



## **McDaniel College Policy Against Sex Discrimination and Grievance Procedures**

In accordance with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* and its implementing regulations, 34 C.F.R. Part 106, McDaniel College (“McDaniel College” or “the College”) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admissions and employment. Specifically, sex discrimination applies to sex-based harassment, sexual violence, other sexual offenses, discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and parental, family, or marital status and retaliation.

Inquiries about Title IX may be referred to the College’s Title IX Coordinator, Elizabeth Towle, to the U.S. Department of Education’s Office for Civil Rights at: <http://www2.ed.gov/about/offices/list/ocr/index.html>, or both. McDaniel College’s Title IX Coordinator may be contacted at:

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2 College Hill  
Westminster, MD 21157

Effective Date: 8/1/24

Previous Revisions: 2/7/24, 11/14/2022, 7/14/2022, 09/02/2021, 12/01/2020, 10/06/2020, 08/14/2020; 8/1/2019; 8/15/2018, 8/21/2017, 1/20/2016, 8/22/2015, 3/17/2015, 6/1/2014, 3/2014, 9/2013

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## I. Policy Statements and Definitions

McDaniel College strives to assist in the development of liberally educated persons who have a commitment to responsible moral, social, and political action. To instill the desire for truth and to provide the tools by which truth may be pursued, students, faculty, and staff must maintain a relationship of mutual respect and integrity. Any conduct which violates this trust compromises the goals of the College.

To this end, the College is committed to maintaining a safe and secure campus environment that is free from acts of violence, intimidation, and fear. Sex-based discrimination is a reprehensible wrong that violates another's rights and constitutes unacceptable behavior. The College has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, alleging any action that would be prohibited by Title IX or the Title IX regulations.

If the College becomes aware of conduct that reasonably may constitute sex discrimination under Title IX, the College will take prompt and effective action to end any discrimination that has occurred, prevent its recurrence, and remedy its effects and monitor for barriers to reporting information.

All reports of alleged violations of this policy will be handled in accordance with this policy, other College policies and procedures, and applicable laws and regulations, including Title IX, Title VII of the Civil Rights Act of 1964, the Violence Against Women Act (VAWA), the Clery Act, and the Maryland Education Code § 11-601.

### A. Scope of Policy

This policy prohibits various types of sex-based discrimination, including but not limited to sex-based harassment and discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and parental, family, or marital status. In this Policy, sex-based harassment refers to sexual violence, other sexual offenses, hostile environment harassment, and Quid Pro Quo Harassment. At times in this Policy, the term "sexual misconduct" is used to refer to these types of discrimination collectively.

McDaniel College has adopted grievance procedures that provide for prompt and equitable resolution of complaints made by students, employees or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging conduct that reasonably may constitute sex discrimination under Title IX. McDaniel College requires that the Title IX Coordinator, investigator, or decision maker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

A "Complainant," is any individual who satisfies the following criteria:

- A student or employee of McDaniel College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- A person other than a student or employee of McDaniel who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time

when that individual was participating or attempting to participate in a college education program or activity; or

- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- McDaniel's Title IX Coordinator

Note that a person is entitled to make a complaint of sex-based discrimination only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v). Other students, employees, and persons attempting to or participating in the College's education program and activities can report conduct that reasonably may constitute sex discrimination under Title IX to the Title IX Coordinator.

This policy applies to incidents of sex discrimination that occur within the institution's educational program and activities, including:

- Conduct that occurs on or in any college-owned or operated property
- Conduct that is subject to the College's disciplinary authority, or
- Conduct that occurs outside the institution's educational program or activity or outside the United States if such conduct contributed to a hostile environment with the institution's program or activity.

For complaints that contain charges of discrimination that fall within this Policy, they will be adjudicated under the procedures set forth in this Policy. All other complaints will be transferred upon the conclusion of the investigation to be adjudicated under the relevant code of conduct procedure, based upon the nature of the conduct and the identities of the parties.

Any reports of sex discrimination that allegedly occurred before August 1, 2024, the effective date of this policy, will be reviewed by the College to determine if the allegations constitute an offense recognized under a [previous policy](#). The College shall retain the discretion to determine the forum where the allegations will be investigated and adjudicated and the applicable procedures. Depending on the date on which the conduct allegedly occurred, the College will also assess whether sufficient information may exist to proceed with an investigation or any other actions. Questions regarding allegations occurring prior to August 1, 2024, may be directed to the Title IX Coordinator.

## **B. Prohibited Conduct**

The following list describes conduct that is prohibited by the McDaniel College Policy Against Sex Discrimination and Grievance Procedures.

**Coercion** is the use of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, isolation and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion is evaluated based on

the intensity, frequency, and duration of the comments or actions. Coercion renders an individual unable to consent.

**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; and
- The frequency of interaction between the people involved in the relationship.

**Domestic violence** refers to felony or misdemeanor crimes committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the applicable family or domestic violence laws, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Maryland.

Domestic violence and dating violence may encompass behavior including, but not limited to, physical, sexual, and emotional violence. It may involve one act or an ongoing pattern of behavior. This may take the form of threats, assault, property damage, violence or threat of violence to oneself, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner whether communicated face-to-face or electronically. The College recognizes that sexual harassment, sexual assault, sexual exploitation, harm to others, stalking, and retaliation all may be forms of domestic or dating violence when committed by a person who is or has been involved in a sexual, dating, or other social relationship of a romantic or intimate nature with the Complainant. Under Clery and the Campus SaVE Act, the College will record and report all relevant incidents of dating or domestic violence.

**Force** is the use or threat of physical restraint or violence to overcome an individual's freedom of will to choose whether or not to participate in sexual contact. Force renders an individual unable to consent.

**Intimidation** is to place another person in reasonable fear of bodily harm using threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to an actual physical attack. Possible violations related to an incident of Intimidation will be adjudicated under the Title IX Process, the Student Conduct Process, the Faculty Misconduct Process, or the Staff Misconduct Process depending on the role of the Respondent and the allegations.

**Retaliation** means intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of

interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Reported incidents of retaliation will be investigated and addressed in accordance with the relevant disciplinary procedures.

**Sex-based harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that is:

- **Quid pro quo harassment.** An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the institution's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct; or
- **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - The degree to which the conduct affected the Complainant's ability to access the College's education program or activity;
  - The type, frequency, and duration of the conduct;
  - The parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - The location of the conduct and the context in which the conduct occurred; and
  - Other sex-based harassment in the recipient's education program or activity.

**Sexual Assault** is defined as any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault is committed against a person's will, as evidenced by refusal, or the use of force, threat or intimidation. A Respondent's level of intoxication shall not diminish their responsibility for sexual assault. Sexual assault is an offense classified as a forcible or nonforcible sex offense under the uniform code reporting system of the Federal Bureau of Investigation. The following conduct falls within the definition of sexual assault

- **Rape** – is defined as penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.

- Fondling – is defined as touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest – is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape – is defined as sexual intercourse with a person who is under the statutory age of consent.

**Sexual Exploitation** is purposefully taking sexual advantage of another person without consent. It may involve use of one's own or another individual's nudity or sexuality. Examples of sexual exploitation include, but are not limited to:

- Voyeurism (Such as watching or taking pictures, videos, or audio recordings of another person in a state of undress or of another person engaging in a sexual act without the consent of all parties).
- Disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's consent.
- Exposing one's genitals to another person without consent.
- Prostituting another individual.
- Knowingly exposing another individual to a sexually transmitted disease.
- Knowingly assisting another person with committing an act of sex discrimination.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

Examples of stalking behaviors or activities include, but are not limited to: (1) non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, social media postings, written letters, gifts, or any other communications that are unwelcome; (2) inappropriate use of online, electronic or digital technologies, including but not limited to, posting of pictures or text in chat rooms or on websites, sending unwanted/unsolicited e-mail or talk requests, and posting private or public messages on Internet sites, social networks, and/or school bulletin boards; (3) pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person; (4) surveillance or other types of observation including staring or "peeping"; (5) gathering information about an individual from friends, family, or co-workers; and (6) accessing private information through unauthorized means.

These definitions are based on the Violence Against Women Amendments (VAWA) to Clery Act of 2014 and the 2024 amendments to the Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* and its implementing regulations, 34 C.F.R. Part 106.



## II. How to Report Incidents of Sex Discrimination

Anyone who believes that they have experienced or witnessed an incident of any type of conduct that reasonably may constitute sex discrimination under Title IX may report the incident to one of the authorized Title IX Officers or a mandatory reporter listed below.

### A. Title IX Officers

The following individuals are Title IX Officers who may institute supportive measures on behalf of the College.

**Title IX Coordinator:** Elizabeth Towle

**Pronouns:** She/her/hers

**Phone:** 410-857-2205

**Email:** [etowle@mcdaniel.edu](mailto:etowle@mcdaniel.edu)

**Mailing address:**

McDaniel College

Department of Human Resources

2 College Hill, Westminster, MD 21157

Campus Office: Ground Floor of Thompson Hall.

The Title IX Coordinator oversees the implementation of this Policy, this includes meeting with individuals to discuss the Policy, the options for making a complaint, supportive measures, accessing medical attention, academic accommodations, confidential counseling resources, and any other questions related to McDaniel's response to sex discrimination.

Reports can be made to the Title IX Coordinator in person during business hours, or by calling the listed telephone number (410-857-2205) or sending an email ([etowle@mcdaniel.edu](mailto:etowle@mcdaniel.edu)), or via mail to the address listed below or by any other means that results in the Title IX Coordinator receiving your verbal or written report.

Anyone in the College community who is approached by someone claiming to have experienced conduct that may reasonably constitute sex discrimination under Title IX is encouraged to direct or assist the individual to meet with the Title IX Coordinator or to make a report themselves.

Although all complaints will be referred to the Title IX Coordinator, the following College officials are available to discuss the Policy, the options for making a complaint, accessing medical attention, determining appropriate support services and academic accommodations, confidential counseling resources, and any other questions related to McDaniel's response to interpersonal violence.

**Dean of Students:** Dr. Phillip Sullivan

**Pronouns:** He/him/his

**Phone:** 410-857-2242

**Email:** [phillip.sullivan@mcdaniel.edu](mailto:phillip.sullivan@mcdaniel.edu)

**Mailing Address:**

McDaniel College  
2 College Hill  
Westminster, MD 21157

**Associate Vice President for Administration:** Jennifer Glennon

**Pronouns:** She/her/hers

**Phone:** 410-857-2403

**Email:** [jglennon@mcdaniel.edu](mailto:jglennon@mcdaniel.edu)

**Mailing address:**

McDaniel College Department of Human Resources 2 College Hill  
Westminster, MD 21157

### **B. Mandatory On-Campus Reporters**

The following individuals are required to report any conduct that reasonably may constitute sex discrimination under Title IX to the Title IX Coordinator:

- Department of Campus Safety (Phone: 410-857-2202; Text: 443-821-1272)
- Any staff member of the Human Resources Department (410-857-2229)
- Any Vice President, Associate Vice President, Dean, Provost, Associate Provost, or Associate Dean
- Any member of the Campus Life Staff who is not a Wellness Center Counselor
- Any employee with supervisory responsibilities

Everyone listed above shall be informed about the responsibilities and details of these grievance procedures by the Title IX Coordinator upon appointment to their position.

Please note that once informed of conduct that reasonably may constitute sex discrimination under Title IX, a Mandatory Reporter is required to provide that information to the Title IX Coordinator (410-857-2205). Reports include the name of the individual(s) (if known) who allegedly experienced the conduct

### **C. How to Report Incidents of Discrimination or Harassment that are Sex-Based including Gender-Identity, Pregnancy or related conditions, and Sexual Orientation, Marital Status and Parental status.**

Allegations of conduct that reasonably may constitute sex-based discrimination or harassment including gender-identity, pregnancy or related conditions, and sexual orientation, marital status and parental status will be investigated by this College policy. However, the relevant disciplinary procedures based on the role of the Respondent will be used to adjudicate and resolve the complaint.

### **D. How to Report Incidents of Discrimination or Harassment that Are Not Sex-Based to the College**

Allegations of discrimination or harassment against a college employee that are believed to be on the basis of race, color, religion, national origin, age, disability, genetic information or any other protected characteristic, other than sex, will be investigated and resolved using the College's Discrimination, Harassment & Retaliation Prevention Policy. Allegations of discrimination or harassment against a student that are believed to be based on race, color, religion, national origin, age, disability, genetic information or any other protected characteristic, other than sex, will be investigated and resolved using the Student Conduct Process.

For students, employees, and third parties, if allegations of discrimination or harassment involve multiple bases, at least one of which is sex-based, this policy will be used to resolve the sex-based allegation(s) either after the other allegations have been resolved through the appropriate grievance process or concurrently therewith. The decision on how to proceed will be made jointly by the Title IX Coordinator in conjunction with the relevant senior level administrator or Board of Trustees Chair with ultimate supervisory authority over the Respondent.

### **E. To Request Accommodations**

If accommodations for pregnancy, disability, religion or otherwise are needed at any time to report or participate in any part of the policy/process described within, please contact the Title IX Coordinator at 410-857-2205.

## **III. Rights of Complainants and Respondents under this Policy**

The College has established rights for both the Complainant and the Respondent to provide accessible, prompt and fair methods for reporting, investigating, and responding to complaints of prohibited conduct under this policy. These rights are defined throughout the Policy, including but not limited to the following:

- To be treated equitably throughout the process of implementing any and all aspects of this Policy.
- If the party chooses, to be assisted throughout the Title IX process by an advisor, who may be a licensed attorney, an advocate supervised by an attorney or a trained advocate, as more fully described in Section A found below;
- If the party chooses, to be accompanied throughout these proceedings by a personal supporter of the Complainant or Respondent's choice at any meeting or interview that is governed by this Policy;
- To be notified of legal service organizations and referral services available to the Complainant or Respondent;

If the initial assessment leads to an investigation, the Complainant and the Respondent have the following rights established:

- Written notice of:
  - The available supportive measures, remedies, and disciplinary sanctions
  - The Parties' rights and responsibilities under the Policy and information regarding other civil and criminal options
  - The date, time, and location of each hearing, meeting, or interview the party is required or permitted to attend
  - Any decision, resolution and/or outcome, including the basis for the determination and any sanction imposed, if applicable, at the same time as the other party
- To participate or decline to participate in any formal investigation or other part of the grievance process, with the knowledge and understanding that the College may proceed with a formal investigation, despite a decision to refrain from participating;
- To investigations, disciplinary proceedings, and resolutions that are prompt and equitable and provide an opportunity for the alleged Complainant and the alleged Respondent to be heard.

### **A. Roles of an Advisor and Support Person**

A Complainant and Respondent have the right to be assisted by up to two advisors of their choice throughout the process. This includes the right to be assisted throughout the Title IX grievance process by a licensed attorney, an advocate supervised by an attorney or a trained advocate (an "advisor"); and the right to be accompanied by a personal supporter ("support person") of the Complainant or Respondent's choice.

If a Complainant and/or a Respondent would like to consult with an attorney, they may do so at their own expense. In certain instances, Complainants and Respondents are authorized to access counsel paid for by the Maryland Higher Education Commission, unless the Complainant or Respondent knowingly and voluntarily chooses not to have counsel. See Md. EDUCATION Code Ann. § 11-601. Complainants and Respondents are encouraged to contact the Maryland Higher Education Commission ([www.mhec.maryland.gov](http://www.mhec.maryland.gov)) or the state and local bar associations to exercise their right to counsel under Maryland law. More information, including a list of MHEC-certified attorneys, can be found here: <https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings---Attorney-List.aspx>

A Complainant and Respondent have the right to have their advisor and their support person in attendance at any hearing, meeting, or interview that is governed by this Policy. The advisor and/or support persons have no speaking role in the process and are not permitted to ask or answer questions.

The advisor and/or support person are expected to act professionally and with decorum to all actors in this process, including other parties and witnesses. They may only provide advice to the Complainant or Respondent in a non-disruptive manner. Individuals should select an

advisor and support person whose schedule allows attendance at any scheduled meetings. Delays will not normally be allowed due to the scheduling conflicts of an advisor or support person. The College will direct all communication regarding the process to the Complainant or Respondent. An advisor and/or support person will not be permitted to communicate with the College on the Complainant or Respondent's behalf. Failure to comply with any of these directives may result in the removal of any advisor or support person from any meeting or other proceeding.

Additionally, failure to comply with any of these directives may result in an investigator or other McDaniel representative terminating any meeting and proceeding with the investigation or other step in the process.

#### **IV. Intake Procedure by the College upon a Report of Sex Discrimination**

##### **A. Initial Report Assessment**

Upon receipt of a report of conduct that reasonably may constitute sex discrimination under Title IX, the College will conduct an initial report assessment. As part of the assessment, the Title IX Coordinator and/or a designated member of the Response Team will:

- Assess the nature and circumstances of the allegation(s);
- Address immediate physical safety and emotional well-being needs;
- Notify the Complainant of their right to contact law enforcement and seek medical treatment, including the importance of preservation of evidence, if appropriate;
- Enter the report into the College's daily crime log, if appropriate;
- Assess the reported conduct for the need for a timely warning under the Clery Act, if appropriate;
- Conduct an intake meeting with the Complainant and provide information about:
  - On and off campus resources
  - The range of supportive measures and available remedies under this Policy
  - An explanation of the procedural options and rights that may be applicable, including the Informal resolution and the Formal Resolution
  - The College's policy prohibiting retaliation;

This initial review will proceed to the point where a reasonable assessment of the individual's and the campus community's safety can be made. The determination as to how to proceed will be communicated to the Complainant. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the initial complaint or resolution. A Respondent will receive communication when the College seeks action that impacts a Respondent, such as supportive measures that involve them directly and/or the initiation of the grievance procedures. (Refer to Section V. Notice of Allegations for information related to the

initiation of the grievance procedures). The Respondent will also be notified of their rights throughout the process.

## **B. Report Intake Meeting**

Unless circumstances dictate otherwise (e.g., the Complainant is unknown or not the reporting party), the first step of the assessment will usually be a preliminary intake meeting with the Complainant and a member(s) of the Response Team. The meeting may include others as necessary.

- **For Students:** The Response Team is comprised of the Title IX Coordinator, Dean of Students, Associate Vice President for Administration, and Director of Campus Safety.
- **For Employees:** The Response Team is comprised of the Title IX Coordinator, Director of Campus Safety, and the Associate Vice President for Administration.

At this meeting, the Complainant will be provided with the following information:

- On and off campus resources
- The range of supportive measures and available remedies under this Policy
- An explanation of the procedural options and rights that may be applicable, including the Informal resolution and the Formal Resolution
- The College's policy prohibits retaliation.
- Supportive Measures

## **C. Supportive Measures**

The College can provide supportive measures after a report has been received.

Supportive measures are not disciplinary, nor punitive but rather individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent to restore or preserve that person's access to the College's education program or activity during the College's Title IX grievance procedures or during the informal resolution process. Supportive measures may be temporary or continuing. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The College will offer and coordinate supportive measures designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter further discrimination. Supportive measures are meant to support during the grievance or informal resolution process and may continue beyond the process's conclusion. Interim measures addressing safety concerns may also be appropriate under certain circumstances.

## 1. How to Request Supportive Measures

A student may request supportive measures by contacting the Title IX Coordinator or Dean of Students who will work with the Title IX Coordinator and their designee to offer and coordinate supportive measures as appropriate. A faculty or staff member may request supportive measures by contacting the Title IX Coordinator who will work with the appropriate College Officials to offer and coordinate supportive measures as appropriate. In some instances, additional information may be required to sufficiently evaluate the need or provide for a requested supportive measure.

Once a complaint has been reported to the College, the Title IX Coordinator or designee will also offer supportive measures to the Complainant during the intake process. Supportive measures will also be offered to the Respondent as appropriate once the Respondent has been notified of the allegations.

The College will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.

McDaniel will also offer and implement supportive measures that are designed to prevent and address retaliation against individuals whose requests for confidentiality have not been honored (see Section VI. D.) and respond to their needs for support, services and accommodations (See Section XIII.)

The appropriate supportive measures will be determined by considering the party's request(s) and the following factors, as applicable:

- The needs of the individual seeking supportive measures
- The impact of the supportive measures on the ability of others to access the educational program or activity;
- The opportunities for continued interaction between the Complainant and the Respondent (sharing or crossing paths during use of residential, academic, dining, office or any other facilities on campus); and
- Any other factor that is determined to be relevant to the health or safety of either party or the campus community as a whole.

The Title IX Coordinator will also work with students who need assistance registering with the Student Accessibility and Support Services Office (SASS), as appropriate. Students who require support for ongoing health-related accommodations must provide appropriate documentation as required by SASS. Time frames for evaluation and implementation of requested supportive measures may vary based on the circumstances of a specific request.

For Students, the following supportive measures may be implemented to the extent that they are deemed reasonable, feasible, and necessary, based on the factors set forth above:

- No-contact directives

- Changes to campus housing assignment and/or class schedule(s).
- Escort services while on campus.
- Modifications to campus parking locations.
- Academic support through the Student Success Office, including allowing a student to withdraw from or retake a class without penalty and access to tutoring services.
- Counseling services at the Wellness Center.
- Course-related adjustments (e.g. schedule change, deadline extension, etc.).
- Modification of work schedule or location of a campus job.
- Leave of absence through the Student Success Office and Financial Aid Office (Note that a Leave of Absence may impact a student's eligibility to receive financial aid, to remain in the United States under a student visa, and/or to participate in intercollegiate athletics or the housing selection process. Consult a member of the Academic Life Office, Office of Student Success, Office of Residence Life, Athletics, and Financial Aid Office staff for additional information.)
- Increased monitoring and/or security of certain areas of the campus.
- Other similar measures are designed to protect the health or safety of a party or the campus community.
- Coordinating Parties' access to campus buildings and/or College property.

For Employees, the following supportive measures may be implemented to the extent that they are deemed reasonable, feasible, and necessary, based on the circumstances:

- No contact directives;
- Increased security and monitoring of certain areas of the campus;
- Escort services while on campus;
- A leave of absence from the College;
- Modifications to campus parking locations.
- Counseling through the employee assistant program.
- Modifications of work or class schedules, locations, and reporting lines;



- Other similar measures are designed to protect the health or safety of a party or the campus community.

#### **D. Interim Measures and Emergency Removal of a Student**

In certain cases, the College may find it necessary to take interim measures or to remove a student Respondent entirely or partially from its education program or activity on an emergency basis. Before removing a student Respondent from any of the College's education programs or activities, the Response Team shall undertake an individualized safety and risk assessment to determine whether there is an immediate and serious threat to the physical health or safety of any student, other individual(s), or the Campus community arising from the allegations that justifies removal. The assessment shall be based on the totality of the known circumstances pertaining to the health or safety of a student, other individual(s), or the campus as a whole. The student Respondent will be provided with written notice of their emergency removal to their campus e-mail address immediately that sets forth the reasons for the removal and the procedure available to challenge the decision.

The Respondent may challenge the removal by submitting a written request to the Title IX Coordinator within three days of receipt of the written notice. While the challenge is being considered, the Respondent must remain off-campus or adhere to the specific directive. The request shall set forth the reasons why the Respondent believes the Emergency Removal and/or the specific directives is not warranted. The Title IX Coordinator shall then forward that request to the Response Team or its designee, who shall make a determination on the Respondent's request within three days. If Respondent's written request is submitted via U.S. mail, three days shall be added to the time for determination to allow for delivery. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. Nor shall this provision be construed to limit the College's ability to remove other individuals, including non-student Respondents, who may pose a risk to the health and safety of others from any part of the campus or the campus as a whole.

#### **E. Evaluating Requests for Confidentiality**

McDaniel College strives to respect the personal and sensitive nature of conduct prohibited under Title IX. If an individual who experiences conduct that reasonably may constitute sex discrimination under Title IX requests confidentiality or that no investigation into a particular incident be conducted or any disciplinary action taken, McDaniel College will evaluate the request against its responsibility to provide a safe, non-discriminatory environment, including for the individual who reported the incident. Although rare, there are times when McDaniel may not be able to honor the individual's request and may have to initiate an investigation. Further, if McDaniel honors the request for confidentiality, McDaniel's ability to appropriately investigate the incident and pursue disciplinary action against the Respondent(s), if warranted, may be limited.

McDaniel has designated the Title IX Coordinator or their designees to evaluate requests for confidentiality, as appropriate to the circumstances. In considering an individual's request for confidentiality, those individuals may consult with other college personnel as appropriate.

The evaluation of requests will be at the discretion of the Title IX Coordinator or their designee to weigh all factors.

#### If Confidentiality is Requested but Cannot be Maintained

If McDaniel determines that it cannot maintain an individual's confidentiality after it has been requested based on the factor(s) set forth above, McDaniel will inform the individual prior to conducting an investigation (unless extenuating circumstances are present) and will, to the extent possible, only share information with those individuals who are responsible for McDaniel's response to the incident. McDaniel will not require the individual to participate in any investigation or disciplinary proceeding. The College reserves the right, in its sole discretion, to pursue alleged conduct that reasonably may constitute sex discrimination under Title IX to its conclusion in cases where not pursuing the incident would constitute a danger to the College community.

If, when responding to reports of conduct that reasonably may constitute sex discrimination under Title IX or retaliation, McDaniel determines it is obligated to take any action that would involve disclosing a Complainant's identity to the Respondent, or an action from which the Complainant's identity may be easily determined by the Respondent, the individual will be informed before the action is taken unless extenuating circumstances are present. If the Complainant requests that the Respondent be informed that they requested that there be no investigation or disciplinary action, McDaniel will endeavor to honor this request and inform the Respondent that McDaniel made the decision to investigate the matter.

#### When Confidentiality Can Be Maintained

If McDaniel determines that it can respect the individual's request for confidentiality, McDaniel will take steps to assist the individual, to the extent possible, including the measures identified in Section IV. C.

As noted above, individuals should be aware that if McDaniel honors their request for confidentiality the College's ability to meaningfully investigate the incident and initiate the grievance procedures may be severely compromised.

Actions by the police or criminal courts do not in any way prejudice the right of a person to bring a complaint using the College's disciplinary procedures described below, including the College's informal resolution process explained in Section VII. A.

To encourage reporting conduct that reasonably may constitute sex discrimination under Title IX, an individual who reports such discrimination, either as a Complainant or a third-party witness, will not be subject to disciplinary action by the College for violation of the College's policy for one's own personal consumption of alcohol or drug, if the College determines that:

- The violation occurred during or near the time of the alleged discrimination
- The individual made the report of sex discrimination or is participating in an investigation as a witness, in good faith, and
- The violation was not an act that was reasonably likely to place the health and safety of another individual at risk.

The College may initiate an educational discussion or pursue other educational remedies regarding alcohol and other drugs.

## **V. Notice of Allegations**

Upon initiation of the College's Title IX grievance procedures, the College will notify the parties in writing of the following:

- The College's Policy Against Sex Discrimination and Grievance Procedures including the informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged sex-based harassment, sex discrimination or any other behavior prohibited by this policy until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.
- The parties will be notified that the relevant Code of Conduct, Staff or Faculty Handbook prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.

### **A. Consolidated Cases**

The Title IX Coordinator or designee may consolidate multiple cases and/or incidents to resolve as a single case through the formal resolution process when allegations of sex discrimination arise out of the same set of facts or circumstances, including situations where:

- There are allegations from multiple Complainants against the same Respondent;
- There are allegations from the same Complainant against multiple Respondents that; or
- The Respondent has filed a complaint against the Complainant.

### **B. Dismissal of a Complaint**

The College may dismiss a complaint of sex discrimination if:

- The College is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in McDaniel's education program or activity and is not employed by McDaniel;
- McDaniel College obtains the Complainant's voluntarily withdrawal in writing of any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the College determines that, without the Complainant's withdrawn

allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

- The College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the College will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the College will notify the parties simultaneously in writing.

The College will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the College will also notify the Respondent that the dismissal may be appealed on the same bases.

Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

To file a dismissal appeal, the party must submit the appeal request in writing to the Title IX Coordinator within five days of receiving the dismissal notice. The appealing party must include their grounds for appeal and the basis for the appeal. The Title IX Coordinator or designee will respond within two days.

If the dismissal is appealed, the College will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that the College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the College will:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the College's education program or activity.

## **VI. Investigations**

### **A. Overview and Time Frame**

The College will provide for adequate, reliable, and impartial investigation of complaints. Following the initial complaint assessment, the Response Team may initiate a prompt, thorough, and impartial investigation. The Title IX Coordinator, in consultation with the Response Team, will oversee the investigation.

All investigations are expected to be completed (i.e., all relevant evidence related to the allegations will have been gathered) within 45 days from the date of the last preliminary meeting with the parties, unless extended for good cause. If the parties decide to pursue the informal resolution process at any time during the investigation, this shall pause the investigation and stay the 45-day deadline pending the outcome of the informal resolution. If either party wishes to request a reasonable extension to the investigative period, they may submit the request to the Title IX Coordinator noting their reason for the delay request to be considered on a case-by-case basis. Any extensions for good cause shall be communicated in writing to the Complainant and the Respondent along with an explanation of the delay or extension and the reasons for the extension.

The investigation will be a reliable, fair, impartial and adequate gathering of the facts. All individuals in the investigation, including the parties, and any witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the investigation will safeguard the privacy of the individuals involved as much as possible.

McDaniel's investigation and grievance procedures do not permit the Complainant and Respondent to interact or communicate directly or indirectly with each other at any time. The burden is on the College – not the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

### **B. Preliminary Investigative Meeting with the Parties**

Once the Notice of Allegations has been sent, the Title IX Coordinator or designee will contact the parties to schedule a meeting with each individual, if appropriate. At this meeting, the party will receive an explanation of the investigation and grievance procedures and can ask any questions. If the Complainant/Respondent have elected to have an advisor(s), they are encouraged to permit the advisor(s) to accompany them to this preliminary meeting.

A No Contact Order, if appropriate, is normally issued to restrict contact and communication between the Complainant and Respondent for the duration of the investigation and grievance procedures. A No Contact Order is defined in Section IV. C. 2. If the Respondent is a faculty or

staff member, they may also be placed on administrative leave throughout the grievance process whether or not the case is formally resolved through the procedure set forth in Section VIII or via the appropriate staff or faculty disciplinary process.

### **C. Investigative Protocol**

The Response Team will designate an investigator who has specific training and experience investigating allegations of sex discrimination. Any investigator chosen to conduct the investigation must be impartial and not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Based on the circumstances of a complaint, the College may designate two investigators to gather information. The College reserves the right to appoint an investigator or investigators from outside the College community, as determined by the Title IX Coordinator in consultation with appropriate College officials.

The investigator(s) will coordinate the gathering of information from any other individuals who may have information relevant to the complaint. The College will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent or witness. Formal rules of evidence do not apply in the process described herein.

The Complainant and Respondent will have the equal opportunity to identify witnesses, including fact and expert witnesses that they would like the investigator to interview as well as other inculpatory and exculpatory evidence. Should a party wish to designate an expert witness for the investigator to interview, that person must provide that expert witness at their own expense.

Both parties may provide, if they wish, a list of questions that they would like the investigator to ask of particular individuals. The investigator(s) will also gather any available, non-privileged physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate.

In cases where the Respondent is a student, if the investigator or Response Team becomes aware, at any point prior to or during the investigation and adjudication process, of additional allegations against the Respondent that, if proven, could constitute violations of other College Policies, these allegations may be investigated and adjudicated in accordance with the procedures set forth in Section VI.

The Complainant may request that an investigation be discontinued at any time. The College will attempt to honor the wishes of the Complainant. However, to address incidents where compelling evidence suggests significant individual or community safety concerns, the decision to discontinue an investigation is within the sole discretion of McDaniel. Please see Section IX(A)(5) for a review of the factors to be considered in pursuing an investigation.

The College will keep all parties informed of the progress of the investigation. If, during an investigation, there are additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the initial notice or that are included in a consolidated complaint, both parties will be promptly notified in writing. The Title IX Coordinator will evaluate

whether the new allegations require investigation and thus the issuance of a notice with the amended allegations and the basis thereof to the parties.

In all cases, the parties will receive written notification if the investigator determines that additional allegations have arisen, or possible policy violations will be investigated and adjudicated in accordance with these procedures.

#### **D. Prior Sexual History, Treatment Materials and other Privileged Materials**

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

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

#### **E. Participation in an Investigation**

Should a person who may have been subjected to sex discrimination or a Respondent who has been notified of an investigation and/or grievance procedures decline to cooperate with the investigator or other part of the grievance process, the investigation may proceed, a finding may be reached, and sanction(s) may be imposed as appropriate based on the information available.

#### **F. Cooperation with Law Enforcement Investigation**

At the request of law enforcement, the College may agree to temporarily defer its fact gathering until after the initial stages of a criminal investigation. The College will nevertheless communicate with the parties regarding rights, procedural options and the implementation of supportive measures outlined in this policy to assure safety and well-being.

#### **G. Investigative Materials and Report**

The following will occur at the conclusion of the investigation:

- The College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the College provides a description of the evidence: the College will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
- The College will provide a reasonable and equal opportunity for both parties to review and respond to the evidence or the investigative report. Both parties will have an opportunity to respond in writing to this information within a determined ten-day period.
- At the conclusion of the ten-day period, the investigator will consider the parties' written responses in completing the final investigative report, which will compile all relevant evidence. If either party wishes to request a reasonable extension to the investigative report review period, they may submit the request to the Title IX Coordinator noting their reason for the delay request to be considered on a case-by-case basis.
- The other party's written response statements will be provided to the parties no later than ten days before any hearing and before any pre-hearing meeting.
- If at any stage following the submission of the parties' responses but prior to the hearing date new evidence relevant to the allegations and not otherwise impermissible is gathered, it will be shared with the parties and their advisors in line with the parameters set forth in the initial section of this subsection. The parties will have an opportunity to submit an additional written response within a time frame determined by the Title IX Coordinator or designee. The parties may request to review the other party's written response statements once they have been submitted.
- Once finalized, the Parties will receive a copy of the report. Not later than ten days after the investigative report is finalized unless extended for good cause, a designated member of the Response Team will meet with both parties and their advisors separately in a post-investigative conference to once again review resolution options.
- The College will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. The parties and their advisors will be required to sign a non-disclosure agreement not to disseminate any of the evidence subject to inspection and review. Any violation of the non-disclosure agreement may result in additional discrimination charges against a party, a report to an attorney's professional licensing board, or other legal action.

## **VII. Complaint Resolution Options**

The complaint may be resolved using two different methods, the informal resolution process or the formal hearing process.

### **A. Informal Resolution Process**

Before the initiation of an informal resolution process, the College will explain in writing to the parties:



- Review the allegations included in the Notice of Allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties.

When the Complainant and Respondent are both students, the informal resolution can be invoked at any time during the grievance procedures. Prior to beginning the informal resolution process, the parties must voluntarily provide written consent to participate, acknowledging that: (1) if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations; (2) at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process; and (3) any consequences resulting from participating in the informal resolution process, including the records that will be maintained.

The College will not compel any party to engage in mediation, to either party to directly confront one another, or to participate in the informal resolution. The decision to pursue informal resolution will be made when the College has sufficient information about the nature and scope of the conduct, which may occur at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for remedies-based resolution. The College will keep the parties informed of the progress of the informal resolution procedures. Statements made by either party during an informal resolution process are considered confidential and inadmissible, regardless of the outcome of the informal resolution process.

The Title IX Coordinator has the discretion to determine that the Informal Resolution Process is not an appropriate way to address the reported conduct, and that the matter must instead be resolved through the investigation and formal resolution process.

## **B. Formal Resolution**

The formal resolution option is a hearing that may result in disciplinary action against a Respondent when found responsible for a policy violation at the conclusion of the grievance procedures. A hearing officer will be assigned by the Title IX Coordinator or designee based on the relevant facts derived from the completed investigation report and the testimony taken during the decision hearing. The Response Team will authorize the formal resolution process.

### **1. Hearing Officer Designation and Notification**

The hearing will be presided over by one decisionmaker, the "Hearing Officer." The Hearing Officer will preside over the hearing and conduct a pre-hearing meeting with parties and their advisors. The parties will be informed of the date of the hearing at least 10 days prior to the

hearing date. They will also be informed of the identity of the designated Hearing Officer. The College reserves the right to appoint a hearing officer from outside the College community, as determined by the Title IX Coordinator, in consultation with appropriate College officials.

#### **a) Opportunity to Object to Designation of Hearing Officer**

The parties will be allowed to object to the designated Hearing Officer based on bias or conflict of interest. All objections must be made in writing and delivered to the Title IX Coordinator or designee within two days of receiving notification of the name of the Hearing Officer. The Complainant or Respondent should explain the basis for their objections with particularity. The party objecting to the designation of the Hearing Officer bears the burden of demonstrating why the Hearing Officer should not preside over their matter. The Title IX Coordinator or designee will respond to the objection in writing within two days with a decision, and if the objecting party prevails, include the name of the new person assigned to replace the removed Hearing Officer.

### **2. Pre-Hearing Meeting**

Upon receiving their designation by the Title IX Coordinator or designee, the Hearing Officer will review the investigative report and individually invite the Complainant and Respondent and their advisors to a pre-hearing meeting, which may be conducted in person, by telephone, or via videoconferencing. The hearing officer will provide the date and time of each pre-hearing meeting to the parties and their advisors not less than three days before that meeting, unless the party and advisor agree to less than a three day notice of the meeting.

On or before the pre-hearing meeting date, each party and their advisors shall submit proposed witness lists and items of evidence. Any individuals included on the witness list or items of evidence listed must have been interviewed by the investigator or in the investigative report for it to be considered at the hearing. The Hearing Officer reserves the right to determine the appropriateness and relevance of the questions.

At the Pre-Hearing Meeting, the Hearing Officer shall review the hearing process, the rules of decorum governing the conduct of advisors, parties, and witnesses, and answer any questions from the parties. The advisors are expected to have reviewed this Policy and any other relevant investigative materials prior to the Pre-Hearing meeting. An advisor's lack of preparedness shall not constitute cause for any delay of the Pre-Hearing Meeting or the hearing itself.

If a party does not have an advisor and does not intend to bring an advisor to the Title IX hearing, they shall inform the Hearing Officer on or before the pre-hearing meeting.

## **VIII. Formal Resolution (Title IX) Hearing**

### **A. Hearing Procedures**

The College will conduct the live hearing with the parties in physically separate locations with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or witness while that person is speaking. The parties, their advisors, and witnesses will be sequestered from one another and the Hearing Officer during the hearing. The hearing will be recorded.

The College will provide a process that enables the Hearing Officer to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

The Title IX Coordinator or designee will serve as the hearing coordinator to assist the Hearing Officer, the Parties, and Witnesses with any technical or administrative issues during the Hearing. The hearing coordinator has no decision-making power. In the event of technical difficulties, the hearing coordinator will take appropriate steps to ensure a prompt, thorough, and equitable hearing.

The order of the statements and interviews during the hearing will be determined by the Hearing Officer. Each party may have one advisor of their choice present during the hearing and a support person of their choice. Individuals may not serve as an advisor or support person and also a witness; an individual may only fulfill one role during the hearing process.

The hearing shall begin with the Hearing Officer formally opening the hearing. Each party will have the opportunity to present a brief opening statement to the Hearing Officer if they choose. Both parties will next have an opportunity to provide direct testimony to the Hearing Officer.

At their discretion, the Hearing Officer may choose to call the investigator(s) and/or witnesses to testify and may review any statements or other evidence that is mentioned in the report. Both parties may request that the Hearing Officer call any witness who was previously interviewed during the investigative process to testify. Each party is allowed to propose such questions that the party wants asked of any party or witness and have those questions asked by the Hearing Officer.

The Hearing Officer will be permitted to first ask relevant questions of the person testifying, whether the person is a party or a witness.

- If the person testifying is a party, once the Hearing Officer's questions have concluded, the Hearing Officer will then permit the opposing party to submit any additional relevant questions and follow-up questions to the party, including questions that challenge credibility to the Hearing Officer. The questions will be asked by the Hearing Officer
- If the person testifying is a witness, once the Hearing Officer's questions have concluded, the Hearing Officer will then permit each party to submit any additional relevant questions and follow-up questions to the party, including questions that challenge credibility to the Hearing Officer. The Hearing Officer shall determine in what order the questions are asked and may ask the additional questions.

The Hearing Officer will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Hearing Officer will give a party an opportunity to clarify or revise a question that they determine is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Questions that relate to the Complainant's sexual interests or prior sexual conduct are not relevant, unless such questions are offered to prove that someone other than the Respondent

committed the alleged conduct or are about specific incidents of the Complainant's prior sexual conduct with the Respondent that are offered to prove consent to the alleged sex discrimination.

***Refusal to respond to questions and inferences based on refusal to respond to questions:*** The Hearing Officer may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Hearing Officer will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

The Hearing Officer will allow for breaks at appropriate times during the proceedings. After all testimony has been taken, each party will be allowed to offer a brief closing statement, if they choose.

At the discretion of the Hearing Officer, anyone disrupting the process may be removed from a meeting.

## **B. Determination Whether Sex Discrimination Occurred**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the Hearing Officer will deliberate in private and render a decision within 7-10 days of the hearing. If there needs to be an extension for good cause, this shall be communicated in writing to the Complainant and the Respondent along with an explanation of the delay or extension and the reasons for the extension.

The Hearing Officer will rely on the Investigation Report, relevant and not otherwise impermissible evidence and the interviews conducted during the hearing for their determination of the relevant facts of the case. The Hearing Officer may consider statements made by parties or witnesses that are otherwise permitted under this Policy in reaching a determination regarding responsibility in a Title IX grievance process.

The Hearing Officer will use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred for each violation in question. This means that they will decide whether it is "more likely than not," based upon all the relevant and not otherwise impermissible evidence, that sex discrimination occurred. The standard of proof requires the Hearing Officer to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Hearing Officer is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Hearing Officer will not determine that sex discrimination occurred.

The Hearing Officer will notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:

- A description of the alleged sex discrimination;
- Information about the policies and procedures that the Hearing Officer used to evaluate the allegations; The Hearing Officer's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;

- When the Hearing Officer finds that sex discrimination occurred, any disciplinary sanctions the College will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the College to the Complainant, and
- The College's procedures and permissible bases for the Complainant and Respondent to appeal.

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

The College will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination.

If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:

- Coordinate the provision and implementation of remedies to a Complainant and other people the College identifies as having had equal access to the College's education program or activity limited or denied by sex discrimination;
- Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions;
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the College's education program or activity.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex-based harassment occurred.

### **C. Sanctions**

Following a determination that sex discrimination occurred, the College may impose sanctions which will be determined as follows:

- The classification of the Respondent will determine the procedure and type of sanctions available.
- The Hearing Officer will determine sanctions, based upon a full consideration of the following factors: (1) the Respondent's prior discipline history (including any previous violations of the College's Policy on Gender/Sex Based Anti-Harassment/Non-Discrimination Policy); (2) how the College has sanctioned similar incidents in the past;

(3) the nature and violence of the conduct at issue; (4) the impact of the conduct on the Complainant; (5) the impact of the conduct on the community, its members, or its property; (6) whether the Respondent has accepted responsibility for his/her actions; and (7) any other mitigating or aggravating circumstances. The Respondent's voluntary intake of alcohol and/or drugs is not considered a mitigating circumstance.

**For Students:** If a student is found responsible, the Hearing Officer, in consultation with the Dean of Students, will determine appropriate sanctions that may include those set forth below. If there is a formal resolution process underway at the end of a student's final semester at the college, the final graduation approval process may be withheld until the formal resolution process concludes. Sanctions may be issued individually, or a combination of sanctions may be imposed.

Possible disciplinary sanctions that may be imposed under this Policy include, but are not limited to, warning, restriction, service hours, educational sanctions, mandatory assessment and compliance with any resulting treatment plan, change in room assignment, restriction of activities and/or on access of campus facilities, disciplinary probation, removal from the residence halls and/or from nonacademic campus activities, modifications to future class scheduling that do not impact graduation date, suspension or expulsion from the college.

Sanctions for policy violations including sexual assault may receive a sanction ranging from suspension to expulsion. The timing and length of a suspension vary and are typically assigned in full semester increments (up to 4 semesters) and/or for the remainder of a semester already in progress.

**For staff and non-tenure track faculty:** If a staff member or a non-tenure track faculty member, is found responsible, the Hearing Officer will determine appropriate sanctions set forth below in conjunction with the Associate Vice President for Administration, their designee, and/or the appropriate divisional vice president. Dismissal is the minimum sanction for sexual assault, domestic violence, dating violence and stalking. For acts of coercion, intimidation, retaliation, sexual exploitation and sex-based harassment, the sanction include: A first written warning, a formal performance improvement plan, suspension or dismissal, according to the seriousness of the offense. Sanctions may be incremental in nature (*i.e.*, a first offense generally would have the least severe sanction). Information regarding the Respondent's employment record, including prior sanctions for violations, may be considered.

**For tenured or tenure track faculty:** If a tenured or tenure track faculty member is found responsible, the Hearing Officer will consult with the provost before determining the recommended sanction(s) set forth below. If the Respondent is a faculty member, his/her tenure status is not a protection, since sex discrimination gender-based discrimination, gender-based harassment, sexual harassment, sexual violence, interpersonal violence and stalking violate basic human rights guaranteed by law, and tenure is not a guarantee against sanction due to either established academic principles or civil or criminal laws.

Dismissal is the minimum sanction for sexual assault, domestic violence, dating violence and stalking. For acts of coercion, intimidation, retaliation, sexual exploitation and sex-based harassment, the sanction include: A first written warning, a formal performance improvement plan, suspension or dismissal, according to the seriousness of the offense. Sanctions may be

incremental in nature (*i.e.*, a first offense generally would have the least severe sanction). Information regarding the Respondent's employment record, including prior sanctions for violations, may be considered.

If the Respondent is a tenured or a tenure track faculty member and the sanction recommended for the Respondent is dismissal, the dismissal proceedings set forth in the American Association of University Professors (AAUP) 1958 Statement on Procedural Standards in Faculty Dismissal Proceedings will be followed after the Appeals process in the previous section is satisfied. The first step of the AAUP process will be considered satisfied through the completion of the Formal Resolution Process.

Upon receipt of the sanction recommendation, the President will initiate the second step of the AAUP process by drafting a statement with reasonable particularity of the grounds proposed for dismissal and provide the statement to the elected faculty committee charged with review of personnel actions pertaining to tenured or tenure track faculty members (hereafter "the Hearing Committee").

The Hearing Committee will be charged by the President with reviewing the record of the formal hearing and issuing a finding that supports a sanction of dismissal or offers an alternative of sanction. If the Hearing Committee requires additional information in order to render its findings, it will conduct proceedings in accordance with American Association of University Professors (AAUP) Guidelines, subject to and consistent with the requirements of Title IX. Specifically, the Committee may not request additional testimony from the Complainant and witnesses who testified before the Grievance Committee. The Committee's deliberations will not be recorded.

At the conclusion of its review, the Committee will submit a written notice to the President regarding whether the faculty Respondent should be dismissed. A copy will be provided to the Title IX Coordinator who will provide the written notice to the faculty Respondent within three days of receipt of notice.

The President will transmit the Committee's written notice to the Board of Trustees Executive Compensation Committee ("BTECC"). The BTECC, in its sole discretion, may review the record of the hearings before the Grievance Committee, review the details and recommendations of the Committee's review, or grant the faculty member an opportunity for argument, oral or written. The BTECC shall make the final decision as to whether to dismiss the faculty member or to recommend an alternative course of action. The BTECC will charge the President with carrying out its recommended action(s), which shall not be subject to further review or appeal.

**For Board of Trustee Members:** If a Member of the Board of Trustees is found responsible, the Hearing Officer will consult with the Chair of the Board of Trustees before determining the recommended sanction.

**For the President:** If the President is found responsible, the Hearing Officer will consult with the Chair of the Board of Trustees before determining the recommended sanction(s).

#### **D. Audio Recording**

The College will create an audio recording of the hearing and make it available to the parties for inspection and review. The recording shall be the property of the College. No other

recordings shall be made by any person during the meetings. Deliberations will not be recorded. Recordings of meetings that result in suspension, dismissal of employment, expulsion, or loss of campus housing shall be kept in accordance with the records retention policy.

### **E. Appeal Process**

Both parties may request that the final outcome be appealed. The review will be conducted in an impartial manner by a trained two-person panel comprised of a Vice President or designee appointed by the Title IX Coordinator. The individual shall be different from those persons who investigated or adjudicated the complaint.

The appeal must be submitted via email to the Title IX Coordinator or designee within five days of receiving the written outcome. The review shall consist of a concise and complete written statement stating the grounds for the review (see below) and all relevant information to substantiate the basis for the appeal. The review request must state whether the individual is appealing the sanction, or both the sanction and the decision. The only grounds for final review are:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator(s), or decision-maker(s)/Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, the College will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with Title IX regulations;
- Communicate to the parties in writing that the College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

The receipt of the request for the review will be acknowledged in writing (which can include email). The Title IX Coordinator shall provide the other party with a copy of the request for



review within one day of receipt. The other party shall have an opportunity to respond to the request for review within three days of receipt.

The Review Panel or appointed designee shall first consider whether the review request is timely filed and if so, whether the review request is properly framed based on one or more of the three grounds. If the Review Panel or appointed designee determines that the review request is not properly framed, the final review will be denied.

If the review request meets the final review criteria, any documents from each party will be considered together in one appeal review process. The review request and any supporting documents will be shared with the other party, who will be given three days to respond to the review documentation in writing to the Title IX Coordinator or designee who shall forward it on to the Review Panel or appointed designee.

The burden of proof lies with the party requesting the final review, as the original determination and sanction are presumed to have been reasonable and appropriate.

The Final Review Panel or appointed designee will then issue a written decision that either:

- Accepts the decision of the Hearing Officer,
- Amends the decision of the Hearing Officer, or
- In the case of substantive new information, the Final Review Panel or appointed designee assesses the weight and impact of newly discovered information in light of the original decision and renders a decision.

If a party is suspended, dismissed, removed from campus, including housing, or put on leave because of the hearing, the assigned sanctions may go into effect pending the outcome of any appeal.

The Final Review Panel or appointed designee will render a written decision on the appeal to the parties within thirty days from the date of the submission of all appeal documents by both parties, unless extended for good cause. Final review decisions are absolute.

## **F. Limited Student Conduct Immunity for Reporting Parties and Witnesses**

Individuals with information about conduct that reasonably may constitute sex discrimination may hesitate to come forward out of fear of revealing that their own conduct at the time of the incident violates a College Policy.

Students are encouraged to report incidents of conduct that reasonably may constitute sex discrimination and assist a person involved in such conduct in times of crisis.

McDaniel College does not condone infractions of the Code of Student Conduct but considers reporting conduct that reasonably may constitute sex discrimination to be of paramount importance.

Therefore, the College extends limited immunity for other student conduct substance abuse violations to potential witnesses and Complainants in order to facilitate the reporting and

resolution of such conduct. The College, in its discretion may extend this limited immunity to other student conduct violations.

Immunity is extended to a student under the following circumstances:

- The College determines that the substance abuse violation occurred during or near the time of conduct that reasonably may constitute sex discrimination;
- The student is determined to have made the report or is participating in an investigation as a witness in good faith; and
- The College determines that the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

### **G. Integrity of Proceedings**

These procedures are entirely administrative in nature and are not considered legal proceedings.

### **IX. Records**

The Title IX Coordinator or designee will retain records of all reports and complaints, regardless of whether the matter is resolved by means of assessment, informal resolution, or formal resolution, for seven years including:

- Each sex-based harassment investigation including any determination regarding responsibility and any hearing recording, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
- Records of any actions, including any supportive measures, taken in response to a report, and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity. If the College does not provide a Complainant with supportive measures, then the College will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken.

If the Complainant or Respondent is a student, the records will be retained in the Office of Campus Life for seven years from when the student graduates or leaves the College due to death, withdrawal, or academic dismissal. Affirmative findings of responsibility in matters resolved through formal resolution will be included as part of the student's conduct record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record. Records of cases resulting in suspension or

expulsion may be retained for longer periods of time or indefinitely at the discretion of the Dean of Students. Further questions about record retention should be directed to the Office of Campus Life.

Complaints resolved by means of assessment or informal resolutions are not included in the student's conduct file or academic record but are maintained by the Title IX Office for seven years.

If the Complainant or Respondent is a volunteer, faculty or staff member, the records will be retained in the Office of Human Resources in a confidential file for a period of seven years post termination.

If the Complainant or Respondent is a third party, the records will be retained in the Office of Human Resources in a confidential file for a period of seven years post resolution date.

## **X. Misuse of Policy**

The purpose of this policy is to promote and maintain an environment at McDaniel College that is free from sex discrimination. Any member of the college community who believes that he or she has been subjected to such conduct that reasonably may constitute sex discrimination is encouraged to use the procedures provided in this policy, for the benefit and protection not only of that individual but ultimately of the entire college community. However, fabricated charges of such conduct undermine the purpose and effectiveness of this policy. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sex discrimination. However, when a Complainant or third-party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the individual may be subject to disciplinary action. It is a violation of the Code of Student Conduct, Faculty and Staff Handbook guidelines to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. Such allegations may be reported to the Title IX Coordinator, who shall investigate the allegations and take any appropriate action.

## **XI. Required Training**

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on non-discrimination, the definition of sex-based harassment as Defined by the Department of Education and the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. All decision-makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of this section. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints.

In addition, any hearing adjudicators must have training on non-discrimination; the dynamics of sexual harassment, sexual violence, stalking, and intimate partner violence; the factors relevant to a determination of credibility; the appropriate manner in which to receive and evaluate sensitive information; the manner of deliberation; evaluation of consent and incapacitation; the application of the preponderance of the evidence standard; sanctioning and the College's policies and procedures.

### **A. Title IX Coordinator and Designees**

The Title IX Coordinator and Designees, in addition to the training requirements provided above, shall be trained on their specific responsibilities, including:

- That the College must take actions to prevent sex discrimination and ensure equal access to the College's education program or activity, such as by providing reasonable modifications for students, reasonable break time for lactation for employees, and lactation space for students and employees.
- The actions the Title IX Coordinator is required to take upon being notified of conduct that reasonably may constitute sex discrimination under Title IX.
- The College's recordkeeping system.
- Any other training necessary to coordinate the College's compliance with Title IX.

### **B. Employees**

All College employees must be trained on:

- The College's obligation to address sex discrimination in its education program or activity
- The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment
- Applicable notification and information requirements, including that when a student (or a student's parent or other legal representative) informs a College employee of the student's pregnancy or related conditions, the employee provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the education program or activity.
- Any employee who is not a confidential employee and who either has authority to institute corrective measures on behalf of the College or has responsibility for administrative leadership, teaching, or advising in the College's education program or activity to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or this part; and all other employees who are not confidential employees and either:
  - Notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX; or

- Provide the contact information of the Title IX Coordinator and information about how to make a complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination under Title IX.

The training materials for these required trainings are available upon request.

## **XII. Appendix A**

### **A. College and External Confidential and Non-Confidential Resources for Incidents of Sex Discrimination**

#### **1. On-Campus Confidential Resource for Full Time Students**

##### **McDaniel College Wellness Center**

Campus Location: Winslow Center, top floor

Phone: 410-857-2243

The Wellness Center's licensed medical professionals (health and counseling) are confidential resources for students. A student may choose to make an appointment with a counselor or medical staff person to discuss the situation that has occurred and the options for how to respond to the incident.

With limited exceptions, professional counselors are exempt from reporting regarding incidents of conduct that reasonably may constitute sex discrimination. A professional counselor is defined as an individual whose official responsibilities include providing mental health counseling to members of the College's community and who is functioning within the scope of the counselor's license or certification. Students can access this type of professional counselor through the Wellness Center. The Wellness Center Counseling staff members will assist a student through the reporting process if the student chooses. A student can contact a Wellness Center Counselor through the Department of Campus Safety if a report has been made or by contacting the Wellness Center directly and scheduling an appointment.

#### **2. Confidential Resources for Employees**

Employees can access a professional counselor or legal consultation through the Employee Assistance Program (EAP) at:

**Business Health Services (BHS):** 1-800-327-2251 (24 hours a day/7 days a week)

The EAP is confidential, free service to employees. Services include clinical assessment, short-term face-to-face or telephonic counseling, and referrals to community resources. 800-327-2251. The EAP Counselor can assist the employee through the reporting process should the employee choose to file a report.

#### **3. Confidential Resources External to the College for Students and Staff**

**Care Healing Center of Carroll County:** 410-857-7322 (24-hour hotline)

<https://carehealingcenter.org/> All services are provided free of charge. Services are available to any victim of sexual violence age 12 and older, and secondary victims. Care Healing Center provides walk-in crisis intervention (Monday-Friday) Individual and group therapy; Hospital, court, school, detention center, and police accompaniments; Information and referrals.

**Carroll Hospital Center:** 410-848-3000 for medical and SAFE exams (Please note that

Carroll Hospital Center procedures require that all incidents of sexual assault be reported to the Westminster Police, unless an individual wishes to have a SAFE Exam anonymously as “Jane/John Doe”)

**Carroll County Health Department:** 410-876-2152 for STI testing and reproductive health care.

**Confidential Stop it Now Helpline:** Provides direct help to individuals with questions or concerns about child sexual abuse, including bystanders or those at risk of committing harm. They offer a confidential national prevention Helpline (1.888.PREVENT) (available M-F 12 p.m.- 6 p.m. EST), email and chat services, an interactive Online Help Center, and the “Ask Now!” advice column. <https://www.stopitnow.org/about-us>

**Love Is Respect:** 1-866-331-9474 Text LOVEIS to 22522 [www.loveisrespect.org](http://www.loveisrespect.org) This is a free and confidential youth hotline available 24 hours a day/7 days a week.

**Maryland Coalition Against Sexual Assault (MCASA):** [www.mcasa.org](http://www.mcasa.org), 1- (877) 496-SALI The website provides a detailed list of rape crisis centers located in Maryland and information about the Sexual Assault Legal Institute (SALI) that provides comprehensive legal services to survivors of sexual violence.

**Maryland Higher Education Commission Attorney List** for students who are parties to sexual assault proceedings: [Title IX Campus Sexual Assault Attorney List.pdf \(maryland.gov\)](#)

**National Domestic Violence Hotline:** 1-800-799-7233, 1-800-787-3224 (TTY) Text START to 88788 <http://www.thehotline.org> This is a free and confidential hotline available 24 hours a day/7 days a week.

**National Sexual Assault Hotline (RAINN):** 1-800-656-HOPE This is a free and confidential hotline for incidents occurring outside of Maryland available 24 hours a day/7 days a week.

**Springboard** (formerly Family and Children’s Services of Central Maryland): 443-865-8031 <https://www.springboardmd.org/family-and-childrens-services-is-now-springboard-community-services/> This is a free and confidential hotline available 24 hours a day/7 days a week for assistance with domestic violence.

#### **4. On-Campus Non-Confidential Emergency Resources for Students and Employees**

Department of Campus Safety  
Phone: 410-857-2202;  
Text: 443-821-1272  
Address: McDaniel College, 152 Pennsylvania Avenue, Westminster, MD 21157

The Department of Campus Safety staff are available 24 hours a day/7 days a week to:

- Help an individual access medical care and/or a SAFE exam through Carroll Hospital Center, including by providing transportation,
- Discuss safety planning, and
- Explain reporting options related to the College and local law enforcement, including applying for a protective order through the Carroll County Court System.

Anyone who has experienced conduct that reasonably may constitute sex discrimination may utilize Campus Safety to be escorted on campus if feeling unsafe.

**StalkingAwareness.Org** provides general information and resources that can help victims and survivors learn more about stalking.

**The Victim Connect Resource Center** <https://victimconnect.org/> is a referral helpline where crime victims can learn about their rights and options confidentially and compassionately. Call or text directly at 1-855-4VICTIM ([855-484-2846](tel:855-484-2846)) or chat online.



## **XIII. Appendix B**

### **A. What To Do If You Experience an Act of Sex-Based Harassment**

Go to a safe place. Call someone you trust for support. Remember that being assaulted is not your fault.

Seek medical attention immediately to provide options for the prevention of sexually transmitted infections, internal injuries, and the possibility of pregnancy. A medical examination, performed by a specially trained nurse, is available at Carroll Hospital Center (410-848-3000) or the Carroll County Rape Crisis Center (24 Hour Hotline: 410-857-7322).

Transportation for medical attention or other intervention services can be arranged by the Department of Campus Safety (Phone: 410-857-2202; Text: **443-821-1272** or Ext. 2202) at any time, or by calling for an ambulance at 911.

### **B. Preserving Evidence: Sexual Assault, Dating or Domestic Violence and Stalking**

#### **Sexual Assault**

Have evidence collected as soon as possible. Evidence collection is necessary for the investigation of the crime. Evidence may include pictures of injuries, a forensic examination, texts, phone records, social media interactions, medical records, video recordings, photographs, receipts, diaries/journals, text, social media and voicemail messages and security footage. Even if you do not think you would like to pursue a criminal case now, you can have evidence collected so you can decide later whether filing a report with the police is right for you.

Do NOT shower, bathe, brush your teeth, and if possible, avoid using the restroom prior to having a medical exam. This can allow important evidence to be collected. Place all clothing worn at the time of the assault in a paper, not plastic, bag to preserve any evidence present on the items. Do not apply medication to any injuries unless necessary.

#### **Dating or Domestic Violence**

- Log any incident of abuse (verbal, physical, emotional, or otherwise). Suggested steps for logging incidents can be found below in the section on preserving evidence in stalking incidents.
- Take timestamped photos of injuries or any damage to property.
- If you are injured during an incident, seeking medical attention may be needed.

#### **Stalking**

It is recommended the Complainant preserve evidence of contact or attempted contact by the Respondent. Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.

Complainant should:

- Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
- Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook)
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, to include those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.
- Resources such as a stalking log, which can be accessed on the Title IX website can be useful to track contacts and attempted contacts.

### **C. How to Help A Person Who Has Experienced How to Help a Person who has Experienced Sex-Based Harassment**

- Reassure the person that the sexual assault or other event is not their fault.
- Ask the person if they want help in contacting any of the resources listed in Section II of this Policy.
- Remain calm and go to a safe place.
- Help the person seek medical treatment as soon as possible.
- Help the person preserve all physical evidence by following the practices set forth in the prior section.
- Contact someone you trust to get help and support.
- Let the person know that you are going to listen and let them talk; try not to interrupt until they are finished.
- Assure the person that there is help and support available; they are not alone, and neither are you.

### **D. How to Reports Incidents of Sex-Based Harassment to the Local Authorities**

The College encourages full reporting of incidents of sexual violence as well as the full use of all available campus and off-campus resources. The College also recognizes that someone who may have experienced sexual violence has the right in most circumstances to decide whether to report the incident to College authorities and/or law enforcement and to decide what campus or community resources to use. The College cooperates with all investigative

agencies. The College will do its best to comply with the wishes of an individual who believes that they have experienced sexual violence.

*Who do I talk with about reporting a sexual assault and/or incident of sexual violence to a local law enforcement agency?*

- The Wellness Center (410-857-2243) counseling staff members are available for students and will provide information, discuss the process, and help assess which resource would be best for you. This is a confidential resource.
- The Department of Campus Safety (Phone: 410-857-2202; Text: **443-821-1272**) can provide information about this Policy and connect individuals to external law enforcement agencies and resources. It is important to note that this initial contact will start an internal investigation at the College.
- CARE Healing Center (formerly Rape Crisis Intervention Service of Carroll County) (410-857-7322) is a valuable off campus resource to discuss the process involved in making a report. Rape Crisis Staff will provide support throughout the total process of reporting an incident of sexual violence to a local law enforcement agency. This is a free and confidential service.
- An individual can report directly to the Westminster Police Department (410-848- 4646), Maryland State Police (410-386-3000), Carroll County Sheriff's Office (410-386-2900) or go to Carroll Hospital Center (410-848-3000). Carroll Hospital Center procedures require that all incidents of sexual violence be reported to the Westminster Police, unless an individual wishes to have a SAFE Exam anonymously as "Jane/John Doe".
- An individual can file for a Peace Order or Protective Order with the District Court of Maryland for Carroll County to prevent contact with the person(s) alleged to have engaged in a crime. The Department of Campus Safety staff is available to assist in this process by transporting you to the Courthouse and back. For more information on the process, you can visit the Maryland Court website at <http://www.courts.state.md.us/legalhelp/domesticviolence>

## XIV. Appendix C: Other Definitions

**Bystander Intervention** refers to safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of gender-based, gender-based harassment, sex-based harassment, sexual violence, interpersonal violence or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options and taking action to intervene.

**Character Witness** refers to an individual who attests to another individual's moral conduct or good reputation. A character witness does not have first-hand knowledge of an event.

**Complainant** includes:

- a student or employee of McDaniel College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- a person other than a student or employee of the College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in McDaniel Colleges' education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of the Complainant; or
- McDaniel's Title IX Coordinator

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. Part 106.44 (f)(1)(v).

**Complaint** means an oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under Title IX or its regulations.

**Consent** refers to an affirmative decision to engage in mutually acceptable sexual activity given by clear actions or words. It is an informed decision made freely and actively by all parties. Individuals should not make assumptions about another individual's willingness to participate in sexual activities.

- If confusion or ambiguity regarding consent arises at any time during the sexual interaction, it is essential that each participant stops and clarifies, verbally, their willingness to continue.
- Consent may not be inferred from, for example, silence, passivity, or lack of active resistance.
- A current or previous dating, sexual or marital relationship is not sufficient to constitute consent.

- Consent must be given for each sexual act. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Conduct will be considered “without consent” if no consent, verbal or nonverbal, is given.
- Impairment due to drugs or alcohol does not diminish each party’s responsibility to obtain consent.
- A disparity in power between two parties diminishes the ability to obtain consent. Members of faculty and staff are prohibited from entering any type of sexual relationship with a student, other faculty or other staff within a direct or indirect reporting line. For more information, see the
- “Relationships with Students” policy outlined in the Faculty and Staff Handbooks.

**Course of Conduct** means two or more acts, including, but not limited to, acts in which an individual 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.

**Day** means a business day when normal business operations are conducted, typically between the hours of 8:30am – 4:30pm, Monday through Friday, excluding weekends and holidays, unless otherwise specified.

**Disciplinary Sanctions** means consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the College’s prohibition on sex discrimination.

**Evidence** means something that tends to prove or disprove the existence of an alleged fact.

- **Exculpatory Evidence** means evidence tending to establish a person’s innocence.
- **Inculpatory Evidence** means evidence tending to show one’s involvement in an act of wrongdoing.
- **Relevant Evidence** refers to evidence related to the allegations of sex discrimination under investigation as part of these grievance procedures. Evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**Employee** refers to any individual who is actively employed by the College and receives W-2 taxable income. If an employee also is an enrolled student in any McDaniel course, their primary role will be considered during the use of this policy.

**Good Cause** is defined as the unavailability of any party, witness, advisor, Title IX investigator, decisionmaker, Title IX Coordinator, or member of the response team because of death, illness, or other excusable conditions; unavailability or delay in speaking with or obtaining evidence from a party or witness because of death, illness, or other excusable conditions; technological failures or lack of access to technology; pandemics; natural disasters; government shutdowns; concurrent law enforcement activity; the need for language assistance or the accommodation of disabilities; a court order or other legal filing directing that

the proceedings pause; or any other unexpected event that would substantially contribute to the delay of the proceeding.

**Intake** refers to when a Complainant meets with the Title IX Coordinator to discuss supportive measures available at the College and their rights under this Policy when making a complaint. Intake may occur in person or remotely. A Complainant has a right to be accompanied by up to two advisors of their choice at an intake, at least one of whom may be an attorney.

**Incapacitation** refers to an incapacitated person who is unable to understand the nature of the sexual interaction or freely consent to sexual activity due to excessive consumption of alcohol or other drugs, a temporary or permanent physical or mental health condition, being asleep or having lost consciousness.

Evaluating incapacitation also requires an assessment of whether a person should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a reasonable person. An individual who engages in sexual activity with someone the individual knows, or reasonably should know, is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy.

**Mandatory Reporter** refers to all Divisional Vice Presidents, all Deans and Associate Deans, all employees in the Human Resources Department, Campus Life, Campus Safety, Residence Life, including resident advisors, and Student Engagement. Faculty members and other staff members not set forth above are not included in the definition of responsible persons.

**Party** means a Complainant or Respondent.

**Reasonable Person** means an individual with an ordinary degree of reason, prudence, care, foresight, or intelligence under similar circumstances.

**Relevant** means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged discrimination occurred.

**Remedies** means measures provided, as appropriate, to a Complainant or any other person the College identifies as having had their equal access to the education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to McDaniel's education program or activity after it has been determined that discrimination occurred.

**Respondent** means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

**Retaliation** means intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX regulations.

**Student** refers to a member of the McDaniel College student body who has deposited or is enrolled for classes within the McDaniel College course offerings or is participating in a College sanctioned activity. If a student also is employed by the College, their primary role will be considered during the use of this policy.

**Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent. Such measures are designed to restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or provide support during the College's grievance procedures or during an informal resolution process. The College shall maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

**Third Party** refers to any individual that is on campus and not defined as a student or employee. This includes but is not limited to volunteers, guests, visitors, third party vendors, etc.

**Witness** refers to an individual who observes or has relevant information about an event or complaint.

Effective Date: 8/1/2024

Previous Revisions: 2/7/2024, 11/14/2022, 7/14/2022, 09/02/2021, 12/01/2020, 10/06/2020, 08/14/2020; 8/1/2019; 8/15/2018, 8/21/2017, 1/20/2016, 8/22/2015, 3/17/2015, 6/1/2014, 3/2014, 9/2013