation, the SMRC will propose sanctions. If both parties agree on the propriety of the sanctions, the SMRC will direct relevant College personnel to impose them. If either the complainant or the respondent objects to the proposed sanctions, the Hearing Panel will convene for the sole purpose of determining sanctions. The SMRC will then direct relevant College personnel to impose the sanctions, consistent with the appeal process detailed below in Article V.J.

C. Composition of the Hearing Panel

Absent acknowledgement of responsibility by the respondent, the SMRC will convene the judicial faculty-staff hearing panel. The panel shall consist of no fewer than three members of the faculty and/or staff, as selected by the Faculty Senate and appointed by the President. All members selected for the judicial faculty-staff hearing panel will have received sexual misconduct prevention and response training. Within three days of appointment, the complainant, the respondent, or a hearing panel member may identify in writing any real or perceived conflicts of interest posed by assigning the investigator. Conflicts will be handled in accordance with Article IV.B.

D. Failure to Appear

If the complainant or respondent fails to appear before the panel if requested to do so, and such party was provided proper notice of the hearing, then absent extenuating circumstances, the panel will proceed to determine the resolution in the absence of that party.

E. Persons Who May Attend the Hearing

Legal Counsel. No party or witness may be accompanied by legal counsel during any hearing held pursuant to this policy.

Student Advisors. Each party may select, from among a standing pool of Student Advisors (SAs), an SA to accompany and guide that party at the hearing. SAs shall be juniors or seniors who have received College training in sexual assault prevention and response, as well as in the procedures articulated in this policy, within the past twelve months. While the SA may provide

support and advice to a party at the Hearing, the SA may not speak on behalf of the party or otherwise participate in, or in any manner disrupt, the Hearing.

Support Persons. Both the complainant and the respondent may have a member of the College community present to support and assist them during the hearing. The chair may exclude a support person if he or she is a witness, or his or her presence would be disruptive to the hearing. A support person may communicate privately with a party but may not have a speaking role. A support person may not be an attorney, unless it is clear that he or she is not present in an attorney-client capacity (for example, if the complainant's parent or close friend works in the College community and is an attorney).

Witnesses. The complainant, the respondent, and the judicial faculty-staff hearing panel may designate witnesses to appear at the hearing.

F. Conduct of the Hearing

- Witnesses, including the complainant and respondent, may testify in the form of a narrative.
- The panel may question all witnesses and develop evidence through testimony.
- Any witness, including the complainant or respondent, may decline to answer specific questions. Either party may decline to testify.
- Neither party may question any witness, including the other party.

G. Evidence

The SMRC shall provide the written report and the investigation to the judicial faculty-staff hearing panel immediately after the panel is appointed. The members of the panel shall review the investigation and determine what witnesses the panel wishes to call in order to execute its duties. The chair shall then issue to both parties a request for witness and exhibit lists from each party, with an attendant deadline.

- At least two days before the hearing, the panel shall send the SMRC a consolidated witness list to ensure the presence of witnesses requested by the panel and both parties.
- At the hearing, both parties have the equal right to present evidence. No rules of evidence apply at the hearing, except as provided in this Policy.
- Evidence of the past sexual history of either party may not be introduced at the hearing, except in the following circumstances:
    - To show that the complainant has been disciplined for false reports of sexual misconduct

- To show that the respondent has been previously found to have engaged in sexual misconduct in violation of the college's rules or policies or to have been convicted of a crime involving sexual misconduct under applicable law

- To show that a consensual relationship previously existed between the complainant and the respondent.

H. Hearing Outcome

As soon as practicable after the hearing, the hearing panel will confer in closed session and determine by majority vote whether the evidence establishes by a preponderance that it is more likely than not that the respondent committed sexual misconduct as alleged.

The panel's determination will be recorded on a findings and sanctions worksheet signed by the panel members. If there is a minority vote, the minority member(s) may author a minority report and send it to the SMRC for consideration. If the panel finds that the respondent did not commit sexual misconduct, the panel will sign the findings worksheet, bring the hearing back to order, and issue the finding to both parties. If the panel finds that the respondent committed sexual misconduct, the panel shall proceed immediately to deliberate on appropriate sanctions. The worksheet is attached as an appendix to this Policy.

I. Sanctions

The judicial faculty-staff hearing panel will determine sanctions if there is a finding that the respondent committed sexual misconduct.

Sanction selection should be guided by the gravity of the misconduct, any aggravating or extenuating facts and circumstances, and any record of prior discipline of the respondent for any infraction of the College Standards or other pertinent rules or policies. The hearing panel should select sanctions that bring an end to the violation in question, reasonably prevent a recurrence of a similar violation, remedy the effects of the violation, and are tailored to the facts and circumstances of the offense.

Sanctions may include, but are not limited to, the following:

<u>For students:</u>

- Formal letter of reprimand
- Expulsion or suspension from the College
- Disciplinary probation
- Expulsion or suspension from campus housing
- Limits on movement about campus

- Mandated counseling
- Educational sanctions deemed appropriate by the panel
- Any appropriate sanction the panel deems to fit the underlying offense(s)

For employees:

- Withholding a promotion or pay increase
- Temporary or permanent reassignment of employment
- Termination of employment
- Temporary suspension without pay
- Reduction in pay

Implementation. Sanctions directed by the panel shall be executed by College personnel, but only after resolution of a timely appeal pursuant to Article V.J below.

Complainant Notification and Safety. The complainant shall be notified of the sanctions directed by the panel immediately after the hearing. If the panel has determined that it is more likely than not that the respondent committed sexual misconduct, the SMRC shall make a determination as to whether to make permanent or continue for a definite period any interim safety measures that impact the respondent. If the panel has determined that it is less likely than not that the respondent has committed sexual misconduct, the SMRC may still make a determination to make permanent or continue for a definite period any interim safety measures that do not impact the respondent.

Confidentiality and Disclosure. Documents prepared in anticipation of the hearings, as well as documents, testimony, or other information introduced at the hearings, may not be disclosed by any party outside the hearing, unless otherwise required by applicable law. However, either party, or the College, may disclose the findings and sanctions worksheet to any person.

J. Appeals

The complainant or the respondent may appeal the decision of the panel and/or the sanction imposed on the respondent within ten calendar days from the date of the signature of the findings and sanctions worksheet.

Appeals of findings may be filed for only two reasons: 1) material new evidence has emerged that could significantly impact the outcome of the hearing; 2) procedural errors during the hearing significantly impacted the outcome of the hearing. Appeals of sanctions may be

filed for only one reason: that the severity of the sanction imposed is incommensurate to the gravity of the sexual misconduct for which the respondent was found responsible.

Appeals shall be filed in writing with the President with a copy to the SMRC. The SMRC shall promptly notify the other party that an appeal has been filed.

With respect to an appeal of findings, the President or a panel that he appoints and convenes shall make a determination that either 1) the decision of the panel should stand; 2) that the decision of the panel should be overturned; or 3) that additional hearings should occur or evidence should be obtained before making an appellate determination.

With respect to an appeal of sanctions, the President or a panel that he appoints and convenes shall make a determination that either 1) the decision of the panel should stand; 2) the decision of the panel should be commuted; or 3) that the sanctions should be reduced or increased.

ARTICLE VI.
Informal Resolution

A. Qualifications for Informal Resolution

Informal resolution is only appropriate if 1) the complainant requests it; 2) the respondent agrees to such resolution; 3) the complainant and the respondent are both students of the College; 4) the SMRC determines that informal resolution is an appropriate mechanism for resolving the allegations; and 5) the report does not involve an allegation of rape or sexual assault. Although informal resolution can be utilized to resolve serious offenses, and it does not suggest a view that the offense is less serious to utilize informal resolution, informal resolution should not be utilized to resolve severe or unusually violent offenses.

If there are multiple alleged offenses, all of the allegations should be resolved using the same process. For example, the parties may not seek to resolve one alleged incident at informal resolution and take another to formal resolution.

B. The Informal Resolution Process

The SMRC shall appoint a presiding officer to oversee the mediation pursuant to the informal process.

The SMRC shall provide 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 SMRC will also specify in the notice which part(s) of the alleged misconduct will be the subject of the mediation.

Either party may challenge the participation of the presiding officer by submitting a written objection to the SMRC within three calendar days of receipt of the notice of the mediation. Such objection must state the specific reason(s) for the objection. The SMRC 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 before the date of the mediation. Conflicts will be handled in accordance with Article IV.B.

The parties may not contact each other outside of the mediation, even to discuss the mediation.

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 either direct that the resolution of the complaint be determined according to the formal resolution process set forth above, or if the alleged complainant fails to appear without good cause, dismiss the complaint.

The Mediation.

- **Complainant's rights.** During the mediation, the complainant may:
  - Address the respondent in the presence of, and facilitated by, the presiding officer
  - Communicate his or her feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with the respondent or by communicating indirectly with the respondent through the presiding officer)
  - Relay his or her wishes and expectations regarding protection in the future
  - Never be left alone with respondent
- **Counsel and Support Persons**
  - Under no circumstances may legal counsel be present at the mediation on behalf of the complainant or the respondent.
  - As provided in paragraph V.F of this policy, either party may have a support person during any part of the process except for the actual mediation session(s).

C. 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 SMRC 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.

The presiding officer will complete the worksheet provided as an appendix to this policy, stating the allegations for which the respondent admitted responsibility or stating that the parties agree that no sexual misconduct occurred and the sanctions, if any, to which the parties agreed. Upon completion, the presiding officer will forward the worksheet to the SMRC for his/her signature approving the resolution.

This Policy may be amended or modified at any time by the College.

Sexual Misconduct Complaint

Date: _____

Complainant or Witness (circle one): _____

Respondent: _____

Date when the alleged misconduct occurred: _____

Describe what happened. You may use additional pages.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
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_____
_____
_____
_____
_____
_____

The College is required to report all incidents of sexual misconduct involving minors to law enforcement. Adult students may choose whether or not to report sexual misconduct to the police.

If you have been raped and decide to report the incident to law enforcement, call 911 immediately. Do not bathe, brush your teeth, or wash your clothes. Even if you do not report the incident, consider seeking medical attention for your safety.

You may also contact a victim's assistance organization that is not affiliated with law enforcement. For example, the National Sexual Assault Hotline, operated by RAINN, provides free, confidential counseling 24 hours a day at 1-800-656-HOPE.

Formal Resolution
Hearing Panel Findings and Sanctions Worksheet

Hearing Date: _____

Complainant: _____

Respondent: _____

Allegations:

1._____
_____
2._____
_____
3._____
_____

Findings (mark appropriate blank):

Respondent _____ more likely than not ____ less likely than not committed the offense outlined in allegation 1.

Respondent _____ more likely than not ____ less likely than not committed the offense outlined in allegation 2.

Respondent _____ more likely than not ____ less likely than not committed the offense outlined in allegation 3.

Sanctions:

_____
_____
_____
_____
_____
_____
_____

Signed:

_____ _____
Chair, Hearing Panel **Date**

Informal Resolution Worksheet
(to be completed by the presiding officer
and signed by mediation participants and the Sexual Misconduct Response Coordinator)

Mediation Date: _____

Complainant: _____

Respondent: _____

Allegations:

1._____
_____
2._____
_____
3._____
_____

Responsibility:
I, _____ (Respondent's signature), admit my responsibility for the conduct alleged above.

We, _____(Complainant's signature) and
_____ (Respondent's signature), agree that no sexual misconduct occurred.

The parties agree that the following sanctions, if any, are appropriate:
_____
_____
_____
_____
_____

The parties agree that this mediation has resolved the complaint.

_____ _____
Presiding Officer **Date**

_____ _____
Complainant **Date**

_____ _____
Respondent **Date**

I find that this mediation has resolved the complaint. I approve this resolution.

_____ _____
Sexual Misconduct Response Coordinator **Date**

Resources for Victims, Witnesses, and Friends

The following are sexual assault resources and information for victims, witnesses, and friends of victims.

How do I know if I was sexually assaulted/raped?

- You can find general definitions for sexual assault and rape on RAINN's (Rape, Abuse & Incest National Network) website: https://www.rainn.org/get-information/types-of-sexual-assault/was-it-rape
- You can find information about laws specific to Virginia here: http://www.vdh.virginia.gov/ofhs/prevention/dsvp/varapelaws/documents/2009/pdfs/statutes.pdf

Notes: We recommend pointing students to outside definitions to avoid concerns that a College-provided definition of sexual assault/harassment may be under-inclusive.

What should I do after a sexual assault?

- Report the incident to law enforcement (911 or, if you are on campus or in Purcellville, the Purcellville Police Department at 540-338-7422).
- Contact a rape crisis center (see resources detailed below) to receive free assistance from a counselor regarding what to do after the assault and how to report the assault.
- Preserve any evidence of the assault, both in the area in which the incident took place and on your body.
- Seek immediate medical attention. Specifically request a Sexually Assault Forensic Exam (SAFE) by a Sexual Assault Nurse Examiner (SANE). Note: You may need to be transported to INOVA Fairfax as opposed to INOVA Loudoun to receive a SAFE.
- Report the incident to the College.
- Practice self-care. (Examples: https://www.rainn.org/get-information/sexual-assault-recovery/self-care-for-survivors.) Consider seeking professional counseling with a therapist experienced in trauma care.

What do I do if I witnessed or heard about a sexual assault, or I have a friend who is a victim?

- If the victim confides in you, listen. Express that you are sorry this has happened to them. Avoid physical displays of affection unless requested by the victim.
- Offer to accompany the victim to the hospital, police department, and the SMRC.
- Remind the victim of the various resources available to them (detailed below) and encourage them to file reports with law enforcement and the College.

- Call a rape crisis center (numbers below) and ask for advice as the friend of a victim or witness to an assault.
- If you witnessed or heard about a sexual assault, you can make a third party report to law enforcement and the College.
- Read more here: https://www.rainn.org/get-help/help-a-loved-one.

Where can I get help?

RAINN (Rape, Abuse & Incest National Network) operates the National Sexual Assault Hotline, which routes callers to local RAINN-affiliated rape crisis centers. The RAINN-affiliated rape crisis center closest to PHC is Loudoun Citizens for Social Justice/Loudoun Abused Women's Shelter (LAWS). When the National Sexual Assault Hotline is called, the caller will automatically be routed to a crisis center based on the area code and first three digits of the caller's phone number, unless the called interrupts by pressing '1' when prompted and entering a zip code.

- 24/7 Toll-Free Hotline: 1-800-656-4673
- Online Hotline (chat): https://ohl.rainn.org/online/
- Website: http://www.rainn.org/. The RAINN website offers a large amount of information pertaining to sexual assault on their website, including male sexual assault (http://www.rainn.org/get-information/types-of-sexual-assault/male-sexual-assault)

The Loudoun Citizens for Social Justice/Loudoun Abused Women's Shelter (LAWS) offers counseling for victims and friends/family of victims, assistance in filing a report with law enforcement, legal assistance, accompaniment to forensic exams and court, and emergency safe housing.

- 24-Hour Crisis Hotline: (703) 777-6552
- Sexual Assault Services (not a 24-Hour Line): (703) 771-9020
- Website: http://lcsj.org/services/sexual-assault/

NCMEC (the National Center for Missing and Exploited Children) accepts reports pertaining to the following crimes committed against minors: non-familial sexual molestation, online enticement for sexual acts (this includes cell phones and "sexting"), and unsolicited obscene material sent to a minor.

- 24/7 Toll-Free Hotline: 1-800-843-5678
- http://www.cybertipline.com

The National Center for Victims of Crime's Online Stalking Resource Center can assist victims in navigating the complex issue of stalking. Victims can learn about their rights through a

compilation of relevant laws according to the victim's location, and access a printable log to document stalking incidents.

- http://www.victimsofcrime.org/our-programs/stalking-resource-center

PsychologyToday.com's therapist database can be searched for local therapists based upon zip code, specialty (such as sexual abuse and/or trauma/PTSD), religious affiliation, presence of sliding scale, and accepted insurance plans. Keep in mind that a rape crisis center may also be able to assist with a mental health referral.

- http://therapists.psychologytoday.com
- Local pastors and Christian counselors