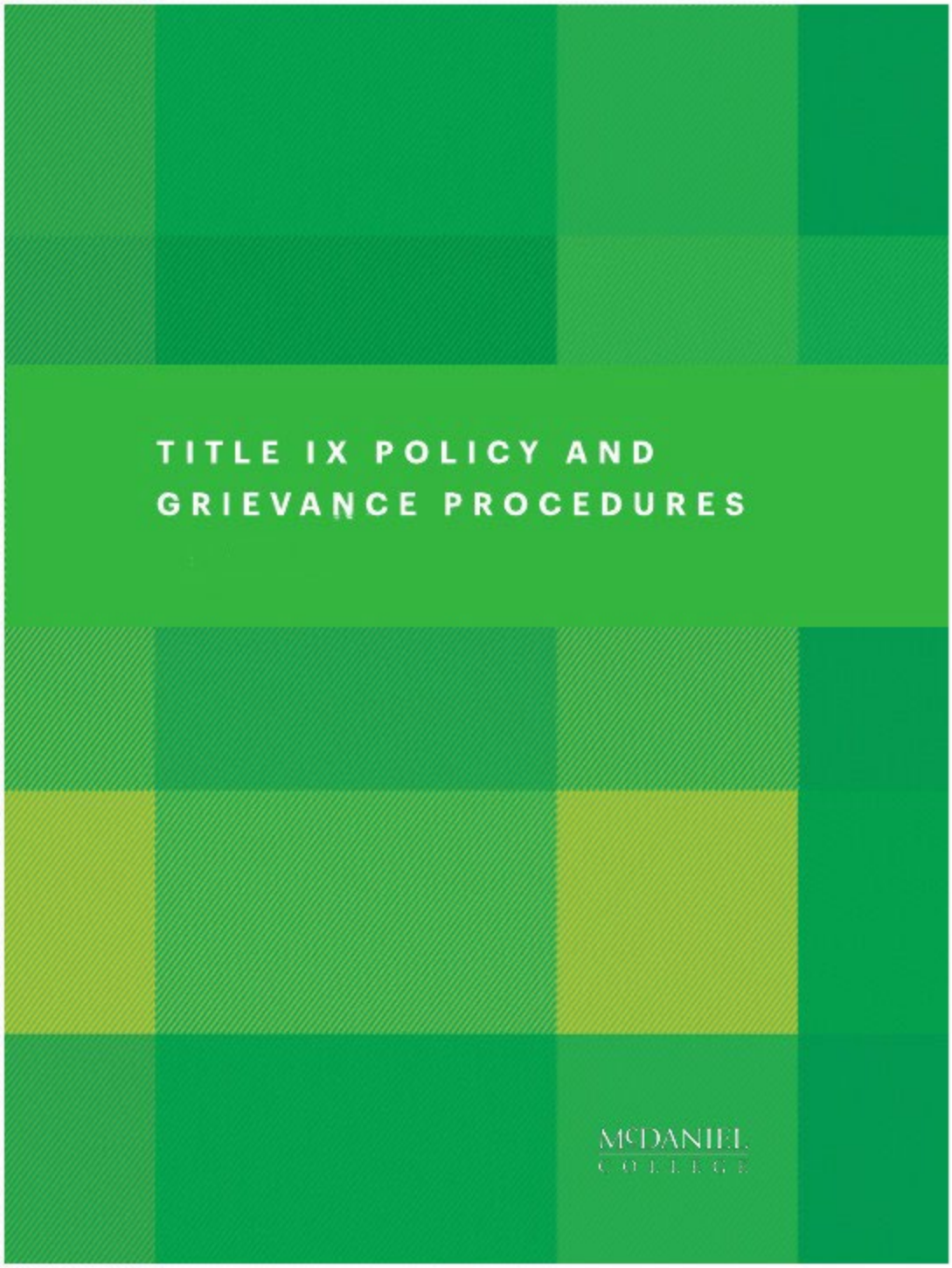


Effective Date: 7/31/2026
Previous Revisions: 8/11/25, 2/7/25, 8/1/24, 2/7/24, 11/14/2022, 7/14/2022, 09/02/2021, 12/01/2020, 10/06/2020 08/14/2020; 8/1/2019; 8/15/2018, 8/21/2017, 1/20/2016, 8/22/2015, 3/17/2015, 6/1/2014, 3/2014, 9/2013

McDaniel College Title IX Policy 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 in any educational program and activity, including admissions and employment.

The College is committed to preserving an educational and employment environment that is free from sexual harassment, sexual assault, dating violence, domestic violence, stalking, discrimination based on pregnancy, parental, family, or marital status, and retaliation in accordance with all applicable state and federal laws including Title IX, Title VII, the United States Department of Education and the 2013 Reauthorized Violence Against Women Act. Accordingly, the College maintains comprehensive policies and procedures to ensure that all rights available under Title IX and other applicable laws are upheld.

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: https://www.ed.gov/about/ed-offices/ocr, or both. McDaniel College's Title IX Coordinator may be contacted at:

Elizabeth Towle
etowle@mcdaniel.edu
(410) 857-2205
2 College Hill
Westminster, MD 21157

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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. Sexual harassment is a reprehensible wrong that violates an individual'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 sexual harassment as defined by 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 and Maryland Education Code § 11-601.

A. Scope of Policy

This policy prohibits sexual harassment, including but not limited to sexual harassment, including quid pro quo and hostile environment harassment, sexual assault, dating violence, domestic violence, and stalking. In this Policy, the term "sexual harassment" refers to these types of harassment 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 sexual harassment under Title IX. McDaniel College requires that the Title IX Coordinator, investigator, and decision maker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

In instances where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during the grievance process and must comply with requirements for Title IX personnel to be free from conflicts or bias.

A “Complainant,” is an 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 sexual harassment prohibited by Title IX; or
- A person other than a student or employee of McDaniel who is alleged to have experienced conduct that could constitute sexual harassment prohibited by 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.

This policy applies to incidents of sexual harassment that occur in an education program or activity of the College, against a person in the United States.

- An education program or activity of the College includes locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the College.

Complaints that contain charges of sexual harassment as defined by Title IX will be resolved using the procedures set forth in this Policy.

All other complaints, including those occurring outside the United States, may be transferred upon the conclusion of the investigation for resolution under the relevant code of conduct procedure, based upon the nature of the conduct and the identities of the parties, i.e. the Student Conduct Process, the Faculty Misconduct Process, or the Staff Misconduct Process. Any reports of sexual harassment that allegedly occurred before August 14, 2020, 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 resolved 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.

B. Prohibited Conduct

The following list describes conduct that is prohibited by the McDaniel College Title IX Policy 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, and isolation. 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:

- A current or former spouse of the victim.
- A person with whom the victim shares a child in common.
- A person who is cohabiting with, or has cohabitated with, the victim as a spouse or intimate partner.
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the violence occurred
- Or any other person who commits acts against an adult or youth victim who is protected from that person's acts under the family or domestic violence laws of the jurisdiction in which the crime of violence occurred.

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 the Clery and the Campus SaVE Acts; the College will record and report all relevant incidents of dating or domestic violence.

Discrimination Harassment Retaliation Prevention Policy (DHRPP) may apply to complaints alleging gender-based discrimination, gender-based harassment, or sexual harassment that fall outside the scope of Title IX and that the College believes must be addressed in keeping with our own non-discrimination commitment. Specifically, incidents that occur off campus, including outside of the United States; involving complainants who are unaffiliated with the College; or sexual harassment (hostile educational/work environment), even if the conduct would not be considered "severe, pervasive and objectively offensive" under the current Title IX regulations.

Force is the use or threat of physical restraint or violence to overcome an individual's freedom 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. Violations related to an incident of intimidation will be adjudicated under the Title IX Grievance Procedures, 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.

Sexual harassment, as defined by Title IX, means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions; sexual assault, dating violence, domestic violence, and stalking.

- **Quid pro quo sexual 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 conduct based on sex that a reasonable person would consider so severe, pervasive, and objectively offensive that it effectively denies a person's equal access to 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 sexual harassment in the recipient's education program or activity.
- **Sexual assault, dating violence, domestic violence and stalking** as defined in the Violence Against Women Act (VAWA)

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.
- Sexual Contact – is defined as the intentional, nonconsensual touching of the clothed or unclothed body parts of another person for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Sexual contact also includes the forced, nonconsensual touching by the victim of the actor's clothed or unclothed body parts for the purpose of sexual degradation, sexual gratification, or sexual humiliation. 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. May include synthetic images or those generated using artificial intelligence (AI).
- 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 sexual harassment.

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 2020 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 Sexual Harassment

Anyone who believes that they have experienced or witnessed an incident of any type of conduct that reasonably may constitute sexual harassment as defined by 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
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 sexual harassment.

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), or via mail to the address listed below or by any other means that results in the Title IX Coordinator receiving a verbal or written report.

Anyone in the College community who is approached by someone claiming to have experienced conduct that may reasonably constitute sexual harassment as defined by 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.

Associate Vice President for Administration and Government Relations: Jennifer Glennon
Pronouns: She/her/hers
Phone: 410-857-2403
Email: jglennon@mcdaniel.edu
Mailing address:
McDaniel College Department of Human Resources 2 College Hill
Westminster, MD 21157

B. Mandatory On-Campus Reporters

In accord with the 2020 Title IX Regulations, all McDaniel College faculty and staff are designated as mandatory reporters, except those who are licensed therapists fulfilling their role as a counselor in the Wellness Center.

Please note that once informed of conduct that reasonably may constitute sexual harassment as defined by Title IX, a mandatory reporter is required to provide that information to the Title IX Coordinator. Reports include the name of the individual(s) (if known) who allegedly experienced the conduct.

Title IX Coordinator: Elizabeth Towle
Pronouns: She/her/hers
Phone: 410-857-2205
Email: etowle@mcdaniel.edu

C. How to Report Incidents of Discrimination or Harassment that Are Not Sexual, as defined by Title IX, to the College

The College's Discrimination, Harassment & Retaliation Prevention Policy and corresponding grievance processes will be used to investigate and resolve allegations of discrimination or harassment against an individual that is believed to be based on race, color, religion, gender, sexual orientation, national origin, age, disability, genetic information or any other protected characteristic, and for allegations of sexual harassment that falls outside the conduct defined by Title IX If allegations of discrimination or harassment involve multiple bases, at least one of which is sexual, this policy will be used to resolve the allegation(s) either after the other allegations have been resolved through the appropriate grievance process prior to 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.

D. To Request Accommodations

If accommodations for 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 or etowle@mcdaniel.edu.

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 and with dignity, respect, and sensitivity throughout the process of implementing 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 an investigation is initiated, 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 an investigation, despite a decision to refrain from participating;
- 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

Both parties 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 choose 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) 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 occurs as a result of this Policy. With limited exception during the formal hearing, as detailed in Section VIII, 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 involved in this process, including other parties, advisors, 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, hearing officer, 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 Sexual Harassment

A. Initial Report Assessment

Upon receipt of a report about conduct that reasonably may constitute sexual harassment as defined by 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 receive medical treatment (including transportation to and from), 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. See **Section IV. B. Report Intake Meeting** for more information.

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. Formal Complaint and 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 Government Relations, 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 and Government Relations.

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 Agreement-based 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 agreement-based 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 agreement-based 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, faculty or staff member may request supportive measures by contacting the Title IX Coordinator or their designee 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 report has been made 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 V. C.) and respond to their needs for support, services and accommodation (See Section XIII Appendix B.)

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 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.

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.

Individuals may choose to submit a report and receive supportive accommodations without submitting a Title IX Formal Complaint or being involved in an investigation process or any other resolution process under the Policy.

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. The request shall set forth the reasons why the Respondent believes the Emergency Removal and/or the specific directives are not warranted. The Title IX Coordinator shall then forward that

request to the Response Team or its designee, who shall decide 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. While the challenge is being considered, the Respondent must remain off-campus or adhere to the specific directives.

- This provision does not 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.

In certain cases, the College may find it necessary to take interim measures regarding an employee. Additional information about the related procedures and circumstances of the employee Disciplinary Procedures are outlined in the Faculty Handbook, Staff Handbook, and Student Worker Handbook.

V. Formal Complaint and Notice of Allegations

A. Formal Complaints

Upon receiving a report and completing the initial report assessment and intake meeting, the Title IX Coordinator or designee will seek to determine with the Complainant if they wish to proceed with a formal complaint, and will assist them to do so, if desired. If they do not wish to do so, the Title IX Coordinator determines whether to initiate and sign a formal complaint.

A formal complaint is a submission provided to the Title IX Coordinator or designee by the Complainant that sets forth allegations of misconduct under this Policy and that requests that the College initiate an investigation into the allegations or initiate a resolution process. The formal complaint can be provided to the Title IX Coordinator or designee in person, electronically, via U.S. mail, or submitted before, at, or after the Complainant's initial intake meeting.

The Formal Complaint must contain the Complainant's physical or digital signature, or other indication that the Complainant is the person submitting the Complaint.

Making a report to the College or meeting with the Title IX Coordinator or designee to talk about a situation or incident does not automatically launch a formal investigation or constitute a Title IX formal complaint. It is, however, an important first step in alerting the College to an issue and getting assistance in resolving an issue or incident.

Once a formal complaint is filed, an evaluation of the complaint will be conducted to determine if the complaint contains allegations, that, if proven, would constitute sexual harassment as defined by Title IX by examining:

- the alleged conduct;
- whether or not the conduct occurred in the United States;

- whether the Complainant is already participating or seeking to participate in any of the College's educational programs or activities;
- and whether or not the alleged conduct occurred as part of the College's educational programs or activities;
- or if the allegations do not constitute sexual harassment prohibited by Title IX, would the allegations, that, if proven, would constitute any other misconduct prohibited by any other College policies that may also apply to the Respondent.

If the Complaint involves allegations that do not constitute sexual harassment prohibited by Title IX, the complaint will then be evaluated to determine if it constitutes sexual harassment defined by the DHRPP.

During the initial evaluation, the allegations and all reasonable inferences therefrom shall be construed in a light most favorable to the Complainant.

B. Notice of Allegations

If the Title IX Coordinator determines that the allegations, if proven, would constitute sexual harassment as defined by Title IX, the College will notify the parties in writing of the following:

- The College's Title IX Policy and Grievance Procedures including the formal and agreement-based 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 sexual harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.
- Prior to a determination being made at the conclusion of the grievance procedures, the Respondent is presumed not responsible for the alleged sexual harassment, or any other behavior prohibited by this policy.
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney.
- The parties may be accompanied by a personal supporter of their choice.
- 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.

If the Title IX Coordinator determines that the allegations fall outside the scope of conduct that would constitute sexual harassment as defined by Title IX, the College will notify the Complainant and refer them to Section II C. How to Report Incidents of Discrimination that are not sexual, as defined by Title IX, to the College.

C. 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 sexual harassment as defined by 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 and 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, these 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.

- <u>If Confidentiality is Requested but Cannot be Maintained:</u>

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 sexual harassment 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 sexual harassment 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 the decision to investigate the matter was made by the College.

- 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. Supportive Measures.

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 grievance procedures described below, including the College's agreement-based resolution process explained in Section VII. A.

To encourage reporting conduct that reasonably may constitute sexual harassment under Title IX, an individual who reports such acts, 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 harassment
- The individual made the report of sexual harassment 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.

D. 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 sexual harassment 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.

E. Dismissal of a Complaint

The College may dismiss a complaint of sexual harassment 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 sexual harassment under Title IX even if proven; or

- The College determines the conduct alleged in the complaint, even if proven, would not constitute sexual harassment under Title IX. Before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the Complainant. If the alleged conduct satisfies the definition of sexual harassment under the DHRPP policy, the college will use the grievance procedures found herein to address the alleged conduct.

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 formal complaint, 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 or designee to ensure that sexual harassment does not continue or recur within the College's education program or activity.
- If appropriate, the college will evaluate the alleged conduct to determine if it may constitute sexual harassment as defined by the DHRPP. The college will use the Title IX grievance procedure to address alleged conduct that satisfies the definition of sexual harassment found in the DHRPP.

VI. Investigations

A. Overview and Time Frame

The College will provide for fair, reliable, and impartial investigation of formal complaints. Following the evaluation of the formal complaint, the Response Team may initiate a prompt, thorough, and impartial investigation. The Title IX Coordinator or designee, 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 60 days from the date of the last preliminary meeting with the parties, unless extended for good cause. If either party wishes to request a reasonable extension to the investigative period, they may submit the request to the Title IX Coordinator or designee and note their reason for the delay request. All requests are 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. If either party fails to respond to reasonable requests and deadlines, the Title IX Coordinator or designee will inform them in writing of the need to cooperate and the likelihood that that investigation and/or resolution process will continue in their absence, if able and permitted under applicable law and College policy.

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.

The burden is on the College – not the parties – to conduct an investigation that gathers sufficient evidence to determine whether sexual harassment occurred.

B. Preliminary Investigative Meeting with the Parties

Once the Parties receive the notice of allegations, 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 parties have elected to have an advisor and/or support person, they are encouraged to permit those individuals 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. 1. 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 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 sexual harassment. 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 or designee 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, 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.

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 V. A. 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 and/or amended allegations of sexual harassment by the Respondent toward the Complainant that are not included in the initial formal complaint or that are included in a consolidated complaint, both parties will be promptly notified in writing. The Title IX Coordinator or designee will evaluate whether the new and/or amended allegations require investigation and thus the issuance of a formal complaint 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 and/or amended 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 and will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies:

- 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 sexual 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 sexual harassment or preclude determination that sexual harassment occurred.
- Similarly, a Respondent's prior sexual behavior with individuals other than the Complainant is generally irrelevant and will typically be excluded on that basis. The Respondent has the right to exclude information regarding their own prior sexual behavior except to the extent that it is required to consider such information in accordance with federal law when it may be relevant to allegations of sexual harassment. During the evidence review period, the Parties may respond to the decision to include evidence of either Party's prior sexual history. Evidence of a Party's prior sexual history that has been determined to be impermissible will be redacted from the evidence shared with the Parties and will not be included in the Investigative Report or provided to the Hearing Officer.

E. Participation in an Investigation

Should a person who may have been subjected to sexual harassment 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. However, the College will make multiple efforts to engage their participation and may continue the process without the Complainant's and/or Respondent's participation, if able and permitted under applicable law and College policy.

Choosing to participate in a limited fashion (e.g. providing a prepared written statement but declining to participate in an interview or answer questions) may similarly limit an individual's ability to participate in the adjudication process, if applicable. Additionally, participating in a limited fashion or declining to participate may limit the information that can be formally reviewed and considered or render it impossible for the College to investigate, if able and permitted under applicable law and College policy.

If a Party declines to participate in the investigation of an allegation, the College will continue to update each Party throughout the process, even if a Party indicates that they do not wish to receive such notifications, if able and permitted under applicable law and College policy.

Silence or a decision not to participate will not be treated as a negative factor in the investigation, adjudication, or appeal.

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 or designee 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 investigative report. Not later than ten days after the investigative report is finalized unless extended for good cause, the Title IX Coordinator or designee 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

Once a notice of allegations is issued, the complaint may be resolved using two different methods, the agreement-based resolution process or the formal hearing process.

A. Agreement-based Resolution Process

Before the initiation of an agreement-based resolution process, the Title IX Coordinator or designee will explain in writing to the parties:

- Review the allegations included in the formal complaint.
- The requirements of the agreement-based resolution process;
- That any party has the right to withdraw from the agreement-based 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 agreement-based 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 agreement-based resolution agreement, including notice that an agreement-based resolution agreement is binding only on the parties.

When the Complainant and Respondent are both students, the agreement-based resolution can be invoked at any time after the notice of allegations is issued. Prior to beginning the agreement-based 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 agreement-based 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 agreement-based resolution process and resume the formal resolution process; and (3) any consequences resulting from participating in the agreement-based resolution process, including the records that will be maintained.

The College will not compel any party to engage in mediation, to directly confront one another, or to participate in the agreement-based resolution. The decision to pursue agreement-based 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, or designee will maintain records of all reports and conduct referred for agreement-based resolution. The College will keep the parties informed of the progress of the agreement-based resolution procedures. Statements made by either party during an agreement-based resolution process are considered confidential and inadmissible, regardless of the outcome of the agreement-based resolution process.

The Title IX Coordinator or designee has the discretion to determine that the Agreement-based 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.

Allegations of sexual assault and sexual coercion may not be resolved using the agreement-based resolution process. Additionally, according to Federal Regulations, allegations of sexual harassment may not be resolved using the agreement-based resolution process when the respondent is an employee and the complainant is a student.

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.

1. Hearing Officer Designation and Notification

The hearing will be presided over by one decision maker, 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 or designee, in consultation with appropriate College officials.

2. 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. If there needs to be an extension for good cause to respond to the objection and/or assign a new hearing officer, this shall be communicated in writing to the parties along with an explanation of the delay or extension and the reasons for the extension.

3. Pre-Hearing Meeting

Upon receiving their designation by the Title IX Coordinator or designee, the Hearing Officer will review the investigation 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 for the parties 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 in 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 hearing, they shall inform the Hearing Officer on or before the pre-hearing meeting. If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross examination on behalf of that party.

VIII. Formal Resolution 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 sexual 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, if deemed relevant.

Each person testifying will be allowed to present direct testimony to the Hearing Officer. After the person's narrative concludes, 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's advisor to ask relevant questions and follow-up questions to the party, including questions that challenge credibility.
- If the person testifying is a witness, once the Hearing Officer's questions have concluded, the Hearing Officer will then permit each of the party's advisors to ask relevant questions and follow-up questions to the party, including questions that challenge credibility. The Hearing Officer shall determine which advisor shall be permitted to go first.

Cross examination at the hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross examination and other questions may be asked of a party or witness.

Before a Complainant, Respondent, or witness answers a cross examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Relevant means related to the allegations of sexual harassment 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.

If the question is duplicative or repetitive of other questions, the Hearing Officer may conclude that the question is not relevant. The Hearing Officer may also hear any objections as to privilege from the party or their advisors. The Hearing Officer may hear discussion on the issue of relevance by each of the advisors prior to the Officer's determination on whether the question should be allowed. Only after the Hearing Officer has expressly indicated that a question is permissible will a person be allowed to answer the question.

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 sexual harassment. 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. See Appendix D: Appropriate Hearing Decorum

B. Determination Whether Sexual Harassment 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 10-15 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 grievance process.

The Hearing Officer will use the preponderance of the evidence standard of proof to determine whether sexual harassment 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 sexual harassment 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 sexual harassment occurred, whatever the quantity of the evidence is, the Hearing Officer will not determine that sexual harassment occurred.

The Hearing Officer will notify the parties simultaneously in writing of the determination whether sexual harassment occurred including:

- A description of the alleged sexual harassment;
- 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 sexual harassment occurred;
- When the Hearing Officer finds that sexual harassment 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 sexual harassment prohibited by a college policy unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sexual harassment.

If there is a determination that sexual harassment occurred, as appropriate, the Title IX Coordinator or designee 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 sexual harassment;
- 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 sexual harassment does not continue or recur within the College’s education program or activity;
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and

- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sexual harassment occurred.

C. Sanctions

Following a determination that sexual harassment 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 College 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.

Impact Statements
Each Party may submit a written impact statement for consideration by the Hearing Officer discussing how the alleged misconduct has impacted them. The written statement must be prepared by the Party and be no more than five (5) single-spaced typed pages using size 12-point Times New Roman font and one-inch margins. The statements must be submitted within three (3) days following the hearing. Impact statements will only be considered by the Hearing Officer and shared with the other Party if it is determined that sexual harassment occurred.

For Students: If a student is found responsible, the Hearing Officer, in consultation with the Title IX Coordinator, Dean of Students or designee, 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 and Government Relations, 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 sexual harassment, the sanctions 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 sexual harassment violates 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 sexual harassment, the sanctions 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 the grievance process. 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 Associate Vice President for Administration and Government Relations or designee 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. 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.

The unauthorized recording or streaming of any meeting or resolution process or unauthorized copying of any materials related to the resolution process by any means is prohibited. Parties, advisors, and witnesses are prohibited from recording any meeting or resolution process under this Policy. Unauthorized recording and/or copying includes, but is not limited to, audio or video recording, streaming, photographing, transcribing, downloading, or any other form of duplication that conflicts with the spirit of this directive. Failure to comply with this directive may result in disciplinary action.

E. Appeal Process

Both parties may request that the outcome be appealed. The appeal will be conducted in an impartial manner by an appeal officer who is appointed by the Title IX Coordinator or designee, in consultation with appropriate College officials. The College reserves the right to appoint an appeal officer from outside the college community. 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 appeal shall consist of a concise and complete written statement stating the grounds for the appeal (see below) and all relevant information to substantiate the basis for the appeal. The appeal request must state whether the individual is appealing the sanction, or both the sanction and the decision. The only grounds for appeal 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 sexual 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 appeal officer has been trained consistent with the relevant federal and state 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 appeal will be acknowledged in writing (which can include email). The Title IX Coordinator or designee shall provide the other party with a copy of the appeal within one day of receipt. The other party shall have an opportunity to respond to the appeal within three days of receipt.

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

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

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

The Appeal Officer 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 Appeal Officer 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 Appeal Officer 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. Appeal decisions are absolute.

F. Limited Student Conduct Immunity for Reporting Parties and Witnesses

Individuals with information about conduct that reasonably may constitute sexual harassment 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 sexual harassment 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 sexual harassment to be of paramount importance.

Therefore, the College extends limited immunity for other student conduct substance use 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 use violation occurred during or near the time of conduct that reasonably may constitute sexual harassment;
- 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 for seven years, regardless of whether the matter is resolved by means of assessment, agreement-based resolution, or formal resolution, including:

- Each sexual 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 agreement-based resolution and the result therefrom; and
- All materials that are used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an agreement-based resolution process.
- Records of any actions taken in response to a report, including any supportive 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 the Dean of Students 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 the formal resolution process 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 the Dean of Students.

Complaints resolved by agreement-based resolutions or other means 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 sexual harassment. Any member of the college community who believes that he or

she has been subjected to such conduct that reasonably may constitute sexual harassment is encouraged to use the procedures provided in this policy, for the benefit and protection not only of the 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 sexual harassment. 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 or designee, who shall investigate the allegations and take any appropriate action.

XI. Education, Prevention and Training

Throughout the academic year, the College sponsors a variety of educational programs focusing on sexual harassment and sexual violence and prevention and awareness of such acts. Similarly, new employees and students receive training and education sexual harassment and sexual violence and prevention and awareness of such acts. Additionally, the College conducts a biennial climate survey in accordance with state regulations.

The College supports public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, and other forums and advocacy meetings that help inform the need for campus-wide education and prevention efforts. In accordance with federal guidance, the disclosure of prohibited conduct at such events, forums, and meetings is not considered a report to the College for the purposes of prompting an investigation into a particular incident.

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an agreement-based resolution process must receive training on the definition of sexual harassment as defined by the Title IX regulations and the scope of the College’s education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and agreement-based 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. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an agreement-based 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 sexual harassment 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 or designee is required to take upon being notified of conduct that reasonably may constitute sexual harassment under Title IX.
- The College's recordkeeping system.
- Any other training necessary to coordinate the College's compliance with Title IX.

XII. Appendix A

A. College and External Confidential and Non-Confidential Resources for Incidents of Sexual harassment

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 sexual harassment. 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:

Telus Health : Phone: 1-866-408-2755 (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. 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 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, 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 sexual harassment 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) or chat online.

XIII. Appendix B

A. What To Do If You Experience an Act of Sexual 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 time-stamped 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 time-stamped 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 Sexual 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 Sexual 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 sexual harassment, sexual assault, dating violence, domestic 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 sexual harassment 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 sexual harassment 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

Note that a person is entitled to make a complaint of sexual harassment only if they themselves are alleged to have been subjected to the sexual harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator or designee 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 sexual harassment.

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 sexual harassment under investigation as part of these grievance procedures. Evidence is relevant when it may aid a decisionmaker in determining whether the alleged sexual harassment 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.

Formal Complaint is a document signed and filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment as defined by Title IX against a Respondent and requesting that the College investigate the allegations.

- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.

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 sexual harassment 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 sexual harassment. 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 has been reported to be the perpetrator of conduct that could constitute sexual harassment.

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 agreement-based 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.

XV. Appendix D: Rules of Decorum for the Grievance Process

The following rules and expectations of conduct will govern the grievance process:

- When referring to another person, refer to that person by name or by title or role (e.g. Complainant, Respondent).
- The Hearing Officer must approve all questions posed to Parties and witnesses before the Party or witness responds. Generally, questions that are irrelevant, duplicative of questions previously posed, redundant or that do not seek relevant information will not be permitted.
- Multi-part, or compound questions are generally not permitted. If a compound question is posed, the Hearing Officer may ask that the question be rephrased.
- Questions may not include the use profanity, personal, attacks, accusations, or arguments.
- The Hearing Officer will determine when breaks or pauses to the hearing may occur. Complainant or Respondent (not their advisor) may request a break for physical necessity and/or a brief break to confer with their advisor. However, breaks will not be provided after a question has been asked until that question has been answered. Please let me know you are requesting a break, so that the break can be announced to all participants.
- Advisors are responsible for posing questions to other parties and witnesses on behalf of their respective party.
- The Hearing Officer reserves the right to address procedural issues raised by an Advisor at an appropriate point in a proceeding.
- Advisors are encouraged to raise issues of relevance during the Pre-Hearing Meeting for each party.
- Hearing participants are prohibited from:
    - Interrupting other participants;
    - Using profanity directed toward another participant;
    - Using objectively offensive or aggressive gestures;
    - Harassing another participant;
    - Yelling, screaming, badgering;
    - Taking any action that a reasonable person would find or identify as intimidating or to have the effect of modifying the participation of another;
    - Encroaching either physically or electronically on another's participation;
    - Contacting or conferring with others not a part of this hearing by any means during the course of the proceedings, including breaks;

- Engaging in any other behavior to deliberately disrupt the hearing or prevent another's participation in the hearing.