

# 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 and sexual exploitation, which are types of sexual harassment and are specifically prohibited by this policy. Domestic violence, dating violence, stalking, retaliation, and intimidation are also prohibited by this policy.

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. 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.

- 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.

Complaints of discrimination, harassment, retaliation, or intimidation should be reported to the Title IX Coordinator and will be resolved through the appropriate College resolution procedure as determined based on the specific facts of the complaint and the parties involved. This includes sex discrimination complaints that are not based on sexual misconduct and interpersonal violence, as defined in Section 3 below.

## 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 exploitation. 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 exploitation, 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 Sexual Misconduct and Interpersonal Violence should be directed to the College's Title IX Coordinator, who will be available to meet with or talk to students regarding these issues.

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 harassment, sexual assault, sexual exploitation, 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. Finally, complaints concerning the application of Title IX at Elmhurst College may also be referred to the United States Department of Education Office for Civil Rights. Additional information and resources regarding these issues are available on the [Campus Security website](#) and is outlined below.

### **3) Prohibition Against Sexual Misconduct and Interpersonal Violence**

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.

Sexual misconduct and interpersonal violence are prohibited under this policy without regard to whether the conduct would violate applicable laws. 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.

“Sexual misconduct” encompasses a range of behavior that can include, but is not necessarily limited to, sexual harassment, sexual assault and sexual violence, and sexual exploitation. “Interpersonal violence” can include, but is not necessarily limited to, dating violence, domestic violence, and stalking. Each of these terms are defined below. Sexual misconduct and interpersonal violence can include 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.

Anyone who is found by the College to have committed any form of sexual misconduct, interpersonal violence, 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 or employee who engages in sexual misconduct or interpersonal violence 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 is unwelcome communication or conduct of a sexual nature. 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 misconduct that include physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual assault and sexual violence include, but are not necessarily limited to, non-consensual sexual contact, non-consensual sexual intercourse, and sexual exploitation.
- i) Non-Consensual Sexual Contact.** Non-consensual sexual contact is defined as a person making any intentional sexual contact, no matter how slight, with any body part or object, by a person upon another person without consent (as defined in Section 3.b.iv).

**ii) Non-Consensual Sexual Penetration.** Non-consensual sexual penetration is any sexual penetration (anal, oral, or vaginal, including any contact between mouth and genitals), no matter how slight, using any body part or object by a person upon another person without consent (as defined in Section 3.b.iv).

**iii) Sexual Exploitation.** Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another person or exceeds the boundaries of consent. This behavior does not otherwise fall under the definition of other sexual misconduct offenses in this Policy. Examples of sexual exploitation include, but are not limited to:

- Prostituting another person
- Soliciting or receiving payment or other compensation in exchange for sexual activity
- Non-consensual video or audio-recording of sexual activity
- Distributing, sharing, or posting images, video, or audio of another person's sexual activity, intimate body parts, or nudity without consent from the person(s) depicted in the images, video, or audio
- Allowing someone else to watch an individual engage in sexual activity with another person, without the other person's knowledge or consent
- Watching someone engage in sexual activity without their consent
- Knowingly transmitting a sexually transmitted infection or HIV to another person

**iv) Consent Definition.** 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 alleged to have, and be found responsible for having committed sexual assault or another form of sexual misconduct. Coercion, force, or threat of force 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.

**c) Dating Violence.** The term "dating violence" means violence (including, but not limited to, emotional, physical, sexual, and financial abuse or the threat of such abuse) 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

- d) 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;
  - 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.
- e) 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 Sexual Misconduct and Interpersonal Violence**

The following are resources for individuals who have experienced sexual misconduct or interpersonal violence.

**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 or interpersonal violence as soon as reasonably possible, but there is no time limit on reporting these incidents. Anyone who believes they have been a victim of sexual misconduct or interpersonal violence 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, Counseling Services, and the Confidential Advisor), contract vendor employees, and students identified as Head Residents, Resident Advisers, ELSA Community Advisors, Orientation Student Leaders, and Orientation Transfer Leads are considered responsible employees, meaning they are required to report any alleged incidents of sexual harassment, sexual assault and 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 or employee reports an incident to any responsible employee, that person is obligated to ensure 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 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)

### **Interim Title IX Deputy Coordinator for Staff**

#### ***Cindy Gonya***

Vice President for Business and Finance  
(630) 617-3012  
[cindy.gonya@elmhurst.edu](mailto:cindy.gonya@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 or interpersonal violence to a confidential advisor, the advisor is not obligated to share such information with the institution's Title IX Coordinator or any other College official, and would keep all communication with a survivor completely confidential. Contact information for the College's designated Confidential Advisor is included below.

**Confidential Advisor**

***Monisha Murjani***

Case Manager, Office of Student Affairs

(630) 617-5790

[monisha.murjani@elmhurst.edu](mailto:monisha.murjani@elmhurst.edu)

The only other 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 and employees 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 are available below and on the Campus Security website.

**[Elmhurst Police Department](#)**

125 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.

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, the Preventing Sexual Violence in Higher Education Act, 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 Title IX 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 survivor should consider seeking 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 complete a kit to receive 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**

Elmhurst College values the health and safety of students who attend the College. Each member of our campus plays a vital role in ensuring the safety of our community members and students, as well as their physical health and educational success while at Elmhurst College.

In certain cases, these situations may require immediate emergency medical assistance or seeking other campus resources. Understanding that these decisions can be complicated by the fear of subsequent disciplinary action, Elmhurst College has developed this policy in an effort to provide an additional layer of protection and encouragement to involved individuals so that they can prioritize the health and safety of our campus community members over the concerns of disciplinary action.

#### *Amnesty for Alcohol or Other Drug Consumption*

Elmhurst College encourages students to seek medical assistance for themselves or others whenever there is a concern for a person's health or well-being, especially in cases of alcohol intoxication or other drug-related situations.

If an individual actively seeks medical assistance as outlined below, Elmhurst College will not pursue the conduct process against the following individuals for violations of the College's Code of Conduct or Housing and Residence Life Policies:

- Any student(s) actively assisting the intoxicated/drug altered student; and/or
- The intoxicated/drug altered student

Actively assisting requires that an individual:

- Call police/fire/medical assistance at 911 or Campus Security at 630-617-3000, or seek out another qualified person to help assist the student, such as a Resident Adviser for on-campus students or another Elmhurst College faculty or staff member; and
- Actively monitor the intoxicated/drug altered student until assistance arrives

#### *Amnesty for Reporters of Sexual Misconduct and Interpersonal Violence*

Amnesty also applies to students who report or seek assistance after experiencing an incident of sexual misconduct or interpersonal violence where alcohol or other drug use occurred.

#### *Amnesty for Reporters of Policy Violations*

Students are encouraged to report misconduct and crimes. Sometimes, reporting parties or witnesses are hesitant to report to College officials or participate in resolution procedures because they fear that they may be accused of policy violations. It is in the best interest of the College community that reporting parties choose to report to College officials, and that witnesses come forward to share what they know about specific incidents. To encourage reporting, reporting parties and witnesses are offered amnesty from minor drug or alcohol policy violations related to incident that they report. While some policy violations cannot be completely overlooked, educational options will be provided to those who offer assistance to others in need. Amnesty may be granted



on a case-by-case basis for other policy violations and will be evaluated by the Assistant Dean of Students/Director of Community Standards.

The following are NOT covered by the Amnesty Policy:

- Violations of the Code of Conduct or Housing and Residence Life Policies other than alcohol and drug policies, and violations of the Non-Discrimination and Non-Harassment Policy
- Students who wait for Campus Security, the Elmhurst Police Department, or Housing and Residence Life Staff to arrive before seeking assistance
- Possession of drugs or alcohol with the intent to distribute
- Actions taken by Elmhurst Police Department or other law enforcement personnel

*This policy is also included in full in the 2018-2019 Student Handbook.*

## **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 interpersonal violence or to whom the behavior was directed. The “respondent” is the party accused of sexual misconduct or interpersonal violence. A person who reports sexual misconduct or interpersonal violence occurring between individuals and does not include themselves is referred to as a “third party” or “witness.”

Upon receiving a report of sexual misconduct or interpersonal violence, 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/Deputy 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/Deputy Coordinator, they are still permitted to request to meet with the Title IX Coordinator/Deputy Coordinator at any future time.

After receiving an initial report of sexual misconduct or interpersonal violence, 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 misconduct or interpersonal violence. To the extent possible, the College will only disclose information regarding such alleged incidents to individuals who are responsible for handling the College’s response.

In the event that a complainant reporting an incident of sexual misconduct or interpersonal 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 misconduct or interpersonal 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 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 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act for short) requires that all sex offenses, including sexual assaults, be made known to the campus community through the Annual Security and Fire Safety Report published each year by October 1, which reports statistics from the prior calendar year. Under the Violence Against Women Reauthorization Act of 2013, 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 information that identifies any of the involved individuals.

In addition, where it is determined that the incident may pose a serious, ongoing threat to members of the College community, the Clery Act requires the College to provide a timely warning so that members of the College community are informed so that they may take steps to protect themselves from harm, if necessary. In the event a timely warning is deemed necessary, a mass notification email, referred to as a 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 several 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
- Receiving a referral to Counseling Services on campus (at their own request)
- Providing campus escorts through Campus Security
- Issuing a "no contact" order between the respondent and complainant
- Assisting in obtaining a court-issued order of protection
- Issuing a criminal no trespass order for respondents unaffiliated with the College

In situations involving suspected or alleged violations of the Prohibition Against Sexual Misconduct and Interpersonal Violence, 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, such as temporary removal from on-campus housing. 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 and the respondent must provide the name of their chosen advisor to the Title IX Coordinator or the designated Deputy Coordinator via email at the appropriate

individual's College email address 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 that treat individuals with respect, dignity, and sensitivity.

#### **9) Resolution Time Frame**

The College will strive to complete the 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 or interpersonal violence 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 sexual assault or 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 formal 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 a 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, or the Appellate Officer—and request a substitution of that individual. This notice to the Title IX Coordinator must 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 complaint resolution procedure includes a prompt, thorough, and impartial investigation into the allegations of a violation of the Non-Discrimination and Non-Harassment Policy and potentially the Code of Conduct. 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, 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 or interpersonal violence.

- **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 Title IX Deputy 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 Title IX Deputy Coordinator for Staff, will serve as a trained investigator with a second investigator from the pool of trained investigators.

When the formal complaint resolution procedure is initiated, the assigned Title IX Deputy Coordinator will meet with the complainant and respondent individually to provide an overview of the procedure and inform them of their rights, and a Notice of Investigation (NOI) is sent to both parties. In the NOI, the complainant and respondent shall receive notice of the alleged violations of the Non-Discrimination and Non-Harassment Policy and the Code of Conduct, and notice of the Investigators conducting the investigation.

During the investigation, the Investigators will seek to interview the complainant, the respondent, and any witnesses named by either party or witnesses, and the Investigators will review any relevant documents or physical evidence submitted by all parties or obtained by the College. 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 and reserves the right to audio record any interviews or meetings that occur as part of an investigation, but the participating parties are not permitted to record such interviews or meetings.

The College's ability to investigate 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, the relationship of the alleged respondent to the College, 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.

- i) **Investigative Report.** The Investigators will prepare an Investigative Report outlining the information discovered in the investigation and minimally containing the following:
- A timeline of the investigation process
  - The alleged policy violations within the Non-Discrimination and Non-Harassment Policy and/or the Code of Conduct (which may be amended from the alleged violations in the NOI to include any new policy violations discovered in the course of the investigation)
  - 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). 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 Investigative Report.

Prior to a decision regarding the findings of responsibility being made, both the complainant and respondent will independently have the opportunity to review and respond to the Investigative Report in the presence of the Investigators. After both parties have had the opportunity to review and respond to the Investigative Report, the Investigators will typically meet with or correspond with each party one final time to provide an opportunity for each party to respond to the totality of the Investigative Report. Photos or copies of the Investigative Report are not permitted.

## ii) Resolution.

- When the **respondent is a student**, the Investigators will amend the Investigative Report to become a Final Investigative Report that includes their decision, using the preponderance of the evidence standard, regarding outcomes related to each of the alleged violations of the Non-Discrimination and Non-Harassment Policy or the Code of Conduct. Each alleged policy violation will result in an outcome of “responsible” (it is more likely than not that the respondent did violate the Policy or Code) or “not responsible” (it is more likely than not that the respondent did not violate the Policy or Code).

Within five (5) calendar days of the Investigators determining the outcome of the investigation, the Investigators will provide the Final Investigative Report to the Assistant Dean of Students/Director of Community Standards to assign sanctions if there are findings of responsibility. The sanctioning official may extend the time period for rendering a decision and sanction, so long as both parties receive notice and a reason for the extension. The Investigators will then notify the complainant and respondent, simultaneously and in writing, of the outcome, any 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 outcome and sanctions.

- 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. The Investigators will notify the complainant and respondent, in writing, of the outcome, any sanctions/remedies/corrective actions issued, the date these will be in effect, and information regarding the appeal process. The Title IX Coordinator will also receive a copy of this written notice.
- 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. The Investigators will notify the complainant and respondent, in writing, of the outcome, any sanctions/remedies/corrective actions issued, the date these will be in effect, and information regarding the appeal process. The Title IX Coordinator will also receive a copy of this written notice.

## iii) Sanctions, Remedies, and Corrective Actions. Sanctions assigned to students for violating the Non-Discrimination and Non-Harassment Policy include:

- **Written Warning:** A Written Warning is an official notice to a student that their behavior was inappropriate and violated the Non-Discrimination and Non-Harassment Policy, Code of Conduct, or other relevant College policy.
- **Educational Assignments or Training:** Educational Assignments or Training is designed to encourage students to reflect upon their behavior; learn about specific topics that relate to their previous behavior; identify harm made to self, another person, and/or the community; and explore how they could change their behavior in the future. Educational Assignments or Training may include completion of reflection assignments, educational papers, bulletin boards, workshops, online training courses, campus involvement challenges, or other event attendance.
- **Meeting with a College Administrator:** Students may be asked to meet with a College administrator either one time or on a regular basis to establish constructive connections to the College and to identify academic, co-curricular, and personal goals to be a positive member of the campus community.
- **Loss of Privileges:** Students who have been found responsible for a violation of College policy may temporarily or permanently lose certain privileges that are otherwise afforded to them. Examples include restrictions on guests in on-campus housing and on access to certain campus facilities, programs, or services (such as the shuttle, specific residence halls, fitness center, etc. or losing

parking privileges, the ability to participate in or hold leadership positions in certain students organizations or activities, loss of student employment, etc.). In some cases, a student may be reassigned to a different housing assignment as part of this sanction or may not be permitted to represent the College in student leadership opportunities, athletic events, or other co-curricular involvement.

- **Fines:** Fines are monetary costs intended to deter students from violating College policies and are charged to a student's account with the College.
- **Restitution:** Restitution is monetary compensation required of students who have damaged, destroyed, misused, or stolen College, public, or private property. The amount charged to a student's College account is commensurate to the cost to repair, replace, clean, or otherwise account for the property affected.
- **Removal from Housing:** Removal from housing requires a student to vacate their assigned residence hall room, apartment, or house by a specified date and time and return all College-issued keys and access cards. Removal from housing can be for a specified length of time or may be a permanent removal, and can include revocation of access to all College residential facilities.
- **Probation:** Probation is a formal notice that a student's behavior or repeat behavior has been detrimental to themselves or the College community. During the probation period, which is minimally one semester but can last until graduation, a student is expected to demonstrate behavior that aligns with the institution's mission and values and upholds community standards of the College. Continued misconduct during the probation period may result in suspension or expulsion from the institution. Students on probation may not study away during their probation period.
- **Suspension:** College suspension involves the temporary separation of a student from the College for a specified period of time not to exceed two years, with the understanding that the student may return to the College in good standing at the completion of the suspension period after meeting any other conditions of the suspension. A suspended student may not participate in courses, activities, campus employment, or any other privileges typically afforded to an enrolled student. A suspended student may be expected to meet with the Assistant Dean of Students or their designee to request reinstatement and have holds removed on their student account in order to re-enroll for courses.
- **Expulsion/Dismissal:** Dismissal from the institution, commonly known as expulsion, means permanent termination of student status at the College. Expulsion may include forfeiture of all rights and degrees not actually conferred at the time of dismissal; permanent notation of the dismissal on the student's disciplinary record; withdrawal from all courses; and forfeiture of tuition and fees. An expelled student may not access any College property without express permission obtained in advance from the Assistant Dean of Students or the Executive Director of Security and Emergency Management.

Outcomes assigned to staff or faculty for violating the Non-Discrimination and Non-Harassment Policy include:

- Restrictions on accessing certain buildings or areas of campus
- Participating in performance improvement/management process
- Suspension from employment, with or without pay
- Termination of employment with the College

Outcomes for faculty and staff are carried out in accordance with Human Resources Policy 2.61.

The designated sanctioning official may impose any sanction(s) from the above list that are fair and proportionate to the outcome determined for each alleged violation. The sanctioning official may refer to the respondent's record of past violations of the Non-Discrimination and Non-Harassment Policy or Code of Conduct 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 Campus Security escorts, counseling and medical services, and 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, implementing 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). Under no circumstance will the complainant in matters involving an alleged violation of the Policy that involves sexual misconduct or interpersonal violence 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 Investigators' determination and/or the sanction(s) issued by the sanctioning official. 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.

An appeal must be a written request and include any available supporting documentation that is emailed to the Title IX Coordinator within five (5) calendar days of receiving the Investigators' determination or the written notice of the sanctions, whichever is later. Should a party fail to submit an appeal to the Title IX Coordinator within these five (5) calendar days, the original determination and any sanction(s) assigned will be considered final.

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) **Appeal Notice and Decision.** After receiving a timely 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, dating and domestic violence, and stalking, including guidelines for conducting appeals.
- **When the respondent is a student**, the Appellate Officer is the Vice President for Student Affairs/Title IX Coordinator.
  - **When the respondent is a faculty or staff member**, the Appellate Officer is the Vice President for Finance and Administration.

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 Appellate Officer determines the appeal does not meet one of the grounds for appeal, the Appellate Officer may deny the appeal without further consideration, and the original outcome and any sanction(s) will be considered final. Both parties will be notified simultaneously and in writing of this determination.

If the Appellate Officer determines the appeal does satisfy one of the grounds for appeal, the Appellate Officer will notify both parties of the eligible appeal, and the non-appealing party will receive a copy of the original appeal and 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 outcome letter from the Investigators, and any documentation submitted by the appealing and non-appealing parties. The Appellate Officer may:

- Uphold the original outcome and sanctions



- Remand the case to the original Investigators for consideration of new evidence, issuance of a new Final Investigative Report, and new outcome decision
- Appoint new Investigators to conduct a new investigation if significant procedural error occurred
- Assign new sanctions or adjust the original sanctions to be more proportionate to the violation(s)

The Appellate Officer 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 educational programming designed to promote the awareness of sexual harassment, sexual assault and sexual violence, domestic violence, dating violence, 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 interpersonal violence;
- 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 Coordinator for Access and Disability Services is responsible for determining appropriate accommodations in conjunction with the student and other College representatives, as appropriate.

**Coordinator for Access and Disability Services**

Learning Center, Frick Center, 229

Elmhurst College

190 Prospect Avenue

Elmhurst, IL 60126

Phone: (630) 617-3155

Fax: (630) 617-3387

[disability.services@elmhurst.edu](mailto:disability.services@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 has a disability, the nature and extent of the disability, and appropriate reasonable accommodations.

All completed forms and supporting documentation must be submitted to the Coordinator for Access and Disability Services. 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 Coordinator, 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. The 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 Coordinator for Access and Disability Services 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" as 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.
- 2) **Criminal Sexual Assault.** According to the State of Illinois, "criminal sexual assault" occurs when a person commits an act of sexual penetration and:
  - Uses force or threat of force; or
  - Knows that the victim was unable to understand the nature of the act or was unable to give knowing consent; or
  - The victim was under 18 years of age when the act was committed and the accused was a family member; or
  - The victim was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority, or supervision in relation to the victim.
- 3) **Domestic Violence.** "Domestic violence" is also a crime under Illinois law. Domestic violence is physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis. The Illinois Domestic Violence Act of 1986 protects the following individuals from domestic abuse:
  - Any person abused by a family or household member;
  - Any high-risk adult with disabilities who is abused, neglected, or exploited by a family or household member;
  - Any minor child or dependent adult in the care of such a person; and
  - Any person residing or employed at a private home or public shelter that is housing an abused family or household member.

"Dating violence" is not explicitly defined in Illinois law. However, under the Illinois Domestic Violence Act of 1986, the term "family member" includes: spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage; persons who share or formerly shared a common dwelling; persons who have or allegedly have a child in common; persons who share or allegedly share a blood relationship through a child; persons who have or have had a dating or engagement relationship; and persons with disabilities and their personal assistants, and caregivers.

**4) Stalking.** Under Illinois law, a person commits “stalking” when they knowingly engage in a course of conduct directed at a specific person, and they know 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 they, knowingly or without justification, on at least two separate occasions follow another person or places the person under surveillance, or any combination thereof, and: (1) at any time transmit a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed toward that person or a family member of that person; or (2) place 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 another person commits stalking if they, without lawful justification on one occasion, (1) follow that same person or places that same person under surveillance; and (2) transmit a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

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