

# Elmhurst College Non-Discrimination and Non-Harassment Policy

## 1) Statement Against Discrimination, Harassment, Retaliation and Intimidation

It is the policy of Elmhurst College (the College) to afford equal opportunity to and not discriminate against students, employees and applicants regardless of race, color, national origin, religion, sex, gender identity, sexual orientation, age, disability, citizenship, veteran status, pregnancy, marital status or other protected status as those terms are defined by applicable federal, state and local law.

The College believes that all employees and students should be able to work and learn in an educational environment free from discrimination and harassment. Harassment includes unwelcome conduct, whether verbal, physical, written or graphic, that is based on protected status such as race, color, national origin, religion, sex, gender identity, sexual orientation, age, disability, citizenship, veteran's status, pregnancy, marital status or other protected status.

The College does not discriminate and will not tolerate discrimination against any member of its community that is based on protected status. Nor will it tolerate harassing conduct that affects tangible job or educational benefits or that interferes unreasonably with an individual's work or academic performance or that creates an intimidating, hostile or offensive working, educational or learning environment. Such conduct shall be considered discriminatory harassment and is specifically prohibited by this policy.

The College is committed to addressing sexual assault, sexual violence, and other sexual misconduct, which are types of sexual harassment and are specifically prohibited by this policy. Domestic violence, dating violence, sexual exploitation, stalking, retaliation, and intimidation are also prohibited by this policy.

This policy applies to all College employees, students, vendors and affiliated persons, regardless of sexual orientation or gender identity, and regardless of whether the alleged violations occurred on or off campus. Any employee, student, vendor or affiliated person who engages in prohibited discrimination or harassment will be subject to disciplinary action up to and including permanent exclusion from the College or termination in the case of employees.

Examples of conduct that may violate this policy are:

- Verbal abuse, slurs, derogatory comments or insults about, directed at or made in the presence of an individual or group based on a protected status.
- Display or circulation of written materials or pictures that are degrading, based on protected status.
- Damage to, trespass to or unauthorized use of property, such as spraying or scratching of a motor vehicle, damage or theft of property, based upon protected status.
- Physical contact or verbal threats based upon the protected status.

Conduct of this sort is prohibited by this policy without regard to whether the conduct would violate applicable law.

- a) Retaliation** is a very serious violation of this policy and should be reported immediately to any of the persons listed in this policy. Retaliation exists when action is taken against a complainant or participant in the complaint process that (i) adversely affects the individual's opportunity to benefit from the College's programs or activities; and (ii) is motivated in whole or in part by the individual's participation in the complaint process. Retaliation against any individual for reporting discrimination or harassment will not be tolerated and will be treated as a separate and independent violation of this policy.
- b) Intimidation** of any individual undertaken to prevent reporting of violations or cooperating with investigations is also prohibited under this policy. Each alleged or suspected violation will be investigated and resolved using the procedure set forth below in Section 10 regarding the formal complaint resolution procedure. Individuals who are not themselves complainants, but who assist in a discrimination or harassment investigation, are also protected from retaliation and intimidation under this policy.

The sections that follow include additional information regarding the role of the Title IX Coordinator (s. 2); the College's prohibition against sex discrimination (including sexual harassment, sexual assault, sexual violence and other sexual misconduct) and other interpersonal misconduct (s. 3); resources for survivors of sex discrimination and interpersonal misconduct (s. 4); reporting options (s. 5); amnesty policy (s. 6); report response and assessment (s. 7); prompt, fair and equitable resolution (s. 8); resolution time frame (s. 9); informal complaint resolution procedure (s.10); formal complaint resolution procedure (s. 11); training, prevention, and education (s. 12); policy regarding consensual amorous relationships (s. 13); changes in the policy and procedures (s. 14); and prohibition against disability discrimination (s. 15).

## 2) Title IX and the Role of the Title IX Coordinator

Title IX is a federal law that prohibits sex discrimination in federally funded education programs and activities. Title IX states as follows:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any education program or activity receiving federal financial assistance."*

Discrimination on the basis of sex (i.e., sex discrimination) includes sexual harassment, sexual assault and sexual violence. As noted above, it is the policy of the College to provide an educational environment free of all forms of sex discrimination, including but not limited to unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct or communications constituting sexual harassment, as defined in this policy and as otherwise prohibited by state and federal statutes. Sexual harassment, including acts of sexual assault and sexual violence, is a form of sex discrimination and is prohibited at the school. This prohibition against discrimination on the basis of sex applies to all students, faculty and staff, to other members of the College community, and to contractors, consultants and vendors doing business or providing services to the school.

The Title IX Coordinator is responsible for implementing and monitoring Title IX compliance on behalf of Elmhurst College. This includes coordination of training, education, communications and administration of the complaint and grievance procedures for the handling of suspected or alleged violations of this policy. Any inquiries regarding Title IX or the College's Prohibition Against Sex Discrimination should be directed to the College's Title IX Coordinator. The College's Title IX Coordinator will be available to meet with or talk to students regarding issues relating to Title IX and the College's Prohibition Against Sex Discrimination.

The Title IX Coordinator for the College is:

### **Dr. Phil Riordan**

Vice President for Student Affairs  
Frick Center 240  
Elmhurst College  
190 Prospect Avenue  
Elmhurst, IL 60126  
(630) 617-3050  
[phil.riordan@elmhurst.edu](mailto:phil.riordan@elmhurst.edu)

If you have a concern that your rights are being violated (whether student, faculty or staff), you should follow the procedures set forth in this policy (if you are a student or staff member) or the Faculty Manual (if you are a faculty member). If you are not sure who to go to or believe you have a complaint that falls under Title IX, you may reach out directly to the Title IX Coordinator. If the complaint relates to the Title IX Coordinator, you may contact the Vice President for Finance & Administration. In addition to contacting the Title IX Coordinator, in instances of alleged or suspected sexual assault, sexual violence, dating violence, domestic violence, stalking or other potentially criminal conduct, you may contact Campus Security at (630) 617-3000 or the local police by calling 911. Additional information and resources regarding these issues are available on the [Campus Security website](#) and is outlined below.

### 3) Prohibition Against Sex Discrimination and Other Interpersonal Misconduct

This section supplements the general policy statement set forth above and includes information that addresses the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), the Violence Against Women Reauthorization Act of 2013 (VAWA), and the Illinois Preventing Sexual Violence in Higher Education Act. In determining whether a hostile environment based on sex exists in the educational setting, the College will consider whether there was harassing conduct based on sex that was sufficiently serious—that is, sufficiently severe or pervasive—to deny or limit a student's ability to participate in or benefit from the College's program.

With regard to students, this policy is intended to prohibit sex discrimination or sexual harassment as a basis for determination on issues including: (1) admissions; (2) educational performance required or expected of a student; (3) attendance or assignment requirements; (4) to what courses, fields of study or programs the student will be admitted; (5) what placement or proficiency requirements are applicable; (6) the quality of instruction; (7) tuition or fee requirements; (8) scholarship opportunities; (9) co-curricular programs and activities in which the student will participate; (10) any grade the student will receive; (11) the progress of the student toward completion of a program; (12) what degree, if any, the student will receive.

Sex discrimination (which includes sexual harassment, sexual assault and sexual violence) and other interpersonal misconduct (which includes dating violence, domestic violence, and stalking) are prohibited under this policy without regard to whether the conduct would violate applicable laws. Although the College's policy prohibiting sexual assault, sexual violence and other sexual misconduct is broader than parallel Illinois statutory or other legal prohibitions, the College provides the following for informational and educational purposes.

Anyone who is found by the College to have committed any form of sexual misconduct or other conduct prohibited by this policy, as those terms are defined by the College, is subject to discipline, up to and including termination or expulsion from the College, regardless of whether the accused person has been found criminally responsible for their actions. The College may also investigate alleged violations of this policy received from individuals outside the institution regarding individuals within the College, regardless of the location of the alleged offense. Any student who engages in sexual misconduct should be aware that their behavior may be considered criminal under Illinois law and could result in criminal prosecution, as well as disciplinary action by the College. The Appendix provides Illinois criminal law terms and definitions.

- a) Sexual Harassment.** Sexual harassment includes sexual assault and sexual violence, and is a type of sex discrimination prohibited by Title IX that may take many forms. Sexual harassment includes unwelcome sexual advances, requests for sexual favors and/or other physical, verbal or visual conduct based on sex when:
- Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment or a student's status in a course, program or activity; or
  - Submission to or rejection of such conduct by an employee or student is used as the basis for employment or academic decisions; or
  - The conduct has the purpose or effect of unreasonably interfering with an employee's work performance or a student's academic performance or creating an intimidating, hostile or offensive employment, educational or living environment.

The following is a partial list of unwelcome conduct of a sexual nature, which will generally be considered sexual harassment:

- Physical assaults of a sexual nature, such as rape, sexual assault, sexual battery, molestation or attempts to commit these acts;
- Unwelcome sexual jokes, language, epithets, advances or propositions;
- The display of sexually suggestive objects, pictures, magazines, posters or cartoons;
- Comments about an individual's body, sexual orientation, sexual prowess or sexual deficiencies;
- Asking questions about sexual conduct;

- Touching, leering, whistling, brushing against the body or suggestive, insulting or obscene comments or gestures;
- Offering or implying an education-related reward, such as favorable reviews, grades, assignments, promotions, continued employment or promises of the same in exchange for sexual favors; and
- Threatening or taking a negative education-related action, such as unfavorable reviews, grades or assignments, because sexual conduct is rejected.

**b) Sexual Assault and Sexual Violence.** These are particular types of sexual harassment that include physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. Sexual assault and sexual violence include, but are not necessarily limited to, non-consensual sexual contact, sexual intercourse of any kind without consent, rape and attempted rape.

**c) Sexual Misconduct.** Sexual misconduct encompasses a range of behavior that can include, but is not necessarily limited to, sexual assault (which includes both non-consensual sexual intercourse and non-consensual sexual contact), sexual violence, sexual exploitation (e.g., non-consensual recording of sexual activity), other interpersonal misconduct, and any other conduct of a sexual nature that has the purpose or effect of threatening or intimidating the person against whom such conduct is directed or that goes beyond the boundaries of consent.

**i) Consent.** Sexual activity requires consent, which is defined as clear, unambiguous, voluntary, positive agreement between the participants, to engage in specific sexual activity.

- Consent is a freely given agreement to sexual activity. Consent to sexual activity can be communicated in a variety of ways, but one should presume that consent has not been given in the absence of clear, positive agreement. While verbal consent is not a requirement for consensual sexual activity, verbal communication prior to engaging in sex helps to clarify consent. Students, therefore, are strongly encouraged to communicate verbally before engaging in sexual activity. However potentially awkward it may seem, talking about your own and your partner's sexual desires, needs and limitations is expected to avoid misunderstandings.
- Consent must be clear and unambiguous for each participant at every stage of a sexual encounter. Silence, the absence of verbal or physical resistance, or submission resulting from the use or threat of force does not constitute consent. A prior relationship or prior consent to sexual activity does not indicate consent to future sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person. Nor does a person's manner of dress constitute consent. Consent can also be withdrawn at any time.
- A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent because they are underage, asleep, unconscious, or mentally or physically incapacitated, either through the use of drugs or alcohol, because of a disability, or for any other reason. Additionally, the use of alcohol or drugs may seriously interfere with the participants' judgment about whether consent has been sought and given.
- When there is a lack of mutual consent about sexual activity or there is ambiguity about whether consent has been given, a student can be charged with, and found guilty of, committing a sexual assault or another form of sexual misconduct. Coercion, force or threat of either invalidates consent. A person who initially consents to sexual penetration or sexual conduct is deemed not to have consented to any sexual penetration or sexual conduct that occurs after they withdraw consent during the course of that sexual penetration or sexual conduct.

**d) Dating Violence.** The term "dating violence" means violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship

- The frequency of interaction between the persons involved in the relationship

Dating violence can include, but is not limited to:

- Sexual abuse or the threat of such abuse
- Battering that causes bodily injury
- Purposely or knowingly causing reasonable apprehension of bodily injury
- Emotional abuse creating apprehension of bodily injury or property damage

**e) Domestic Violence.** The term “domestic violence” includes felony or misdemeanor crimes of violence committed by:

- A current or former spouse or intimate partner of the victim,
- A person with whom the victim shares a child in common,
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
- 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 jurisdiction

**f) Stalking.** The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for one’s safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition of stalking:

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

#### 4) Resources for Survivors of Sex Discrimination and Other Interpersonal Misconduct

The following are resources for individuals who have experienced sexual misconduct, sexual assault, domestic abuse, domestic violence, dating violence, or stalking.

##### a) Campus Resources

- *Campus Security:* Lehmann Hall, Lower Level | (630) 617-3000
- *Counseling Services:* Niebuhr Hall, Lower Level | (630) 617-3565
- *Student Health Services:* Niebuhr Hall, Lower Level | (630) 617-3565
- *Student Affairs:* Frick Center, Room 240 | (630) 617-3187
- *Residence Life Staff “On Call”*

##### b) Sexual Assault Crisis Centers and Other External Resources

###### i) Local Resources

- [Family Shelter Service](#) (24 hours a day)  
605 E. Roosevelt Road, Wheaton, Illinois 60187  
Hotline: (630) 469-5650  
Non-emergency Number: (630) 221-8290
- [YWCA Patterson and McDaniel Family Center](#)  
2055 West Army Trail Road, Suite 140, Addison, Illinois 60101  
24-hour Rape Crisis Hotline: (630) 971-3927  
Non-emergency Number: (630) 790-6600
- [DuPage County State’s Attorney Victim/Witness Coordinator](#)

505 North County Farm Road, Wheaton, Illinois 60187  
(630) 407-8008

**ii) State Resources**

- [Illinois Coalition Against Domestic Violence](#)  
806 South College Street, Springfield, Illinois 62704  
Illinois Domestic Violence Help Line: (877) 863-6338  
Non-emergency Number: (217) 789-2830
- [Illinois Coalition Against Sexual Assault](#)  
100 North 16<sup>th</sup> Street, Springfield, Illinois 62703  
(217) 753-4117

**iii) National Resources**

- [RAINN \(Rape, Abuse & Incest National Network\)](#)  
(800) 656-4673
- [The National Domestic Violence Hotline](#)  
(800) 799-7233
- [Stalking Resource Center](#)  
Victim Connect Number: (855) 484-2846

**5) Reporting Options**

There are several methods individuals can use to report violations of this Policy, regardless of where the incident occurred. The College encourages survivors to disclose a report of sexual misconduct as soon as reasonably possible, but there is no time limit on reporting incidents of sexual harassment, sexual misconduct, or other interpersonal misconduct. Anyone who believes they have been a victim of sexual misconduct is encouraged to report the incident by following one or more of the procedures described below and to seek medical care and follow-up counseling as soon as possible.

- a) Reporting to a Responsible Employee.** All College employees, including all College hourly and full-time faculty, staff (other than those in Student Health Services and Counseling Services), contract vendor employees, and students identified as Resident Advisers, ELSA Community Advisors, and Orientation Student Leaders are considered responsible employees, meaning they are required to report any alleged incidents of sexual harassment, sexual violence, dating violence, domestic violence, or stalking to the Title IX Coordinator. They are expected to report to the Title IX Coordinator as much detailed information as was made available to them, including the survivor's name, the accused, or any other relevant details.

Therefore, if a student reports an incident to any responsible employee, that person is obligated to ensure student privacy, meaning that information about the incident will only be shared with those who "need to know" in order to effectively respond to the incident and to support the student survivor. In order to maintain such privacy, employees, customers, students, vendors and other persons affiliated with the College who believe they have experienced or have witnessed discrimination or harassment should immediately notify either their supervisor or the Title IX Coordinator, a Title IX Deputy Coordinator, or Campus Security. Contact information for these individuals is provided below.

**Title IX Coordinator**

***Dr. Phil Riordan***

Vice President for Student Affairs

(630) 617-3050

[phil.riordan@elmhurst.edu](mailto:phil.riordan@elmhurst.edu)

**Title IX Deputy Coordinator for Students**

***Jennifer K. Duffield***

Assistant Dean of Students  
(630) 617-5199  
[jenn.duffield@elmhurst.edu](mailto:jenn.duffield@elmhurst.edu)

**Title IX Deputy Coordinator for Staff**

**Mary Spreitzer**

Executive Director of Human Resources  
(630) 617-3020  
[mary.spreitzer@elmhurst.edu](mailto:mary.spreitzer@elmhurst.edu)

**Title IX Deputy Coordinator for Faculty**

**Dr. April Edwards**

Vice President for Academic Affairs & Dean of the Faculty  
(630) 617-3063  
[april.edwards@elmhurst.edu](mailto:april.edwards@elmhurst.edu)

**Campus Security**

(630) 617-3000

- b) Reporting to a Confidential Advisor.** Under Illinois law, students must be afforded the opportunity to report to a confidential advisor. Confidential advisors provide emergency and ongoing support to survivors of sexual violence. They have received at least 40 hours of training on sexual violence, attend a minimum of 6 hours of ongoing education training annually, and have received training on the College's administrative process, interim measures and accommodations, and complaint resolution procedures. The confidential advisor is able to review this information with a student and participate as a support person in any meeting related to an institutional investigation or grievance procedure, as well as provide guidance for the criminal reporting process. If a student discloses an incident of sexual misconduct to a confidential advisor, the advisor is not obligated to share such information with the institution's Title IX Coordinator, and would keep all communication with a survivor confidential.

Elmhurst College partners with the YWCA Metropolitan Chicago to provide confidential advisors to students.

**YWCA Metropolitan Chicago**

(630) 971-3927 *\*Elmhurst College students should identify as such when calling to receive the appropriate support*

The only staff who are not considered responsible employees are those in the Wellness Center who work in Student Health Services and Counseling Services. These staff members serve as a confidential resource to faculty, staff, and students on campus, meaning that disclosures of such misconduct to Wellness Center staff from a patient would not be shared with the Title IX Coordinator and would be kept confidential per patient privacy rights. Contact information for Wellness Center staff is provided below.

**Student Health Services**

Niebuhr Hall, Lower Level  
(630) 617-3565

**Counseling Services**

Niebuhr Hall, Lower Level  
(630) 617-3565

- c) Reporting to the Police.** Students can contact the local police to initiate the criminal reporting process, which is separate from the campus reporting process. Elmhurst College Campus Security will support students who wish for assistance working through the criminal reporting process. Conversely, students and employees may seek an

investigation through the College and choose not to involve local police. Additional information and resources regarding these issues is available below and on the Campus Security website.

### **Elmhurst Police Department**

15 E. First Street, Elmhurst, Illinois 60126

Emergency Number: 911

Non-Emergency Number: (630) 530-3050

The Rights of Crime Victims and Witnesses Act is an Illinois Law (Illinois Compiled Statutes, Chapter 725, paragraph 120/1 et seq.4) intended to ensure that crime victims are treated with fairness and respect for their dignity and privacy throughout the criminal justice system. This law affords crime victims certain rights in connection with the criminal justice system.

Please understand that any criminal or other investigation conducted by law enforcement authorities is separate from an investigation that the College conducts under this Policy and does not relieve the College of its obligations under Title IX or other applicable law. If law enforcement so requests, the College may decide to delay its investigation for a brief period of time, but will take any interim measures it deems necessary to address the issue before the investigation. If requested to provide information to law enforcement, the College will cooperate with such a request consistent with its privacy obligations under FERPA and other applicable laws.

- d) Reporting Online.** In addition to reporting directly to the Title IX Coordinator, a Deputy Coordinator, Campus Security, a responsible employee, or a confidential advisor or resource, Elmhurst College faculty, staff, and students can submit a report electronically. The form, available at the link below, allows for anonymous, third-party, and bystander reports. The Title IX Coordinator receives reports submitted through this form and directs them to the appropriate Deputy Coordinator for response. The more information a reporter provides, the more readily a Deputy Coordinator can respond to the concern and support the survivor.

### **File a Report**

- e) Receiving Medical Attention.** In any instance of sexual assault, the victim should seek medical attention as quickly as possible. This will serve to protect evidence and can greatly assist in proving sexual assault occurred. Sexual Assault Nurse Examiners (SANEs) are available at the Elmhurst Hospital Emergency Room and are on call 24/7 to provide free forensic examinations and comprehensive care to sexual assault patients. An evidence kit can be collected up to 7 days after the assault, and a survivor does not need to have a kit to get an exam and treatment. The kit also does not need to be released to the police right away. The hospital location and contact information is provided below.

### **Elmhurst Hospital**

155 E. Brush Hill Road, Elmhurst, Illinois 60126

Main number: (331) 221-1000

## **6) Amnesty Policy**

The College will not pursue the conduct process for possible violations of the College's Alcohol and Substance Abuse Policies against a student who reports an alleged violation of the College's Non-Discrimination and Non-Harassment Policy when conduct that violates the College's Alcohol and Substance Abuse Policies is revealed during the course of the student's report, provided that such consumption did not or does not place the health or safety of any other person at risk or if the possible violation is otherwise egregious.

## **7) Title IX Report Response and Assessment**

Under federal and state law, Elmhurst College is obligated to provide complainants with concise information regarding their rights and options. For the purpose of report response and assessment and complaint resolution procedures, a "complainant" is the party alleging sexual misconduct or to whom the misconduct was directed. The "respondent" is

the party accused of sexual misconduct. A person who reports sexual misconduct occurring between individuals and does not include themselves is referred to as a "third party" or "witness."

Upon receiving a report of sexual misconduct, the Title IX Coordinator or designated Deputy Coordinator will request an in-person meeting with the complainant who made the report or about whom the report was made to review the complainant's rights and options, including but not limited to the following: additional reporting options, privacy rights, contact information for on and off-campus resources, receiving interim measures and accommodations, and a summary of the College's complaint resolution procedures. If a complainant does not wish to meet with the Title IX Coordinator, these rights and options will be emailed to the complainant and are available in an electronic format on the College's Title IX webpage. If a complainant chooses to not initially meet with the Title IX Coordinator, they are still permitted to request to meet with the Title IX Coordinator at any future time.

After receiving an initial report of sexual misconduct, the Title IX Coordinator must also assess the nature of the allegations, the safety of the involved individuals and the greater College community, the complainant's preference for resolving the matter, the complainant's request for confidentiality, and the need for any interim measures to maintain the safety of the complainant or the College community.

**a) Confidentiality.** The College strongly supports a complainant's interest in confidentiality in cases involving sexual violence. To the extent possible, the College will only disclose information regarding alleged incidents of sexual violence to individuals who are responsible for handling the College's response.

In the event that a complainant reporting an incident of sexual violence requests that their name not be disclosed to the respondent, or that no investigation or disciplinary action be pursued, the Title IX Coordinator will evaluate whether the College can honor the request while still providing a safe and nondiscriminatory environment for all campus community members. The College will consider in particular whether there are any circumstances that suggest that there is an increased risk of the respondent committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same respondent).

If a complainant's request for confidentiality limits the College's ability to investigate, the College will take appropriate steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the respondent or revealing the identity of the complainant, such as providing increased monitoring, supervision or security at relevant locations, or providing training and educational materials to students and employees.

Regardless of the College's decision, the College will take appropriate interim or remedial measures to protect the safety of the complainant and other members of the College community. In the event that the College determines that a request for confidentiality cannot be honored, the College will still limit its disclosure of information regarding the incident to the extent practicable.

**b) Clery Act Compliance and Campus Crime Alerts.** The Clery Act requires that all sex offenses, to include sexual assaults, be made known to the campus community through the Annual Security and Fire Safety Report published each year by October 1. Under the Violence Against Women Act, crimes of domestic violence, dating violence and stalking must also be reported in the Annual Security and Fire Safety Report. The Report does not include any identifying information.

In addition, where it is determined that the incident may pose a serious, ongoing threat to members of the College community, the Clery Act also requires the College to provide a timely warning so that members of the College community may protect themselves from harm. In the event a timely warning is deemed necessary, a mass email Crime Alert is sent to all students and employees on campus and is posted on the College's website. Crime alerts are also posted in the residence halls and various other buildings on campus, and are typically posted in the lobby/entrance area of the building(s) for seven days. Updates to the College community about any particular case resulting in a Crime Alert may be distributed via email.

**c) Interim Measures and Accommodations.** Interim measures are available to complainants, regardless of whether formal grievance procedures are sought by the complainant or by the Title IX Coordinator acting on behalf of the College. Such interim measures can include, but are not limited to the following:

- Changing or removing the respondent's housing assignment
- Changing or removing the complainant's housing assignment (at their own request)
- Modifying course, other academic, or work schedules
- Adjusting transportation or dining needs
- Providing campus escorts
- Issuing a "no contact" order between the respondent and complainant
- Assisting in obtaining court-issued order of protection or no contact order

In situations involving suspected or alleged violations of the Prohibition Against Sex Discrimination and Other Interpersonal Misconduct, the College also reserves the right to take steps to protect the complainant as deemed necessary during the process of the investigation and complaint resolution procedure (e.g., allowing for a change in academic situation, issuing a "no contact" order to the respondent, etc.). Any such interim steps will be taken in a manner that minimizes the burden on the complainant to the extent possible.

In cases where the respondent is a student and is determined to be a threat to others or property, the Title IX Coordinator may impose interim measures such as an interim suspension or restriction/loss of other campus privileges during the process of an investigation and/or complaint resolution procedure. In cases where the respondent is an employee and is determined to be a threat to others or property, the Title IX Coordinator may impose interim measures such as suspension (with or without pay) or restriction/loss of other campus privileges during the process of an investigation and/or complaint resolution procedure. Interim measures will be kept confidential to the extent that it does not limit the ability of the College to provide the interim measure.

Violations of directives and/or protective measures, such as no contact orders or other restrictions of campus privileges, as part of an interim measure may result in disciplinary action separate from any sanctions issued for a finding of responsibility in violating the Non-Discrimination and Non-Harassment Policy.

**d) Advisors.** The complainant and the respondent may request and are permitted to have an advisor of their choice accompany them to any meeting, interview, or proceeding related to an alleged violation of this Policy. The advisor may be a family member, friend, professor, staff member, mentor, attorney, confidential advisor, or any other person they choose. An advisor may not also serve as a witness in an investigation or proceeding about the same matter. The complainant or the respondent must provide the name of their chosen advisor to the Title IX Coordinator or the designated Deputy Coordinator via email at [titleix@elmhurst.edu](mailto:titleix@elmhurst.edu) at least 48 hours prior to any meeting, interview, or proceeding in which they desire the advisor to be present.

The College cannot guarantee the equality of advisor representation. If the complainant or respondent chooses to have an attorney present as their advisor, the College is under no obligation to provide one for the other party; advisor participation is at the choosing and expense of each party.

The role of the advisor is for emotional support; their participation will be limited to consulting privately with their advisee. An advisor may speak privately to their advisee, but an advisor may not present evidence, question witnesses, write draft statements, speak for their advisee, or otherwise participate directly in the meeting, interview, or proceeding.

The involvement of the advisor may not result in undue delay of any meeting, interview, or proceeding. If an advisor conducts themselves in a manner inconsistent with these expectations, the College official directing the meeting may excuse the advisor and the meeting may continue without the advisor. The Title IX Coordinator will determine whether the advisor may be reinstated or replaced for any subsequent meetings.

## 8) Prompt, Fair, and Equitable Resolution

Parties have the opportunity to request that the College's investigation and resolution procedures for alleged violations of this Policy begin promptly and proceed in a timely manner. The College will promptly respond to any and all alleged and suspected violations of this Policy about which the College knows or reasonably should know, regardless of where the conduct at issue occurred. The College is committed to providing prompt, thorough, fair, and impartial investigations which treat individuals with respect, dignity, and sensitivity.

## 9) Resolution Time Frame

The College will complete the complaint resolution procedure, including the imposition of any sanctions, within 60 calendar days of receiving the report or the date on which the College becomes aware of an alleged violation of the Policy, unless the College determines that additional time is required, in which case the parties will be notified and provided with an explanation of the reason for the extension of the 60-day period.

Any pending criminal investigation or criminal proceeding may have some impact on the timing of the College's investigation, but the College will commence its own investigation as soon as is practicable under the circumstances. The College reserves the right to commence and/or complete its own investigation prior to the completion of any investigation or criminal proceeding, but will cooperate with law enforcement should a criminal proceeding be in progress.

## 10) Informal Resolution Procedure

Where appropriate, the College will work to informally resolve sexual misconduct allegations by taking immediate and corrective action to stop the misconduct, address its effects, and prevent recurrence without a formal investigation and determination of a College policy violation. Informal resolution may include the range of interim measures in Section 7c above, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups and/or any other remedy that will achieve the goals of the College's Non-Discrimination and Non-Harassment Policy. In some circumstances, mediation or joint conflict resolution may be appropriate; however, mediation or face-to-face meetings will never be used to resolve allegations of non-consensual intercourse or contact or other sexual violence. Participation in informal resolution is voluntary and either party can request to end informal resolution and initiate the formal complaint resolution procedure at any time.

## 11) Formal Complaint Resolution Procedure

When a report of a violation of the College's Non-Discrimination and Harassment Policy cannot be informally resolved, a formal resolution will be initiated.

- a) **Procedural Expectations.** There are several procedural expectations that the College upholds within the complaint resolution procedure.
  - i) **Rights.** The complainant and respondent are afforded equal rights and access to information throughout the complaint resolution procedure, including timely updates regarding the status of the investigation. These rights include the following:
    - (1) The opportunity to speak on their own behalf.
    - (2) The opportunity to identify witnesses who can provide information about the alleged misconduct.
    - (3) The opportunity to submit evidence on their behalf.
    - (4) The right to have an advisor present at any meeting, interview, or proceeding related to the complaint resolution procedure.
    - (5) The opportunity to request alternative arrangements for the hearing process so that the requesting party is not in the same room at the same time with the other party, but is able, at a minimum, to hear the other party's testimony.

- (6) The opportunity to review any information that will be offered by the other party in support of the other party's position (to the greatest extent possible and consistent with FERPA or other applicable laws).
- (7) The right to not be cross-examined or questioned directly by the other party.
- (8) At the discretion and direction of the individual or individuals resolving the complaint, the opportunity to suggest questions to be posed by the individual or individuals resolving the complaint and respond to the other party.
- (9) The right to be informed of the outcome of the process (to the greatest extent possible and consistent with FERPA or other applicable laws).
- (10) The opportunity to appeal the outcome of the process.

**ii) Conflict of Interest.** The College requires any individual participating in the investigation, sanctioning, appeal, or other resolution of complaints under this Policy to disclose any potential or actual conflict of interest. The complainant and respondent will both receive notice of the individuals or individuals with authority to make a finding or impose a sanction before those individuals initiate contact with either party. If either the complainant or respondent believes anyone involved in the investigation, sanctioning, appeal, or resolution process has a bias or conflict of interest, the party should notify the Title IX Coordinator within three (3) calendar days of receiving notice of the name of the individual participating in the complaint resolution procedure or appeal process, which can include faculty or staff members assigned as Investigators, sanctioning officials, Hearing Panel members, or the Appellate Officer and request a substitution of that individual. This notice to the Title IX Coordinator should include a description of the conflict. If it is determined that a conflict of interest does exist, the College will take steps to address the conflict as appropriate to maintain an impartial process.

**iii) Standard of Proof.** The standard used to determine whether the Non-Discrimination and Non-Harassment Policy has been violated is the preponderance of the evidence standard, meaning whether it is more likely than not that the respondent has violated the Policy based on all relevant information collected during the complaint resolution procedure.

**b) Investigations.** A formal resolution includes a prompt, thorough and impartial investigation into the allegations of a violation of the Non-Discrimination and Non-Harassment Policy. Investigations are conducted by designated College employees appointed by the Title IX Coordinator who have received 8-10 hours of annual training regarding the College's policies and the investigation of, and other issues relevant to, sexual harassment, sexual assault and sexual violence, sexual misconduct, dating and domestic violence, and stalking, including how to conduct an investigation that protects the safety of the parties and promotes institutional responsibility. In addition, the Investigators shall not have a conflict of interest or bias for or against any parties involved in the potential policy violation. The College shall have a sufficient number of employees trained to investigate and resolve complaints alleging a violation of this Policy, so that a substitution of Investigators can occur in the case of a conflict of interest or recusal. Generally, two Investigators are assigned to investigate a report of sexual misconduct.

The complainant and the respondent shall receive notice of the Investigators conducting the investigation before either Investigator initiates contact with either party. The nature and extent of the investigation will vary depending upon the circumstances. As a part of the investigation, the Investigators will seek to interview the complainant, the respondent, and any witnesses, and will review any relevant documents or physical evidence. Interviews will generally take place in person, but arrangements can be made with the Title IX Coordinator's approval for interviews to occur by phone or other electronic means. All parties involved in an investigation will receive timely notice regarding all interviews or meetings at which they may be present. The complainant and respondent may have an advisor present with them during interviews and meetings conducted during the investigation, and may also provide written statements, submit questions that they believe should be asked by the Investigators to each other or to any witness, identify or present statements from fact witnesses, or submit any other evidence the Investigators deem relevant. The College will take appropriate measures to preserve any evidence, and the parties are expected to do the same. All parties are expected to provide as much information

as possible in connection with the investigation, and the College will protect the privacy of the participating parties and witnesses. The College will maintain documentation of the investigation or other proceedings, which can take various forms (e.g., notes, written findings of fact, transcripts, or audio recordings, etc.).

The College's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the complainant is willing to file a complaint or to consent to an investigation, the location where the alleged conduct occurred, and the College's access to information relevant to the alleged or suspected violation of this policy. The College is nonetheless committed to investigating all alleged and suspected violations of this Policy to the fullest extent possible under the circumstances.

At any point during the investigation, the respondent may elect to accept responsibility for all or part of the alleged violations. If the respondent chooses to do so, the Investigators may still complete the investigation to ensure that all relevant information has been documented, or the Investigators may consult with the Title IX Coordinator to complete the Final Investigative Report at that time and move the case to the appropriate sanctioning official. All investigations will be conducted in a thorough and neutral manner.

- **When the respondent is a student.** Two investigators will be appointed from the pool of trained investigators.
- **When the respondent is a faculty member.** The Vice President for Academic Affairs & Dean of the Faculty, who also serves as the Deputy Title IX Coordinator for Faculty, will serve as a trained investigator with a second investigator from the pool of trained investigators.
- **When the respondent is a staff member.** The Executive Director of Human Resources, who also serves as the Deputy Title IX Coordinator for Staff, will serve as a trained investigator with a second investigator from the pool of trained investigators.

**i) Investigative Report.** At the conclusion of the investigation, the Investigators will prepare a Final Investigative Report outlining the contested and uncontested information and minimally containing the following:

- A timeline of the investigation process
- The alleged policy violations within the Non-Discrimination and Non-Harassment Policy or the Code of Conduct
- Summaries of interviews with the complainant, respondent, and witnesses
- A presentation of facts and analysis of consistencies and inconsistencies in the information collected
- An appendix containing relevant information collected, including any physical evidence, electronic records, written statements, photographs, and/or forensic evidence and the supporting documentation

Before the report is finalized, each party will have the opportunity to review a summary of their own interview in the presence of one or both of the assigned Investigators. At this review meeting, the parties may submit any additional comments, evidence, or suggested factual corrections to the Investigator(s) during this review meeting. Photos or copies of documents presented at this review meeting are not permitted. Upon the receipt of any additional information from the parties, or if a party fails to attend their scheduled review meeting with the Investigator(s), the Investigators will finalize the summary of each party's interview for the Final Investigative Report. A copy of the finalized report will be provided to the Title IX Coordinator.

Prior to a hearing taking place, both the complainant and respondent will independently have the opportunity to review the Final Investigative Report in the presence of the Title IX Coordinator. Photos or copies of the Final Investigative Report are not permitted.

**ii) Resolution.**

- When the **respondent is a student**. A copy of the Final Investigative Report will be provided to the Hearing Panel, which will issue a determination as to whether or not a policy violation occurred. The Title IX Coordinator will select three faculty/staff members to serve on the Hearing Panel, with one designated as the Chair of the Hearing Panel to preside over the hearing. Each panel member will receive 8-10 hours of annual training regarding the College's policies and the resolution of, and other issues relevant to, sexual harassment, sexual assault and sexual violence, sexual misconduct, dating and domestic violence, and stalking, including how to conduct a hearing process that protects the safety of the parties and promotes institutional responsibility.

A typical hearing may include brief opening and/or closing remarks by the complainant and/or respondent, and testimony and/or evidence from the parties, Investigators or relevant witnesses. The hearing is not a repeat of the investigation and the Panel has discretion to determine which witnesses are relevant to its determination and may decline to hear from witnesses where it concludes that the information is not necessary for its review. The parties will be afforded equal rights and access to information throughout the hearing process, and neither party will be required to participate in the Hearing. Should either party fail to appear at the scheduled hearing, the Hearing Panel reserves the right to conduct the hearing and make a determination of an outcome in the party's absence. The Hearing Panel will consider the Final Investigation Report as well as the evidence and testimony introduced at the hearing and will determine, using the preponderance of the evidence standard, whether a policy violation occurred. If the Hearing Panel finds based on a preponderance of the evidence that the respondent is responsible for a violation of the Policy, the Hearing Panel will also determine the appropriate sanction and any other remedies or corrective actions. Upon determining the outcome of the hearing, the Panel will prepare a separate, final decision letter regarding whether or not there has been a policy violation and what sanctions are assigned to the respondent.

Within five (5) calendar days of determining the outcome of the hearing, the Hearing Panel Chair (in the case of student respondents) or the Investigators (in the case of faculty/staff respondents) will notify both the complainant and respondent, simultaneously and in writing, of the sanctions issued, the date the sanctions will be in effect, and information regarding the appeal process. The Title IX Coordinator will also receive a copy of this written notice of sanctions. The time period for rendering a decision and sanction and notifying both parties may be extended by the sanctioning official, so long as both parties receive notice and a reason for the extension.

- When the **respondent is a faculty member**. The Vice President for Academic Affairs & Dean of the Faculty and a second Investigator will determine if a violation of the Non-Discrimination and Non-Harassment Policy occurred, and the Vice President for Academic Affairs & Dean of the Faculty will determine an appropriate sanction, other remedies or corrective action.
- When the **respondent is a staff member**. The Executive Director of Human Resources and a second trained Investigator will determine if a violation of the Non-Discrimination and Non-Harassment Policy occurred, and the Executive Director of Human Resources will determine an appropriate sanction, other remedies, or corrective action.

**iii) Sanctions, Remedies, and Corrective Actions.** Disciplinary sanctions for violating the Non-Discrimination and Non-Harassment Policy include:

- Mandatory educational programming or counseling
- Admonition
- Censure
- Educational assignments
- Harassment or consent education
- Drug or alcohol counseling
- Disciplinary probation

- Social probation (removal from campus programs, activities, leadership positions)
- Restitution
- Fine
- Removal from residential facilities
- Restrictions regarding entering certain buildings or areas of campus
- Performance improvement/management process (employees only)
- Suspension from school or employment (with or without pay, in the case of employees)
- Termination of contract with the College
- Dismissal or other separation from the College
- Expulsion or termination, in the case of employees

The designated sanctioning official may impose any sanction(s) from the above list that are fair and proportionate to the finding of responsibility for each violation. The sanctioning official may refer to the respondent's record of past violations of the Non-Discrimination and Non-Harassment Policy to determine appropriate sanctions for the present violation(s).

Where appropriate, the College will also take reasonable steps to remedy the harm to the complainant. Additional corrective actions for the complainant may include but are not limited to support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support. The College will also take appropriate remedial action to eliminate any hostile environment and prevent its recurrence. Corrective actions and remedies at the level of the College may include but are not limited to providing and/or requiring counseling and training, developing educational materials and other programming for the campus community, implementation of revised policies and procedures, and undertaking climate surveys and other mechanisms to identify and address patterns of violations.

The College may disclose to the complainant information about any sanctions or corrective actions taken that relate directly to the complainant (e.g., a "no contact" order). In no event will the complainant in matters involving an alleged violation of the Policy that involves sex discrimination, sexual harassment, sexual assault or violence, sexual misconduct, dating violence, domestic violence or stalking be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome. In instances where the College is unable to take disciplinary or other corrective action in response to a violation of this Policy because a complainant requests confidentiality or for some other reason, the College will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

**c) Appeal Process.** Either party may appeal the Hearing Panel's determination (student respondents) or the Investigator's determination (faculty or staff respondents) and/or the sanction(s) issued by the Hearing Panel or sanctioning official by submitting a written request for an appeal, with supporting documentation, to the Title IX Coordinator within five (5) calendar days of receiving the Hearing Panel's or Investigator's determination or the written notice of the sanctions, whichever is later. All appeals initiated by faculty respondents will be administered consistently with appeal procedures provided in the Faculty Manual. If any responding party wishes to have a sanction suspended pending the outcome of the appeal, they may so request at the time of the appeal. It is within the sole discretion of the Title IX Coordinator to grant a suspension of the sanction pending an appeal determination and to invoke necessary interim remedies and measures during this period.

**i) Grounds for Appeal.** Appeals will only be considered on the following grounds:

- The existence of procedural error significant enough to alter the outcome;
- The existence of new and significant evidence which was not reasonably available at the time of the initial investigation and would likely alter the outcome
- The sanctions imposed are substantially disproportionate with the violation(s)

**Mere disagreement with the decision is not grounds for appeal.** In any request for an appeal, the burden to demonstrate procedural error, new evidence, or a disproportionate sanction lies with the party requesting the appeal.

**ii) Appeal Notice and Decision.** After receiving a request for appeal, the Title IX Coordinator will forward the appeal and the supporting documents to the appropriate Appellate Officer. All Appellate Officers will receive 8-10 hours of annual training regarding issues related to the College's policies and the resolution of, and other issues related to, sexual harassment, sexual assault and sexual violence, sexual misconduct, dating and domestic violence, and stalking including guidelines for conducting appeals.

- **When the respondent is a student,** the Appellate Officer is Assistant Dean of Students Michelle DeLuca.
- **When the respondent is a faculty or staff member,** the Appellate Officer is the Vice President for Finance and Administration.

The Appellate Officer will notify the non-appealing party that the other party submitted a request for appeal and will share the appeal and the supporting documents with the non-appealing party.

Within five (5) calendar days of receiving the appeal and supporting documentation, the Appellate Officer will determine if the appeal satisfies the grounds for appeal. If the appeal satisfies one of the grounds for appeal, the Appellate Officer will notify both parties of the eligible appeal, and the non-appealing party will have the opportunity to submit a written response to the Appellate Officer regarding the appeal within five (5) calendar days of receiving the determination of an eligible appeal.

The Appellate Officer will review the Final Investigative Report, the final decision letter from the Panel or Investigator, and any documentation submitted by the appealing and non-appealing parties. The Appellate Officer may:

- Uphold the original finding
- Remand the case to the original Investigators for consideration of new evidence and issuance of a new Final Investigative Report
- Appoint new Investigators to conduct a new investigation if significant procedural error occurred
- Assign new sanctions that are more proportionate to the violation(s)

The Appellate Officer will deliver their decision in writing to the Title IX Coordinator within seven (7) calendar days of determining a decision on the appeal unless there are extenuating circumstances that require an extension. Upon receipt of the decision, the Title IX Coordinator will deliver in writing the outcome of the appeal and the rationale for the decision to both the complainant and respondent within five (5) calendar days, including results from any appeal conducted pursuant to provisions of the Faculty Manual. Appeal decisions by the Appellate Officer are final.

## **12) Training, Prevention, and Education**

The College will provide the following education programming designed to promote the awareness of sexual harassment, domestic violence, dating violence, sexual assault and stalking.

**a) Primary Prevention and Awareness Programs.** The College will provide primary prevention and awareness programs for all incoming students and new employees that include the following:

- A statement that the College prohibits the offenses of domestic violence, dating violence, sexual assault and stalking, and a description of the College's policies that prohibit this conduct;
- The definition of consent, in reference to sexual activity, as defined under Illinois law and under College policy;
- The definition of domestic violence, dating violence, sexual assault and stalking under Illinois law;

- Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault or stalking against a person other than such individual;
- Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- The possible sanctions or protective measures that the College may impose following a final determination of a College disciplinary procedure regarding allegations of sexual misconduct or other interpersonal misconduct;
- The procedures that a complainant should follow if sexual misconduct, domestic violence, dating violence, sexual assault or stalking has occurred;
- The procedures for College disciplinary action in cases of alleged domestic violence, dating violence, sexual assault or stalking;
- Information about how the College will protect the confidentiality of complainants, including how publicly available record keeping will be accomplished without the inclusion of identifying information about the accuser or victim, to the extent permissible by law;
- Information about existing counseling, health, mental health, victim advocacy, legal assistance and other services available for student and employee complainants, both on campus and in the community; and
- Information about options for, and available assistance in, changing academic, living, transportation and working situations, if so requested by the complainant and if such accommodations are reasonably available, regardless of whether the complainant chooses to report the crime to Campus Security or local law enforcement.

**b) Ongoing Prevention and Awareness Campaigns.** The College will also provide ongoing prevention and awareness campaigns for students and employees that include the information covered in the primary prevention and awareness programs.

### **13) Consensual Amorous Relationships**

At the core of the College's mission is an implied responsibility of trust and ethical behavior in every relationship in which a College faculty member, staff member or administrator has a supervisory, evaluative, or advisory relationship with a student or another faculty member, staff member, or administrator. Conflicts of interest can arise in a consensual romantic and/or sexual relationship (i.e., "amorous relationship") because of the power differential that often exists between the parties to such relationships. Such relationships can present serious ethical concerns about issues such as validity and consent, sexual harassment, and unfair treatment by others. As a result, such relationships can have a negative effect on the parties involved and the entire Elmhurst community. Although consensual amorous relationships do not necessarily constitute sexual harassment, such relationships may be problematic or even give rise to allegations of sexual harassment or other inappropriate conduct if: 1) a consensual relationship ends and one of the parties continues behavior that is unwelcome by the other party, and/or 2) a consensual relationship creates an unfair, hostile or intimidating learning or work environment.

Therefore, this policy places certain limitations and restrictions on consensual amorous relationships and imposes certain obligations on the party in such relationships who has the supervisory, evaluative, or advisory authority. The College strongly discourages all employees from participating in consensual amorous relationships with students or other employees whenever a "professional relationship" (as defined below) between the parties exists. For purposes of this policy, "employee" includes all College faculty, staff, and administrators. "Professional relationship" is a relationship that involves the exercise of supervisory, evaluative, or advisory authority, including but not limited to teaching, grading, academic advising, mentoring, coaching, supervision, making decisions relating to employment or financial support, or other oversight over campus business or activities.

- No employee may have a professional relationship with a student with whom the employee is having or has recently concluded a consensual amorous relationship.
- In addition, employees are strongly discouraged from engaging in consensual amorous relationships with other employees with whom they have a professional relationship.

If a consensual amorous relationship exists or has existed between an employee and a student or other employee with whom the employee also has a professional relationship, the employee in the supervisory, evaluative, or advisory role must report the relationship to the Executive Director of Human Resources, the Vice President for Academic Affairs & Dean of the Faculty or the Vice President for Finance and Administration. The College will then determine what action is appropriate, including whether the duties giving rise to the reporting employee's professional relationship with the student or other employee will be reassigned. An employee's violation of this policy may lead to disciplinary action, up to and including termination of employment at the College.

Retaliation against any person who reports concerns about consensual amorous relationships is prohibited and constitutes a violation of this policy. Questions regarding this policy may be directed to the Executive Director of Human Resources, the Vice President for Academic Affairs & Dean of the Faculty, or the Vice President for Finance and Administration.

**14) Changes in These Procedures.** The College reserves the right to make adjustments and changes in this policy (Sections 1-13) at any time.

**15) Prohibition against Disability Discrimination and Reasonable Accommodations Policy**

As noted in the general Non-Discrimination and Non-Harassment Policy statement set forth above, the College does not discriminate against individuals on the basis of physical or mental disability. To ensure equal access to its programs and activities, the College is committed to providing reasonable accommodations, including appropriate auxiliary aids and services, academic adjustments (inside or outside the classroom) and/or modification to the College's policies and procedures, to qualified individuals with disabilities, unless providing such accommodations would result in an undue burden or fundamentally alter the nature of the relevant program or activity. The College's ADA/504 Coordinator is responsible for determining appropriate accommodations in conjunction with the student and other College representatives, as appropriate.

**ADA/504 Disability Services Coordinator**

Corinne Smith, Ed.D.

Learning Center, Frick Center, 229

Elmhurst College

190 Prospect Avenue

Elmhurst, IL 60126

Phone: (630) 617-6448

Fax: (630) 617-3387

[corinne.smith@elmhurst.edu](mailto:corinne.smith@elmhurst.edu)

Applicants for admission to the College or current students requesting an accommodation should do so in writing to the greatest extent possible. The College may also ask a student's healthcare provider to submit documentation regarding a student's condition, the impact the condition has on the student's ability to participate in the College's educational or other programs, and any suggested accommodations. The College may request only medical information that is relevant and reasonably necessary to determine whether an individual is disabled, the nature and extent of the disability, and appropriate reasonable accommodations.

All completed forms and supporting documentation must be submitted to the ADA/504 Disability Services Coordinator. To enable the College to evaluate an individual's needs, engage in an interactive process with them, and provide appropriate reasonable accommodations in a timely fashion, the College requests that individuals complete and submit the required forms and supporting documentation as far in advance as possible before the first day of classes or as soon as practicable under the circumstances.

The College will make its determination on an individualized, case-by-case basis with input from the individual requesting accommodation, the College's ADA/504 Disability Services Coordinator, and faculty and administrators, as necessary. Except in unusual cases, the College will reach a determination regarding an individual's request for

accommodation and notify the individual in writing of the determination within three (3) weeks of their properly submitted request. In the event that requested accommodations have been denied, the College's determination letter will inform the individual of the reason(s) and of their right to appeal the College's determination as set forth below. The ADA/504 Disability Services Coordinator will maintain a confidential file regarding all requests for accommodation containing the forms and supporting documentation submitted by the applicant or student, any relevant communications (including notes of oral communications) between the individual and the College, the determination letter from the College to the individual, and the reason(s) for any denials. Any disagreements between an individual requesting accommodation and the ADA/504 Disability Services Coordinator regarding appropriate accommodations and/or any allegations of violations of this policy may be raised to the Vice President for Academic Affairs & Dean of the Faculty.

## **Appendix**

### **Relevant Terms and Definitions in the State of Illinois**

#### **1) Sexual Conduct.** The State of Illinois defines "sexual conduct" in very broad terms:

*"Sexual conduct" means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus or breast of the victim or the accused or any part of the body of a child under 13 years of age or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused."*

The voluntary and knowing consent of all parties to any sexual conduct is crucial. College policy and Illinois law both recognize that sexual assault is not a gender-specific crime. According to the State of Illinois, criminal sexual assault may take the form of any of the following:

- An act of sexual penetration by the use of force or threat of force, including threatening or endangering the life of the victim or any other person; or
- An act of sexual penetration where the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent; or
- An act of sexual penetration with a victim who was under age 17 when the act was committed or with a victim who was under age 18 when the act was committed and the accused was age 17 or more and held a position of trust, authority or supervision in relation to the victim; or
- An act of sexual penetration in which the accused delivered (by injection, inhalation, ingestion, transfer of possession or any other means) to the victim without their consent or by threat or deception and for other than medical purposes, any controlled substance.

Illinois law also identifies the category of criminal "sexual abuse," which involves any sexual contact without consent as described for criminal sexual assault. The key aspect under Illinois law is that sexual penetration is not required in order to violate the law. Any sexual contact without consent or in which the victim is unable to consent or revokes consent, can constitute a crime in Illinois.

#### **2) Domestic Abuse and Domestic Violence.** "Domestic abuse" is also a crime under Illinois law. Any person who hits, chokes, kicks, threatens, harasses or interferes with the personal liberty of another person has engaged in prohibited domestic abuse. In Illinois, it is also a crime to prevent someone from calling 911 by interfering with the call or blocking access to the phone.

Victims of domestic violence have the right to be protected from further abuse, neglect and exploitation and may press criminal charges against the abuser. According to the Illinois Domestic Violence Act, "Domestic violence is a learned pattern of behaviors used by one person in a relationship to control the other person. The partners may be married or not, gay or lesbian, living together, separated or dating."

Domestic violence can be criminal and includes physical assault, sexual abuse and stalking. The violence takes many forms and can happen all the time or once in a while. If you are in an abusive situation, you are not to blame and are urged to seek help.

- 3) Stalking.** Under Illinois law, a person commits “stalking” when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to: (1) fear for one’s safety or the safety of a third person; or (2) suffer other emotional distress. A person also commits stalking when he or she, knowingly or without justification, on at least two separate occasions follows another person or places the person under surveillance, or any combination thereof, and: (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or (2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person. A person who has previously been convicted of stalking any person commits stalking if he or she without lawful justification on one occasion (1) follows that same person or places that same person under surveillance; and (2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

*Updated January 2018*