

**INTERIM¹ EQUAL OPPORTUNITY AND
DISCRIMINATORY HARASSMENT POLICY**

AND

**INTERIM PROCESS FOR THE INVESTIGATION
AND RESOLUTION OF COMPLAINTS**

I. COMMITMENT TO NON-DISCRIMINATION

The College of the Holy Cross rejects and condemns all forms of harassment, wrongful discrimination, retaliation and disrespect and is committed to sustaining a welcoming environment for everdiscrimination and discriminatory harassment. The College does not discriminate unlawfully in admission to, access to, treatment in, or employment, in its programs and activities on the basis of a person's race, religion, color, national origin, age, marital or parental status (including pregnancy and pregnancy related conditions), veteran status, sex, disability, genetic information, sexual orientation, gender identity or expression or any other legally protected status, while reserving its right where permitted by law to take action designed to promote its Jesuit and Catholic mission.

Unlawful discrimination, discriminatory harassment, and retaliation are prohibited and will not be tolerated at the College. Such behavior violates this policy and/or the Sexual Misconduct Policy and may result in disciplinary action, up to and including termination or dismissal from the College.

**II. HOW THE COLLEGE SEEKS TO ADDRESS DISCRIMINATION,
DISCRIMINATORY HARASSMENT, SEXUAL MISCONDUCT,
RELATIONSHIP VIOLENCE, AND STALKING**

The College prohibits discrimination or harassment on the basis of a person's race, religion, color, national origin, age, marital or parental status (including pregnancy and pregnancy related conditions), veteran status, sex, disability, genetic information, sexual orientation, gender identity or expression or any other legally protected status. This prohibition includes sexual violence, relationship violence, stalking, or retaliation.

¹ This Interim Equal Opportunity and Discriminatory Harassment Policy is effective as of August 20, 2021 and amends the Discrimination and Discriminatory Harassment Policy and Process for the Investigation and Resolution of Complaints. This policy and the procedures set forth in this policy generally will apply to complaints made on or after that date while the conduct standards that apply generally will be those in effect at the time of the conduct at issue, unless the Director of Equal Opportunity determines otherwise in his, her or their discretion. Prior versions of this policy are available upon request to the Director of Equal Opportunity. This policy will undergo further review during the 2021-2022 academic year as determined by the College.

campus, an officer in the Department of Public Safety is available to meet with you to receive your report.

- Worcester Police Department, 9-

(iii) disclose the identity of a reporting party (if known) to another student, an employee or a third party. In addition, the extent of the College's response and/or available support may depend on the level of detail shared in the report. The IP address from the device or computer used to submit this form is retained.

- Governmental Reporting Options. In addition to the above reporting options and the resolution process in this policy, if you believe you have been subjected to

New Bedford, MA 02740
508-990-2390

- B. **No Retaliation.** The College will not tolerate retaliation against any persons for their participation or involvement in the reporting, investigation, and/or resolution of matters reported or subject to this policy. The College will take appropriate steps to prevent and/or address retaliation. Retaliation constitutes a very serious violation of this policy and should be reported immediately to the Director of Equal Opportunity. Please see the definition of retaliation in Section VI below.
- C. **Support from Confidential Resources.** There are several departments within the College community that can serve as support and confidential resources to individuals, including both Complainants and Respondents. These College employees serve in professional roles in which communications are provided confidential status under the law (e.g., licensed mental health care providers, licensed medical providers, pastoral counselors and clergy) and may not report identifying information about behavior that uc 0.1b.(n)04.

Support and Resources - Shelters, Hotlines, Advocacy, and Support” in Section V.H. of the Sexual Misconduct Policy.

If you have any questions about the resources available to you as a member of the College community, please contact the Director of Equal Opportunity.

V. ADDITIONAL CONSIDERATIONS

- A. Privacy; Requests for Confidentiality or No Investigation. The College will act with discretion with regard to the privacy of individuals and the sensitivity of the situation when it receives a report of conduct that could trigger this policy. The College will not share the identity of a Party except as necessary to carry out the College’s disciplinary policies and procedures or as permitted by federal or state law. In addition, this promn1 (c)4 (t)-2 (t)-2 (ha)-6 (t)-1.Tc -0.oeporte an

If the College does not proceed, the College will consider broader remedial action, such as increased or targeted education or prevention measures, increased monitoring, security or supervision, conducting surveys and/or revisiting its policies and practices. If utilized, such action is not a form of sanction.

- B. Duty to Report Discrimination, Harassment, Retaliation and Other Misconduct. With the exception of the confidential resources described in Sections V.A and V. B. of the Sexual Misconduct Policy, all trustees, and all full-time and part-time faculty and other employees and, with respect to student employees, Residence Assistants and dining captains, are considered “Responsible Employees.” This means that when they learn of an allegation of unlawful discrimination, discriminatory harassment, sexual harassment (including, but not limited to, sexual misconduct, sexual violence, dating and domestic violence, and stalking), or retaliation or other conduct prohibited by this policy or the Sexual Misconduct Policy toward any member of the College community, they are required to notify the Director of Equal Opportunity promptly in writing or by telephone. In addition, College employees who are designated as campus security authorities (CSAs) for the purposes of the Clery Act must provide the Department of Public Safety with non-identifying statistical information regarding all reported incidents of Clery crimes (including, but not limited to, sexual assault, dating violence, domestic violence, stalking and hate crimes). Any questions about the reporting or confidentiality status of any employee should be directed to the Director of Equal Opportunity.

Any Responsible Employee who fails to make a report to the Director of Equal Opportunity upon learning of an allegation of prohibited conduct under this policy, the Sexual Misconduct Policy or the Policy on Protection of Children may be subject to disciplinary action under this policy.

College employees who serve in professional roles in which communications are provided confidential status under the law (e.g., licensed mental health care

note that such employees who receive reports when not functioning in their licensed or confidential capacity (e.g., when teaching a course) are not prohibited from making a report.

For requirements regarding mandated reporting of child abuse and neglect, please see the Policy on Protection of Children at <https://www.holycross.edu/compliance-and-risk-management/policy-protection-children>.

- C. Duty of Cooperation. All Parties, advisors, and witnesses are obligated to cooperate with the persons charged with implementing this policy and the Sexual Misconduct Policy and the procedures under those policies. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under this policy or the Sexual Misconduct Policy may be subject to disciplinary action under this policy.

- D. Duty of Honesty. All Parties and witnesses are obligated to be completely honest during the course of the entire process set forth in this policy. Any person who knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process under this policy or the Sexual Misconduct Policy may be subject to disciplinary action under this policy. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of violation of the policy. In accordance with Massachusetts law, a complainant, reporting party or a witness who causes an investigation of sexual misconduct shall not be subject to a disciplinary sanction related to the incident unless the College determines the report was not made in good faith or that the violation was egregious. An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at risk.

- E. Recording the Proceedings. Parties, advisors, and witnesses are not permitted to make video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under the policy. The Director of Equal Opportunity may make exceptions to this prohibition in limited circumstances if such person concludes, in his/her/their sole discretion, that a recording is necessary. (y)20 (ude pe49 -ETEMC /LBody /MCID 15 BDC BT9-0.001 Tc 0.001 6w [an)c0 12 144 300.36 Tm(205.5/

stalking under the Sexual Misconduct Policy or this policy accountable for disciplinary violations of the College's Community Standards that do not place the health and safety of any other person at risk or create a danger to the College community. The College retains the right to require students to attend counseling or drug/alcohol related courses even in circumstances in which disciplinary conduct will not be pursued under this part.

VI. DEFINITIONS OF PROHIBITED CONDUCT AND OTHER DEFINED TERMk4 (E)-5o(MkTc 0

or gender identity or expression;
Threatening, intimidating, or hostile acts that relate to race, religion, color,

Unwanted sexual innuendo, propositions, sexual attention or suggestive comments and gestures; inappropriate humor about sex or gender-

sexual manner and without permission.

F. **Sexual Exploitation***.

Any act committed through non-

have inherent dangers when they occur between supervisors and individuals whom they supervise. Such relationships are fundamentally asymmetric and unprofessional, and they raise serious concerns about validity of consent, conflict of interest and fair treatment. In addition, such relationships are to be avoided because they may create an impression on the part of colleagues of inappropriate or inequitable professional advantage or favoritism that is destructive to the working or learning environment and may raise doubts about the integrity of work performed. Any sexual, amorous or romantic involvement with any individual, including faculty, staff, or person engaged as volunteer, intern, or independent contractor, over whom they have direct supervisory responsibility, even if consensual, is prohibited by this policy. Even when both parties have initially consented to such a relationship, it is the administrator, faculty member, or staff member who, by virtue of his, her or their special supervisory responsibility, will be held accountable for the unprofessional relationship or abuse of authority. The Director of Equal Opportunity, together with either the Provost/Dean of the College with respect to faculty members, or the Director of Human Resources with respect to other employees will make exceptions to this prohibition in appropriate circumstances (e.g., a dual career couple recruited to work in the same scholarly area), with implementation of any necessary measures to avoid conflicts of interest or the

VII. PROCEDURE FOR INVESTIGATION AND RESOLUTION OF COMPLAINTS.

This Procedure for Investigation and Resolution of Complaints (the “Procedure”) describes how the College will investigate a report that an individual or group of individuals has engaged in conduct that could violate this policy, and determine what, if any, safety measures and/or disciplinary sanctions are appropriate.

1. Initial Steps; Supportive Measures

After receiving a report of conduct that could fall under this policy, the Director of Equal Opportunity⁸, in consultation with other College personnel as the Director of Equal Opportunity determines is appropriate, will take a number of initial steps. These initial steps are not an investigation. Rather, these initial steps will enable the College to assess which College policy applies and the need to take any immediate action to address the safety and health needs of any member of the College community, and to determine the next steps for investigating the reported conduct.

These initial steps may include, but are not limited to, the following:

- (a) The Director of Equal Opportunity will contact the Complainant and encourage him, her or them to meet to discuss the nature and circumstances of the reported conduct and review any relevant documentation that is available.
- (b) The Director of Equal Opportunity will also discuss or notify the Complainant about:
 - (1) Available supportive measures that may be necessary to provide for the Complainant’s safety, health or well-being. Such supportive measures can include, for example, adjustments to academic schedules, changes to living, dining, transportation, working and/or immigration arrangements (if available), and statutorily provided leave to employees pursuant to Mass. G.L. c. 49, §52D. Supportive measures for incidents of conduct prohibited under this policy will be considered regardless of where the conduct is alleged to have occurred, either geographically or in connection with the College’s programs or activities and regardless of whether a complaint is filed;
 - (2) The availability of this policy (and, if applicable, the Sexual Misconduct Policy); and
 - (3) The right to report and the right to decline to report the matter to the Department of Public Safety and/or to local law enforcement if the conduct is potentially criminal in nature (and that such a report will not change the College’s obligation potentially to investigate the matter but it may briefly delay the timing of the

⁸ Where the Director of Equal Opportunity is listed as the designated point of contact for any role in this policy, he, she or they may designate one or more other qualified member(s) of the College community to assume the role at issue, as necessary and appropriate. Where another College official or group of officials or employee(s) is listed as the designated point of contact for any role in the policy, he, she or they may designate other College official(s) or employee(s) to assume the role at issue, as necessary and appropriate.

investigation if a law enforcement agency requests that the College delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct).

- (c) The Director of Equal Opportunity will assess whether the conduct that is alleged may be required to be addressed pursuant to the Sexual Misconduct Policy, and if so, will discuss the Sexual Misconduct Policy with the Complainant. If the conduct that is alleged is not required to be addressed pursuant to the Sexual Misconduct Policy and also constitutes prohibited conduct under this policy, the matter may be addressed pursuant to this policy. The Director of Equal Opportunity will determine which policy is applicable and may revisit such determination, as determined to be necessary in his, her or their sole discretion at any time.
- (d) The Director of Equal Opportunity will assess and implement supportive measures in consultation with other College employees as appropriate and others who are needed in order to implement any such measures.
- (e) The Director of Equal Opportunity, in consultation with other relevant College employees as determined by the Director of Equal Opportunity, will assess the reported conduct to determine whether the circumstances pose a threat to the health or safety of the College community, or one or more members of the community, that warrants issuance of a timely warning, a stay-away order for any persons, or any other interim protections, including, but not limited to, no contact orders, the interim suspension of a student or other community member, placing an employee on paid or unpaid leave, temporarily removing an individual from a leadership, advising, or other position, or temporarily suspending or restricting one or more aspects of an individual's activities or privileges prior to completing an investigation. During the interim action, the College reserves the right to prohibit the individual from entering upon the College's property or participating in any College activities absent written authorization from an appropriate College official. The failure of an individual to comply with an interim restriction is a violation of this policy and may lead to additional disciplinary action. The decision to impose interim restrictions will be communicated by the Director of Equal Opportunity in writing and will be effective immediately.
- (f) In connection with allegations of misconduct which may be addressed pursuant to this policy, if the Complainant requests that the process not move forward, the College will weigh that request against the College's obligation to address any risk of harm to the Complainant or other individuals in the community and the nature of the incident or conduct at issue. Complaints alleging sexual misconduct concerning an individual in a supervisory position with respect to a Complainant generally will proceed to investigation. In the circumstances in which a Complainant's request not to proceed to investigation is granted, the Director of Equal Opportunity will proceed with other remedial measures.

(g)

hearing, or disciplinary proceeding held pursuant to this policy to provide emotional support to such Party. Once the support person has been selected by a Party

what sanctions may be appropriate. These determinations will be made by the Determination Officials, as described below. The draft format of this Investigative Report is important and it reflects that the Investigator(s) may supplement or conduct additional information that may be incorporated. This policy shall be provided as an exhibit to the Investigative Report, which includes information regarding the

Determination Official(s), as the ultimate decision-maker in the matter, is provided broad discretion. In appropriate circumstances, the Director of Equal Opportunity may give special instructions to the Determination Official(s).

- (b) **Standard of Proof.** All findings and determinations of responsibility for a violation under this policy will be made using a preponderance of the evidence standard. This standard requires the determination of whether it is more likely than not that a fact exists or a violation of this policy occurred. Please note that the preponderance of the evidence standard is not the standard used for criminal culpability in most jurisdictions and a determination of responsibility under this policy does not equate with a finding of a violation of criminal laws. Conversely, lack of a prosecution or conviction in a criminal proceeding does not necessarily imply that this policy was not violated. The two procedures are significantly different and utilize different standards for determining violations, and different definitions.
- (c) **Notification of Decision to Director of Equal Opportunity.** Upon reaching a determination of responsibility, the Determination Official(s) will provide a written notification of his, her, or their decision to the Director of Equal Opportunity along with its rationale. The notification will consist of a brief statement of the allegations and the determinations made by the Determination Official(s). While the notification may, at the discretion of the Determination Official(s), include a brief description of the determination process, it will not include any recommendations for sanctions with respect to Respondents who are employees or faculty members. If sanctions are necessary, the sanctions will be assigned in accordance with Section VII.6 below.
- (d) **Consolidation.** The College reserves the right to consolidate cases in which there are one or more Complainants and/or one or more Respondents, as defined under this Policy. The College will consolidate cases where the allegations of Prohibited Conduct arise out of the same facts or circumstances. For example, if in the course of a single College-sponsored event a Respondent is alleged to have committed any form of prohibited conduct against more than one Complainant, the College may consolidate those complaints for investigation and adjudication under this Policy. If a case is consolidated, the College will consider individualized supportive measures, as appropriate, and will provide individual notice to each Party. All Parties are entitled to all forms of process set forth in this policy and the College reserves the right to issue a single Investigative Report, and otherwise modify the policy as needed or appropriate to effect consolidation of cases. The College may also consider prior relevant findings of responsibility against a Respondent in providing an appropriate sanction after the Respondent is separately found responsible for the behavior in question.
- (e) **Student Groups, Organizations and Teams.** A student group, organization or team may be held collectively responsible for a violation of this policy when one or more members of the group or other individuals associated with the group, organization or team are found responsible for a violation of this policy and the Determination

- (3) **Exempt Employees, Other Than Teaching Faculty.** Sanctions regarding exempt employees, as defined by the College, will be determined by the Employee's Vice President (or his, her, or their designee) or in the case of an employee in the Athletics Department or who reports to the President, the President's designee. The Director of Human Resources (or his, her or their designee) will be consulted, and any other College officials may be consulted, on any sanction.
 - (4) **Non-Exempt Employees and Third Parties.** Sanctions regarding non-exempt employees, as defined by the College, vendors, independent contractors and other third parties will be determined by the Director of Human Resources (or his, her or their designee), who may consult with other College officials.
- (b) **Types of Sanctions.** Types of sanctions for employees, faculty members and students include the following:
- (i) **Employees, including Faculty Members.** Sanctions imposed with respect to Respondents who are faculty members or other employees may include, but are not limited to, one or more of the following: dismissal from employment, non-renewal of an employment contract, suspension (without pay), probation, reprimand, warning, restitution, training and/or counseling, no-contact order, removal from an administrative appointment, removal of one or more job responsibilities with a corresponding salary reduction, removal from a committee, removal from a leadership position, reassignment of advisees, prohibition against new advisees, limitation or loss of rights or privileges, loss of awards and/or honors, and/or community service, among others.
 - (ii) **Students.** Sanctions may include, but are not limited to, one or more of the following: expulsion, suspension, probation, reprimand, warning, restitution, education/counseling, no-

the circumstances and may consult with other College officials. Such factors may include, for example, but are not limited to:

The nature and circumstances of the misconduct, including whether it involved violence, the threat of violence, or coercion; how severe or pervasive it was; whether it occurred once, more than once, or repeatedly; and whether or to what extent the Party found responsible intended or reasonably should have expected that the conduct would harm the Complainant or others.

The impact of the misconduct on the Complainant, including whether or to what extent the misconduct has interfered or may interfere with the Complainant's education, employment, or other opportunities at the College, and whether or to what extent the misconduct has resulted or may result in physical, emotional, or other harm.

The impact of the misconduct on the College community, including whether or to what extent the misconduct has interfered or may interfere with an educational, employment, or other aspect of the College environment.

The disciplinary history of the Party deemed responsible.

Any other mitigating or aggravating circumstances, such as whether the Party found responsible has a history of other misconduct and/or discipline at the College and whether the Party found responsible accepted responsibility and/or remorse for his, her or their conduct and its effects. For example, misconduct of an employee with any type of past

20 (e)-6 (e)4n2 (r)3 a whTj/TT2

remedies to address the effects of the conduct on the impacted Party. Remedies may include extending or making permanent any interim or safety measures. If a Complainant or Respondent declined or did not take advantage of a specific service or resource previously offered, the College may re-offer the service as applicable or necessary. The Director of Equal Opportunity also may consider broader remedial action for the College community, such as increased supervision or monitoring, targeted or increased education and prevention efforts, and review of policies and procedures. In addition, the Director of Equal Opportunity may refer any matter raised, but not addressed hereunder, that may potentially violate any other College policy, rule, or procedure to the appropriate College officials to address such matters, irrespective of the finding under this policy.

7. Notification of the Parties.

Within seven (7) business days (which period may be extended for good cause and such extension communicated to the Parties) of the completion of the review and determination by the Determination Official(s), and if applicable, the Sanctioning Official, the Director of Equal Opportunity will inform the Parties simultaneously and in writing of (i) the outcome of the disciplinary proceeding; and (ii) the procedures for either Party to appeal the result of the disciplinary proceeding.

The Director of Equal Opportunity will also inform other College officials with a legitimate educational interest¹¹ or employment oversight about the sanction(s). Sanctions of all types (including, but not limited to, any form of suspension, dismissal, or separation from the College) can be imposed, in full or in part, while an appeal is pending at the sole discretion of the College.

delivery of the notice of the decision of responsibility and/or sanction, either Party may appeal by submitting to the Director of Equal Opportunity a letter stating an appeal solely on the basis of one or both of the following grounds:

- (1) **Procedural Error.** The Investigator(s), Determination Official(s), the Director of Equal Opportunity, or the Sanctioning Official failed to follow the Procedure in a manner that materially prejudiced the Party requesting review. An appeal under this ground must set forth the section of the Procedure that the Investigator(s), the Determination Official(s), the Director of Equal Opportunity or the Sanctioning Official failed to follow and an explanation of the material prejudice resulting from such error(s); or
- (2) **Newly discovered material information** that was not known to the Party requesting review and not available to the Investigator(s), the Determination Official(s), and/or the Sanctioning Official and which likely would have changed the finding of responsibility or the sanction imposed had it been available.

The Party submitting the appeal must attach all materials that he, she or they wish to have considered in the appeal process which support the appeal ground(s) set forth above.1 ma22 (y)20 (w)2 ((a)4 (nc)4 (t)-e)3.9 (a.9 (a.9 (a.9 (a.9 (a.9

will be a three-member Appellate Officer panel, including at least one tenured faculty member (selected by the Director of Equal Opportunity in consultation with the chair of the Committee on Faculty Affairs). The Director of Equal Opportunity will provide the Parties with the names of the assigned Appellate Officer(s) for their case. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the assigned Appellate Officer(s), the

(b) Appeals with respect to a Respondent who is a Teaching Faculty Member Involving a Recommended Sanction of Dismissal.

The following appeal process applies to appeals involving a determination in which a Respondent is a Teaching Faculty Member with a recommended sanction of dismissal and is the sole method of appeal. The appeal will be reviewed the following procedure:

(i) **Submission of Appeal by A Party.** Within seven (7) calendar days of the delivery of the notice of outcome, either Party may appeal by submitting to the Director of Equal Opportunity a letter stating an appeal solely on the basis of one or more of the following grounds:

(1) **Procedural Error.** The Investigator(s), Determination Official(s) the Director of Equal Opportunity or Sanctioning Official failed to follow the Procedure in a manner that materially prejudiced the Party requesting review. An appeal under this ground must set forth the section of the Procedure that the Investigator(s), the Determination Official(s), the Director of Equal Opportunity, or Sanctioning Official failed to follow and an explanation of the material prejudice resulting from such error(s);

(2) **Newly discovered material information** that was not known to the Party requesting review and not available to the Investigator(s), the Determination Official(s), or Sanctioning Official, and which likely would have changed the finding of responsibility or the sanction imposed had it been available; or

(3) **Sanction of dismissal was inappropriate.** That the sanction of dismissal was inappropriate based on a consideration of the nature and circumstances of the misconduct, including the severity, frequency and duration, the impact of the misconduct on the Complainant and/or the College community, the disciplinary history of the Respondent found responsible, and any other mitigating or aggravating circumstances and the need to take effective corrective action to prevent the recurrence of the violation(s) and remedy its effects.

The Party submitting the appeal must attach all materials that he, she or they wish to have considered in the appeal process which support the appeal ground(s) set forth above. Appeals are only permitted on the three grounds described above, and appeals that do not meet those criteria or made on any other basis are not required to be considered by the Appell10 (r)3 (oc5 ()-10k)-7 (1.9 (he)3T

imposed, in full or in part, while an appeal is pending at the sole discretion of the College.

- (ii) **Opportunity of the Other Party to Review the Appeal.** The Director of Equal Opportunity will provide a copy of the appeal submitted by one Party to the other Party, and the other Party may submit materials that he, she or they wish to have considered in the appeal process within seven (7) calendar days of receipt of the appeal.
- (iii) **Page Limit.** The appeal and appeal materials submitted by a Party may not exceed ten (10) double spaced pages (12-point font with one inch margins) unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Director of Equal Opportunity.

Official(s)¹³ and/or the Sanctioning Official for further consideration. In the event of a referral for further consideration, the Appeal Panel will provide specific instructions with the referral, the Director of Equal Opportunity will be consulted, and further proceedings may be commenced, as appropriate under the circumstances and consistent with this policy.

- (3) Any Appeal Panel decision regarding the appeal under Section VII.8(b)(i)(1) (procedural error) or (2) (newly discovered information) is final. Any Appeal Panel decision regarding an appeal under Section VII.8(b)(i)(3) (recommended dismissal) will be referred to the President for review under immediately following section.

(vi) President and Executive Committee Review of Recommended Sanction of Dismissal.

- (1) If the Sanctioning Official recommended a sanction of dismissal and no appeal was requested, the President will refer the sanction recommendation to the Executive Committee of the Board for review and consideration.
- (2) If the Sanctioning Official recommended a sanction of dismissal and the Appeal Panel recommended a sanction less than dismissal, the President will determine whether to accept the Appeal Panel's sanction recommendation (which shall then become the final sanction); impose a different sanction that is less than dismissal (which shall then become the final sanction) or recommend a sanction of dismissal for review and consideration by the Executive Committee of the Board.
- (3) If the Sanctioning Official and the Appeal Panel recommended dismissal, the President will refer the sanction recommendation(s) to the Executive Committee of the Board for review and consideration.
- (4) If the President refers a recommended sanction of dismissal to the Executive Committee of the Board, the referral will be communicated in writing by the President or the Director of Equal Opportunity to the Complainant and Respondent. The President or the Director of Equal Opportunity will provide the Executive Committee with the Investigative Report, any response of the Complainant and/or Respondent to the Investigative Report, the Determination Officer(s)' determination of responsibility and the Sanctioning Official's recommended sanction of dismissal, and if applicable, the written appeal materials submitted by the Complainant and/or the Respondent to the Appeal Panel, the Appeal Panel's written decision pursuant to Section VII.8(b)(v), and the recommended sanction

¹³ In the case of a finding of an appeal granted for a procedu grpon1 (n)8 amTw 0.33 0 Td(I)9 (f)-11rnintd shente ca (c)66 (n)-18 (y)12

(i) **Training.** Actions called for in this policy will be executed by individuals who are appropriately trained annually on issues relating to harassment, discrimination, sexual misconduct, and other misconduct addressed by this policy, investigatory procedures, and other disciplinary procedures (as applicable to the role) to protect the safety and right of members of the College community and promote accountability. Such individuals will also be unbiased and committed to discharging their responsibilities in accordance with the policy.

(ii) **Designees.** Where a College official or employee is listed as the designated point of contact for any role in the policy, the Director of Equal Opportunity or such official or employee may designate another College official or employee to assume the role at issue, as necessary and appropriate.

VIII. ACADEMIC FREEDOM

Nothing in this policy should be construed to infringe on the academic freedom of members of the College community and their right to use the academic forum provided by the College either to discuss controversial subjects or to express ideas with which some or most members of the College community might strongly disagree.

IX. ADDITIONAL MATTERS.

A. Reasonable Accommodations. The College is committed to making its facilities, programs, and services accessible to all individuals in compliance with applicable law. Consistent with federal and state law, reasonable accommodations will be provided to individuals with disabilities.

- Employees. Employees, applicants for employment, and third parties with disabilities who wish to request reasonable accommodations should contact Human Resources to discuss the availability of reasonable accommodations or to obtain documentation guidelines. This includes the right to reasonable accommodations in connection with pregnancy or a condition related to pregnancy including, but not limited to, lactation, or the need to express breast milk for a nursing child. Please see the [Reasonable Accommodation Procedures for Employees, Applicants for Employment and Third Parties](https://www.holycross.edu/sites/default/files/files/policyprocedure/adminfinance/final_procedures_for_applicant_and_employees_9-21-2018.pdf) (available at https://www.holycross.edu/sites/default/files/files/policyprocedure/adminfinance/final_procedures_for_applicant_and_employees_9-21-2018.pdf) for further information.
- Students. Students and applicants for admission to the College who desire to request reasonable accommodations should contact the Office of Accessibility Services to discuss the availability of reasonable accommodations or to obtain documentation guidelines. Please see <https://www.holycross.edu/health-wellness-and-access/office-accessibility-services> for further information.

and procedures, additional responses to such incidents must give due regard to the privacy of individuals and sensitivity of the situation subject to investigation including the rights and obligations of parties as set forth in those policies. The College will also comply with the Family Educational Rights and Privacy Act. These important considerations may impact the types of additional responses and/or the timing of additional responses.

When the Director of Equal Opportunity, the Vice President of Student Affairs/Dean of Students, or Director of Human Resources anticipates the need for restorative measures or dialogue on campus in addition to the investigation and remediation under applicable policy(ies), such College official will call a meeting with some or all of the Vice President of Student Affairs/Dean of Students, Chief Diversity Officer, Director of Human Resources, the Associate Dean of Students for Diversity and Inclusion, the Public Information Officer, the Director of Public Safety, Director of the Office of the College Chaplains and other relevant administrators to review the nature of the incident, examine any pertinent materials, discuss strategies for addressing the need and develop a plan of response.

Resources, the Vice President of Student Affairs/Dean of Students, the Chief Diversity Officer, and/or the Associate Dean of Students for Diversity and Inclusion.

D. Policy Review. This policy shall be subject to regular review by the College pursuant to procedures established by the College, including, but not limited to, review of best practices and current professional standards. This policy shall be made available in writing to any applicant, student or employee of the College upon request.

Date of Last Review August 20, 2021