



**Title IX Policy and Equitable Resolution
Procedures for Sex Discrimination,
Sexual Misconduct and Retaliation**

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RATIONALE FOR POLICY

Tougaloo College is committed to establishing and maintaining a community that is rich in equality and reflects and promotes personal integrity, civility, and mutual respect. Tougaloo seeks to create an environment in which the greatest holistic academic potential of students and professional potential of employees may be realized. In order to create and maintain such an inclusive climate, all who learn, live and work at Tougaloo are partners in the effort of ensuring that the community is free from discrimination based on sex or gender, including sexual harassment, sexual assault, and other forms of sexual misconduct that is sex or gender-based or in the context of an intimate partner relationship including bullying and intimidation and physical assault.

In maintaining the *Title IX Policy and Equitable Resolution Procedures for Sexual Discrimination, Sexual Misconduct, and Retaliation* (the “Comprehensive Policy”), the College meets or exceeds the requirements of federal and state civil rights laws and regulations to provide for a prompt, fair, and equitable administrative process to respond consistently and effectively to allegations of sexual discrimination, sexual misconduct, and retaliation. Additionally, the *Comprehensive Policy* serves to codify the College’s investigative process, which, upon a finding of responsibility, then engages other processes (such as the Student Handbook, Faculty Handbook, and Employee Handbook) for the administrative resolution of complaints.

SCOPE OF THE COMPREHENSIVE POLICY

The *Comprehensive Policy* prohibits all forms of sexual discrimination, sexual misconduct, including sexual harassment, sexual assault, sexual exploitation, indecent exposure, intimate-partner violence including dating violence and domestic violence, romantic/sexual consensual relationships between people with unequal power, stalking, and other misconduct that is sex or gender based and retaliation.

The *Comprehensive Policy* applies to all members of the Tougaloo community, including students, employees (administrators, faculty, and staff), volunteers, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the Tougaloo.

All community members have a responsibility to adhere to Tougaloo policies and local, state, and federal laws. This policy applies to conduct occurring on Tougaloo’s property, at Tougaloo-sanctioned events, or programs that take place off campus.

This policy also applies to off-campus conduct that is likely to have a substantial adverse effect on any member of the college.

TITLE IX AND THE COMPREHENSIVE POLICY

Title IX of the Educational Amendments of 1972 (“Title IX”) explicitly prohibits sex-based discrimination by any institution of higher education that receives federal funds (which includes Tougaloo College). Under the scope of this federal law and related federal and state laws, Tougaloo must adhere to specific regulations regarding how to address reports of discrimination, sexual misconduct including sexual harassment, sexual assault, dating and domestic violence, stalking, and other sex- or gender-based misconduct and retaliation.

Title IX applies to all public and private schools receiving any federal financial assistance. Educational programs and activities that receive federal financial assistance must operate in a nondiscriminatory manner. Some key issue areas in which recipients have Title IX obligations are: recruitment and admissions; counseling; financial assistance; athletics; treatment of pregnant and parenting students; discipline; single-sex education; employment; and all unions or professional organizations, holding collective bargaining or professional agreements with the institution.

Title IX mandates that a recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or made charges, testified or participated in any complaint action under Title IX. For a recipient to retaliate in any way is considered a violation of Title IX. The U.S. Department of Education Title IX regulations (OCR, 34 C.F.R. 106) provide additional information about the forms of discrimination prohibited by Title IX.

Under Title IX (and its implementing regulation, 34 C.F.R. 106), any educational institution receiving federal financial assistance must designate a “Title IX Coordinator” to carry out the institution’s obligations under Title IX. At Tougaloo, the Chief of Staff and Liaison to the Board of Trustees serves as the Title IX Coordinator and oversees implementation of the *Comprehensive Policy* and ensures that all College representatives act with objectivity and impartiality and are assessed with respect to conflicts of interest and/or potential bias. The Title IX Coordinator is assisted in this work by Title IX Deputy Coordinators, who primarily works with related student matters.

Inquiries about Title IX as implemented at Tougaloo, or reports of any violation of the *Comprehensive Policy* may be directed internally to:

Sharon R. Alexander

Dean of Student Services and Title IX Coordinator

Tougaloo College-Jamerson Hall
500 West County Line Road
Tougaloo, MS 39174

Telephone: 601.977.7821 or 601.720.6923

Email: Titleix@tougaloo.edu

CURRENT TITLE IX REGULATIONS

The U.S. Department of Education establishes regulations and procedural requirements that colleges and universities must follow to prevent sexual discrimination, sexual misconduct and retaliation within educational programs that receive federal financial assistance. Compliance with the regulatory requirements is enforced and monitored by the Department's Office of Civil Rights (OCR). Sharon R. Alexander, Tougaloo College's Title IX Coordinator, is responsible for overseeing the College's efforts to comply with prohibitions against gender and sex-based discrimination under Title IX.

Below are links to current regulations governing the College's efforts to ensure a community free from discrimination based on sex or gender including sexual harassment, sexual assault and other forms of sexual misconduct and retaliation:

- [Current Regulations on Title IX of the Education Amendment Act of 1972](#)
On May 6, 2020, the U.S. Department of Education published new regulations that modify the College's regulatory obligations to comply with Title IX.
[Title IX Regulations Addressing Sexual Harassment](#)
[Summary of Significant Changes to the Title IX rules](#)
[Comparison between the Final and Proposed rules](#)
- Related Laws and Amendments
[Title VII of the Civil Rights Act of 1964](#)
[Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#) (Clery Act)
[Violence Against Women Act](#) of 1990

- Federal Information

[Title IX of the Education Amendments of 1972](#), the Proposed Legislation in its entirety
[Background & Summary of the Education Department’s Proposed Title IX Regulation](#), a summary of proposed changes
[Proposed Title IX Regulation Fact Sheet](#), a one-page overview of the proposed changes.

THE TITLE IX OFFICE

The Title IX Office coordinates college-wide compliance with Title IX federal and state laws and regulations. The work of the Title IX Office is managed by the Title IX Coordinator, which is supported by several key partners, including the College’s Department of Public Safety (“Public Safety”), the Owens Health & Wellness Center, Human Resources, the Division of Enrollment Management and Student Life, and the Office of the Provost. Throughout this *Comprehensive Policy*, some responsibilities may be delegated to Title IX Deputy Coordinators or other College official as needed to ensure efficient and effective service for all stakeholders.

JURISDICTION

The *Comprehensive Policy* applies to all members of the Tougaloo community, including students, employees (administrators, faculty, and staff), volunteers, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the Tougaloo. Regardless of where the conduct occurred and whether the affected party is a member of the College community, Tougaloo will review all allegations to determine whether the conduct occurred in the context of its employment or educational programs or activities and/or has continued effects therein. College interests may include, but are not limited to:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
2. Any situation where it appears that a respondent may present a danger or threat to the health or safety of self or others;
3. Any situation that significantly impinges on the rights, property, or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
4. Any situation that is detrimental to the educational, professional, or operational interests of the College.

If the respondent is unknown or is not a member of the College community, the Title IX Coordinator can assist the affected party in identifying appropriate campus and local resources and support options, including (when criminal conduct is alleged) assisting the affected party in filing a police report with local law enforcement or Public Safety. In addition, the College may take other actions to protect the affected party, such as barring a respondent from College

property and/or events.

Non-members of the College community who are alleged to have engaged in covered misconduct within Tougaloo programs or on Tougaloo's campus are not under the jurisdiction of the *Comprehensive Policy* but may be subject to actions that limit their access and/or involvement with Tougaloo programs as the result of the reported misconduct. Conversely, reports by non-members of the College community who allege misconduct by a respondent who is a member of the College community will be reviewed by the College to assess whether College interests may still warrant responsive action.

NOTICE OF NON-DISCRIMINATION

Tougaloo College expressly prohibits any form of sexual discrimination, sexual misconduct and retaliation on the basis of any Tougaloo-recognized protected classification, including sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital status, medical condition, veteran status, or disability in any decision regarding admissions, employment, or involvement in a Tougaloo program or activity in accordance with the letter and spirit of federal, state, and local non-discrimination and equal opportunity laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Age Discrimination in Employment Act, Americans with Disabilities Act and ADA Amendments Act, and The Equal Pay Act.

This *Nondiscrimination Policy* prohibits discrimination in employment and in providing access to educational opportunities. Therefore, any member of the Tougaloo community who acts to deny, deprive, or limit the educational or employment benefits or opportunities of any student, employee, guest, or visitor based on their actual or perceived membership in the protected classes listed above is in violation of the *Nondiscrimination Policy*.

This *Nondiscrimination Policy* also includes protections for those opposing discrimination or participating in any College resolution process or within the Equal Employment Opportunity Commission or other human rights agencies. As an educational community, Tougaloo College will promptly and equitably respond to all reports of sexual discrimination, sexual misconduct, and retaliation in order to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community in an education program or activity on the institution against a person in the U.S. in a manner that is not deliberately indifferent.

If you have questions about this *Nondiscrimination Policy*, Title IX, Title VI of the Civil Rights Act of 1964 (“Title VI”), Title VII of the Civil Rights Act of 1964 (“Title VII”), Americans with Disabilities Act of 1990 (“ADA”), or Section 504 of the Rehabilitation Act of 1973 (“Section 504”), or if you believe you have been discriminated against based on your membership in a protected class, please contact Sharon R. Alexander at 601-977-7821 or titleix@tougaloo.edu.

STATEMENT REGARDING PRIVACY AND CONFIDENTIALITY

Tougaloo College is committed to protecting the privacy of all individuals involved in a report of sexual discrimination, sexual misconduct and retaliation. In any report under the *Comprehensive Policy*, every effort will be made to protect the privacy interests of all individuals involved.

Privacy and confidentiality have distinct meanings under this policy.

Privacy: Generally, means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those Tougaloo employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

Confidentiality: Means that information shared by an individual with designated confidential campus or community professionals cannot be revealed to any other individual without express permission of the disclosing individual. Those campus and community professionals include medical providers, mental health providers, religious/pastoral counselors, sexual assault advocates, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, or the disclosure is otherwise legally permitted or required. Non-identifying, aggregate data may be shared for statistical purposes consistent with the Clery Act.

Any other Tougaloo employee who is not designated as a confidential resource under this policy is designated a “responsible employee” under Title IX and is required to share a report of sexual misconduct with the Title IX Coordinator (See **Reporting Section** for full discussion of reporting requirements).

If a report of sexual discrimination, sexual misconduct and retaliation discloses a serious or immediate threat to the campus community, Tougaloo will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the complainant. Tougaloo may also share non-

identifying information about reports received in aggregate form, including data about outcomes and sanctions. At no time will Tougaloo release the name of the complainant to the general public without the express consent of the complainant or as otherwise permitted or required by law.

All Tougaloo proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, Violence Against Women Act (VAWA), state and local laws, and Tougaloo policy. No information shall be released from such proceedings except as required or permitted by law and Tougaloo policy.

ROLE OF THE TITLE IX COORDINATOR

The Title IX Coordinator oversees Tougaloo's centralized review, investigation, and resolution of reports of sexual discrimination, sexual misconduct and retaliation and coordinates Tougaloo's compliance with Title IX. The Title IX coordinator can be contacted by telephone, mail, email, or in person during business or non-business hours. Tougaloo College's Title IX Coordinator is Sharon R. Alexander, located in the Jamerson Hall, second floor, and can be contacted at 601-977-7821 or titleix@tougaloo.edu

Title IX Coordinator is:

- responsible for notifying the Tougaloo community of the Title IX Policy;
- oversight of the investigation and resolution of all reports of sexual discrimination, sexual misconduct and retaliation;
- knowledgeable and trained in relevant state and federal laws and Tougaloo policy and procedures;
- available to advise any individual, including a complainant, a respondent, or a third party, about the courses of action available at Tougaloo, both informally and formally;
- available to provide assistance to any Tougaloo community member regarding how to respond appropriately to reports of harassment, sexual misconduct and retaliation;
- responsible for oversight of sexual discrimination, sexual misconduct and retaliation training;
- responsible for notifying all students, employees, applicants for admission or employment of who the Title IX Coordinator is and how to the individual can be contacted;
- responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures;

- responsible for training Title IX Deputy Coordinators and other individuals involved in Title IX investigations;
- responsible for compiling annual and semi-annual reports; and
- responsible for monitoring, supervising, and overseeing the Title IX investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set forth in this policy.

For every report, the Title IX Coordinator will conduct an initial assessment of the conduct, the reporting party's desired course of action, and the necessity for any supportive measures or services to protect the safety of the complainant or the community. Tougaloo must treat complainants and respondents equitably by offering supportive measures by following a grievance process under 106.45 before imposition of any disciplinary sanctions or other actions against a respondent.

The Title IX Coordinator will also review the circumstances of the reported conduct to determine whether Tougaloo has jurisdiction or disciplinary authority over the respondent or the conduct. In exercising jurisdiction over a Tougaloo-affiliated respondent for reported conduct that occurs off campus and that has no relationship to Tougaloo, or a Tougaloo-related or sponsored education program or activity, Tougaloo's ability to investigate and impose disciplinary action may be limited by the amount of information available to Tougaloo through the exercise of reasonable diligence. In instances where Tougaloo does not have disciplinary authority over the respondent, Tougaloo will still take reasonably available steps to support a complainant through supportive measures and will assist a complainant in identifying external reporting mechanisms.

PROHIBITED CONDUCT

The following behaviors conflict with the College's values and expectations for members of the College community (and in some cases, applicable laws), and are therefore prohibited at Tougaloo. The prohibited conduct may be applied to single incidents as well as patterns and/or climate, all of which may be investigated and addressed in accordance with the *Comprehensive Policy*. The College also reserves the right to address these behaviors through other College processes when they are of a general nature and not motivated by a person's protected status. Unless otherwise indicated, all definitions provided below are as applied for the purposes of this *Comprehensive Policy* and may differ from definitions used by law enforcement and/or courts for criminal, civil, or other legal purposes, including Clery Act reporting.

Discrimination: Is defined as the unjust or preferential treatment of another wholly or partially because of the person's membership in a protected class (e.g., sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital status, medical condition, veteran status, or disability; see *Nondiscrimination Policy*). When brought to the attention of the College, any such discrimination will be appropriately addressed and remedied by the College. Assigned outcomes for discrimination and the other forms of discriminatory misconduct may range from warning through expulsion (for students) or termination of employment (for faculty and staff employees).

Sexual Misconduct: Consistent with our mission and identity, the College maintains the highest standards for respectful sexual interactions between consenting individuals. Therefore, for the purposes of this *Comprehensive Policy*, Tougaloo applies its own definitions and standards for the various ways in which sexual and/or gender-based misconduct are prohibited. Certain forms of sexual misconduct are among the most harmful violations that any individual can undertake against the safety and dignity of our College community; the College, therefore, reserves the right to impose any level of assigned outcome, up to and including suspension or expulsion/termination, for any sexual violation based on the facts and circumstances of the particular case.

Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity or expression of those involved. Specific violations include:

Sexual Harassment: Any unwelcome conduct of a sexual nature based on sex or gender when at least one of the following conditions are present:

- 1) An employee of the institution conditioning the provision of an aid, benefit, or service of the institution, or an individual's participation in unwelcome sexual conduct (**quid pro quo**);
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both an objective and subjective standard (**hostile environment**);

- 3) Sexual assault (as defined by the Clery Act), or dating violence, domestic violence and stalking (**as defined by the Violence Against Women Act**). (OCR, 34 C.F.R. 106)

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

Sexual harassment can take many forms and may:

- include, but is not limited to, sexual advances or request for sexual favors, in appropriate comments, jokes or gestures, or other unwanted verbal or physical conduct of a sexual nature;
- be blatant and intentional and involve an overt action, a threat of reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- not include intent to harm, be directed at a specific target, or involve repeated incidents;
- be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context;
- be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship;
- be committed by or against an individual or may be a result of the actions of an organization or group;
- can occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation;
- occur in the classroom, in the workplace, in residential settings, over electronic media (e.g. internet, telephone, and text), or in any other setting;
- be a one-time event or part of a pattern of behavior;

- be committed in the presence of others or when the parties are alone; and
- can affect the complainant and/or third parties who witness or observe the harassment. Sexually harassing behaviors differ in type and severity. **Key determining factors are that the behavior is unwelcome, is sex or gender-based, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct.**

Sexual Assault: Intentional sexual contact with another person without that person's **consent**, which may include:

- **Intentional** is defined as knowingly and/or recklessly engaging in sexual contact without an individual's consent and does not include accidental contact. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct in any form and does not negate one's intent or diminish one's responsibility to obtain informed and freely given consent.
- **Non-consensual sexual touching** that includes contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner.
- **Non-consensual sexual penetration** that includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand, etc.) or object, or oral penetration involving mouth-to-genital contact.

Sexual Exploitation: An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include:

- observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;

- prostituting another individual;
- exposing another's genitals in non-consensual circumstances;
- knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Intimate-partner violence, including Dating, Domestic and Relationship:

- ***Violence*** is any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. It may involve one act or an ongoing pattern of behavior.
- ***Intimate-partner violence*** can encompass a broad range of behavior, including, but not limited to, physical violence and sexual violence. Intimate-partner violence may take the form of threats, assault, property damage, or 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.
- ***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 alleged victim. The existence of such a relationship will be determined based on the reporting party's statement, taking into consideration the following factors: a) the length of the relationship, b) the type of relationship, and c) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical violence or the threat of such violence.
- ***Domestic violence*** is violence committed by a current or former spouse, or sexual or intimate partner of the alleged victim, a person who is living as a spouse or who lived as a spouse with the alleged victim, parents and children, other persons related by blood or marriage, or by a person with whom the alleged victim shares a child in common. Under the criminal laws of Mississippi certain offenses, including but not limited to rape, aggravated assault and stalking, can be deemed domestic violence depending on the relationship of the parties involved.

The United States Department of Justice (DOJ) broadens the definition of Domestic Violence to include physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. Any behaviors that intimidate, manipulate,

humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone can also be a part of domestic violence (DOJ, 2016).

The following descriptions from the Department of Justice provide more details about the different types of domestic violence:

- ***Emotional Abuse:*** undermining an individual's sense of self-worth and/or self-esteem is abusive. Emotional abuse can include—but is not limited to—constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with his or her children.
- ***Economic Abuse:*** making or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or employment.
- ***Physical Abuse:*** hitting, slapping, shoving, grabbing, pinching, biting, and pulling hair are types of physical abuse. Physical abuse can also include denying a partner medical care or forcing a person to drink alcohol or use drugs.
- ***Psychological Abuse:*** elements of psychological abuse include—but are not limited to—causing fear by intimidation, threatening physical harm to self, partner, children, or partner's family or friends, hurting pets or property, or forcing isolation from family, friends, school, and/or work.
- ***Sexual Abuse:*** coercing or attempting to coerce any sexual contact or behavior without someone's consent. Sexual abuse includes—but is not limited to—marital rape, attacks on sexual parts of the body, forcing sex, or treating someone in a sexually demeaning manner.

Domestic violence can happen to anyone, regardless of race, age, sexual orientation, religion, or gender. It affects people from all socioeconomic backgrounds and education levels. It occurs in both opposite-sex and same-sex relationships. It can happen to intimate partners who are married, living together, or dating (DOJ, 2016).

Indecent Exposure: A person commits indecent exposure if that person exposes hi/her genitals in any public place or in any place where there are other persons present under circumstances in which one knows or should know that this conduct is likely to offend, affront, or alarm.

Romantic/Sexual Consensual Relationships between People with Unequal Power:

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (e.g., faculty and student, supervisor, and employee). The unequal power inherent in such relationships, even if consensual, heightens the vulnerability of the person with less power and heightens the potential for coercion and abuse. In addition, these relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect.

Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the onset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. Such relationships can also create a hostile learning and work environment for others.

Examples of the kinds of relationships prohibited by this policy include:

- ***Faculty and students.*** The decision to become a faculty member at Tougaloo presumes an educational and mentoring relationship with any student and precludes engaging in such a romantic relationship with any student.
- ***Staff or volunteers who have mentoring or supervisory relationships with students.*** The decision to become a staff member or a volunteer in a position that is defined by mentoring or supervision precludes engaging in such a romantic relationship with any student.
- ***Supervisors and subordinates.*** Romantic relationships are not allowed between employees of Tougaloo when a supervisory relationship is involved. This applies to all employees, including student employees and their supervisors. The power differential makes such relationships open to abuse and to charges of sexual harassment or unprofessional conduct. Such relationships can also create a hostile work environment. Should romantic relationships develop, the supervisor should inform his/her supervisor so that appropriate actions can be made to remove the involved supervisor from direct supervision of the employee.

Retaliation: Is any act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of a sexual discrimination or sexual misconduct allegation. Retaliation includes any form of intimidation, threats,

coercion, reprisal, or harassment. Retaliatory actions may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; violation of a no contact order; acts or comments intended to embarrass an individual; seeking to influence the participation or statements of parties or witnesses or taking adverse action against them; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational and extra-curricular opportunities. Retaliation may be in person, through social media, email, text, or other forms of communication, and it may be committed by parties to the complaint resolution procedure, their friends or representatives, or any other person. Retaliation may be present against a person even when the person's allegations of prohibited conduct are not substantiated.

Stalking: Occurs when a person engages in a course of conduct or repeatedly communicates and/or commits acts toward another person, including following the person without proper authority, under circumstances that demonstrate or communicate either of the following:

- an intent to place the other person in reasonable fear of bodily injury; or
- an intent to cause substantial emotional distress to the other person.

A course of conduct is when a person engages in two or more acts that include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person in a prohibited way, or interferes with a person's property.

Stalking also includes the concept of cyberstalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion. Examples of stalking include:

- unwelcome and repeated visual or physical proximity to a person;
- repeated oral or written threats;
- extortion of money or valuables;
- unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on online bulletin boards;

- unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or
- sending/posting unwelcome/unsolicited messages with an assumed identity; or
- implicitly threatening physical contact;
- or any combination of these behaviors directed toward an individual person.

Other misconduct that is sex or gender-based, or in the context of an intimate partner relationship includes:

- ***Bullying and intimidation:*** Includes any intentional electronic, written, verbal, or physical act or a series of acts of physical, social, or emotional domination that cause physical or emotional harm to another student or group of students. Bullying conduct may not only cause a negative effect on individuals targeted but also others who observe the conduct. Bullying is prohibited and participating in such acts will result in disciplinary action. Bullying conduct is severe, persistent, or pervasive and has the effect of doing any of the following:
 - substantially interfering with a community member's education, employment, or full enjoyment of the Tougaloo;
 - creating a threatening or intimidating environment; or
 - substantially disrupting the orderly operation of Tougaloo.
- ***Intimidation*** is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person(s) in the group to fear for her/his physical well-being. Intimidation is prohibited and will result in disciplinary action.

Anyone who attempts to use bullying or intimidation to retaliate against someone who reports an incident, brings a complaint, or participates in an investigation in an attempt to influence the student conduct process will be in violation of retaliation as described within this handbook and will be subject to disciplinary action.

When acts of bullying and intimidation occur in the context of intimate-partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under Tougaloo's *Title IX Policy and Equitable Resolution Procedures for Sexual Discrimination, Sexual Misconduct, and Retaliation*.

- ***Physical Assault:*** Is a purposeful action meant to hurt another person. Examples include, but are not limited to, kicking, punching, hitting with or throwing an object,

or biting. When these acts occur in the context of intimate-partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under the *Title IX Policy and Equitable Resolution Procedures for Discrimination, Sexual Misconduct, and Retaliation*.

- ***Discrimination:*** Under this policy is defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex, gender identity or expression, or sexual orientation.

APPLICABLE SCOPE AND KEY TERMINOLOGY

Abusive conduct: Is defined as any intentional conduct that inflicts or attempts to inflict bodily harm or severe emotional harm upon any person, any reckless action that could result in bodily harm, and/or any action that would reasonably cause another to be fearful that their health or safety is in immediate danger.

Administrative resolution: Is a general term used to describe the various processes by which the College resolves a formal complaint, after a finding of responsibility has been made (following investigation and/or admission). Administrative resolution processes may be governed by the Student Handbook, Faculty Handbook, and/or Employee Staff Handbook, depending on whether the complaint is against a student, faculty employee, or staff employee, respectively.

Advisor: The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding the allegations. The Advisor may be anyone, including an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate, provided the Advisor is not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation. The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws or policies.

Affirmative Consent: To engage in sexual activity must be knowing and voluntary; it must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent should not be assumed. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Either party may withdraw consent at any time. Withdrawal of consent should be outwardly

demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease immediately.

Guidance for assessing consent:

- Prior to initiating any sexual activity, the person(s) initiating and/or continuing the sexual activity is expected to obtain consent. If at any time during the sexual activity, any confusion or ambiguity arises, individuals should pause and seek clarification regarding consent. Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity.
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent should not be inferred solely from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
- Consent to previous sexual activity and/or in the context of an intimate relationship does not presume consent is given in any subsequent sexual encounter.
- Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise their own free will.
- Consent cannot be obtained from an individual who is incapacitated. According to the Mississippi Age of Consent Laws 2020, "The Mississippi Age of Consent is **16 years old**. In the United States, the age of consent is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. Individuals aged 15 or younger in Mississippi are not legally able to consent to sexual activity, and such activity may result in prosecution for statutory rape. In the state of Mississippi, the age of majority is 21.

Appeal Officer: Reviews appeals by complainants or respondents for procedural errors or new evidence that could not have previously been presented.

Bystander: A person who is present when an event takes place but isn't directly involved. Bystanders might be present when sexual assault or abuse occurs—or they could witness the circumstances of these crimes.

Bystander intervention: Describes a situation where someone who isn't directly involved steps in to change the outcome. Stepping in may give the person you're concerned about a chance to get

to a safe place or leave the situation. You don't have to be a hero or even stand out from the crowd to make a big difference in someone's life.

Take steps to protect someone who may be at risk in a way that fits your comfort level. Whether you're taking home a friend who has had too much to drink, explaining that a rape joke isn't funny, or getting security involved when someone is behaving aggressively, choosing to step in can affect the way those around you think about and respond to sexual violence. Your actions matter. **(Source: Rape, Abuse & Incest National Network)**

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

- Threatening to "out" someone based on sexual orientation, gender identity, or gender expression.
- Threatening to harm oneself if the other party does not engage in the sexual activity.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment. The complainant must be participating in or attempting to participate in the education program or activity of Tougaloo College with which the formal complaint is filed.

Decision-Maker: An individual who reviews, weighs, and analyzes the information using the "preponderance of evidence" standard. This means the decision maker reviews the information to determine whether it was "more likely than not" that the alleged conduct occurred. After the decision maker reviews and analyzes the information, a final investigation report is written. The report contains the allegations that were investigated, the applicable policy against which the allegations were reviewed, the individuals contacted and interviewed, a list of the documents and materials gathered, reviewed and analyzed, a summary of the statements of the individuals interviewed, an analysis of the statements and information gathered and reviewed, and the decision maker's conclusions and determinations about what happened and whether the allegations have been substantiated.

Equitable resolution procedures ("ERP"): Refers to the informal and formal resolution pathways by which the College resolves allegations of discrimination, sexual misconduct and retaliation under the *Comprehensive Policy*.

False Accusations: Any person who brings an intentionally false claim of discrimination or harassment with malicious intent toward another person is subject to disciplinary action up to and including expulsion or termination and other sanctions. A claim will not be deemed intentionally false merely because there is insufficient evidence to prove violation of this policy or because it is deemed to be without merit.

Finding: Is a determination made at the conclusion of an investigation as to whether or not the alleged violation has been substantiated under the preponderance of the evidence standard. A finding of either “responsible” or “not responsible” is assigned to each alleged policy violation individually.

Force: Is the use or threat of physical violence or intimidation to overcome an individual’s freedom to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

Formal Complaint: A document filed by the complainant or signed by the Title IX Coordinator (1) alleging harassment, sexual misconduct, or retaliation against a respondent and (2) requesting Tougaloo investigate the allegation. A document filed by a complainant means a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Formal Resolution Process: A formal resolution process will occur when (a) a report of a violation of the *Comprehensive Policy* is made and the complainant seeks a formal resolution; or (b) the Title IX Assessment Team recommends that the College proceed with a formal resolution because there is reasonable cause to believe that the respondent poses a significant threat of harm to the health, safety, and welfare of the complaining student or others. In such case and if the potential complainant cannot or does not wish to file a complaint and proceed with the formal process, the Title IX Coordinator shall draft a statement with all known information in lieu of a complaint, and the formal resolution process shall proceed as indicated below.

Heightened Risk Factors: A term used to describe elements which, if suggested in a report of alleged misconduct, may warrant the College initiating a formal complaint irrespective of the wishes and/or participation of the affected party. Heightened risk factors may include, without

limitation, the presence or involvement of (a) predation, threat, violence, weapons, minors, and/or pattern (e.g., the College has actual knowledge of reports by multiple individuals alleging similar misconduct by the same respondent), and/or (b) a potential threat to the safety of the College community.

Incapacitation: Describes an individual who lacks the ability to make informed, rational judgments and cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person.

Warning signs that a person may be approaching incapacitation may include:

- slurred speech
- odor of alcohol
- vomiting
- combativeness
- unsteady gait
- emotional volatility

Guidance for evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual, with respect to:

- decision-making ability
- awareness of consequences
- ability to make informed judgments
- capacity to appreciate the nature and the quality of the act

Evaluating incapacitation also requires an assessment of whether a respondent 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 sober, reasonable person in the respondent's position. In general, Tougaloo considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any

sexual contact or activity.

Informal Resolution Process: In recognition that a wide spectrum of behaviors can constitute violations of College policies, the Title IX Office may resolve reports informally and appropriately, based on the circumstances. Informal resolutions generally are pursued when both parties, having been fully informed of all available options, has explicitly made that choice ensuring that it does not offer or facilitate an information process to resolve allegations that an employee sexually harassed a student. An informal resolution process is voluntary with written consent to end the informal resolution process. If an informal resolution process is ended by request, any information obtained may be used in a subsequent formal resolution process and hearing. Once a complaint has been resolved through an informal resolution process, the matter will be closed.

For some limited types of alleged violations of College policy that does not involve a full investigation and adjudication, an informal resolution may include mediation. Mediation is not an appropriate option for cases involving a complaint of sexual assault and/or relationship and interpersonal violence, nor for circumstances involving severe misconduct behavior.

Initial Title IX Assessment: When the Title IX Office becomes aware directly by a potential complainant or a third party of an incident which may involve discrimination, sexual misconduct or retaliation, an Initial Assessment will be conducted to gain a basic understanding of the nature and circumstances of the report. The potential complainant and/or third party will be provided with information about resources, procedural options, and remedial measures and an opportunity to discuss the Title IX Policy.

Investigator: The person tasked with investigating a complaint. Investigators shall receive annual training regarding such issues as the laws governing discrimination, harassment and retaliation; Title IX and Violence Against Women; as well as other related state and federal laws prohibiting discrimination, harassment and retaliation based on gender or sex, including sex discrimination, sexual harassment, sexual misconduct, dating and domestic violence, and stalking; complainant, respondent, employee, and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA) that protects the safety of the complainant(s) and the college community.

Officials With Authority To Institute Corrective Measures (OWA's): Any official, other than the Title IX Coordinator, who has authority under Tougaloo's policies to institute corrective measures (such as discipline, no-contact orders, or other interim measures) in response to harassment.

Parties: The complainant and respondent involved in the investigation.

Preliminary Inquiry: Is an initial review of a report conducted by the Title IX Coordinator to assess (a) whether the reported behavior may fall under the *Comprehensive Policy*, and (b) the level of threat that may be present to the College community.

Preponderance of Evidence: Preponderance of the Evidence means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this Executive Order.

Reasonable cause: Is a low evidentiary threshold indicating that it is reasonable, based on reported facts, to believe that the *Comprehensive Policy* may have been violated. This is the standard applied during the preliminary inquiry, to assess whether a report may be addressed under the informal or formal pathways of the equitable resolution procedures.

Recordkeeping: For each response for an allegation of discrimination, sexual misconduct or retaliation, Tougaloo must create, and maintain for a period of seven years, the following records: 1) any actions, including any supportive measures taken in response to a report or formal complaint of discrimination, sexual misconduct, or retaliation; 2) the basis for its conclusion that its response was not deliberately indifferent, and documentation that it has been measures designed to restore or preserve equal access to the College's education program or activity; 3) if supportive measures are not provided to the complainant, the reasons must be documented as to why they were not provided; and 4) the documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken.

Reporting person: Any person who makes a report to the Title IX Coordinator or other reporting officials about discrimination, sexual misconduct or retaliation and is seeking resources or support in response.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, sexual misconduct or retaliation.

Resolution pathways: Refer to the two distinct categories of available by which the College may resolve alleged violations of the *Comprehensive Policy* – informal resolutions and formal

complaints.

Sanctions: Are individual consequences assigned to a respondent during the administrative resolution following a finding of responsibility.

Supportive Measurers: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonable available, and without fee or charge to the complainant or the respondent, before or after the filing of a formal complaint or where no formal complaint has been filed. Are designed to restore or preserve equal access to the college's education program or activity without unreasonably burdening the other party. Includes measurers designed to protect the safety of all parties or the college's environment or deter sexual harassment.

Supportive measurers may include counseling, extension of deadlines or course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The institution must maintain as confidential any supportive measurers 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 measurers.

Title IX Assessment Team: Following the Initial Assessment, the Assessment Team will review and assess whether there is reasonable cause to believe that a student poses a significant threat of harm to the health, safety, and welfare of others or the Tougaloo community, and whether supportive measures are necessary to alleviate or mitigate that risk.

The Team will identify factors that may increase, influence, or mitigate the risk of harm or significant disruption to the educational or residential environment, and make appropriate recommendations to the Vice President for Enrollment Management and Student Success to avert the potential threat and maintain the safety of the College community.

Title IX Investigation: Examines allegations of sexual discrimination, sexual misconduct, including sexual assault, domestic violence, stalking or any other gender-based harm listed in the College's *Comprehensive Policy*. Because it examines policy violations, the investigation must occur independently of a legal investigation.

Witness: An individual who has direct knowledge of or information about an allegation being made.

REPORTING SEXUAL DISCRIMINATION, SEXUAL MISCONDUCT AND RETALIATION

Overview

Tougaloo encourages anyone who experiences sexual discrimination, sexual misconduct and retaliation under the *Comprehensive Policy* to come forward and report to the Title IX Coordinator so that the College may take appropriate steps to promptly stop, prevent, and remedy any violation of the *Comprehensive Policy*. In the event of sexual misconduct, Tougaloo encourages all individuals to immediately seek assistance from law enforcement, Public Safety, a medical provider, and/or a victim advocate.

The College recognizes the privacy and sensitivity of such reports, and only shares information internally on a need-to-know basis when necessary to effectively respond to the report. The College also understands that for various reasons an affected party may prefer to report anonymously or to share only limited information.

To the best of its ability, Tougaloo will respond to every report it receives. Anonymous or third- party reports may limit the response the Tougaloo can provide. Specifically, the Title IX Coordinator will coordinate the initial assessment, offer resources, and support, and initiate an investigation when appropriate and/or requested. To ensure that accurate information and resources are provided in a timely and consistent manner, the following policies apply college wide.

ASSISTANCE IMMEDIATELY FOLLOWING SEXUAL MISCONDUCT

The Colleges seeks to support any person adversely impacted by sexual misconduct, regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred in connection with the College's campus, activities and/or constituents.

Both the College and the community provide a variety of resources to assist and support individuals who have experienced sexual misconduct or are affected by allegations of sexual misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report the incident to the College or to law enforcement.

What to do if you experience sexual violence:

- Get to a safe place.
- Call 911 if in immediate danger, if you are injured, or if the community is in

possible danger.

- Consider seeking immediate professional support on or off campus to assist you in the crisis.
- In cases of sexual assault, for your safety and well-being, immediate medical attention is encouraged to evaluate for physical injury and sexually transmitted diseases. Further, being examined as soon as possible, ideally within 72 hours, is important for evidence collection, which may be used to support prosecution should you decide immediately or later to pursue criminal charges. To preserve evidence, it is best that you do not bathe, shower, douche, or change clothes before that exam. Even if you have already bathed, you are still encouraged to have prompt medical care. Additionally, you are encouraged to gather bedding, linens, or unlaundered clothing and any other pertinent articles that may be used for evidence.
- Talk to a counselor. Even after the immediate crisis has passed, contact confidential on-campus and/or off-campus resources for emotional support, information, and/or advocacy.
- Report the conduct to the Title IX Coordinator, so that the College can advise you of your options and may take appropriate action.

EMPLOYEE'S REPORTING OBLIGATIONS

There are (3) general classifications of individuals on campus and the respective ability of these categories of individuals to maintain a complainant's confidentiality differs:

- 1) **Confidential Resources:** These are campus and community professionals including medical providers, mental health providers, religious/pastoral counselors, sexual assault advocates, all of whom have legally protected confidentiality. Confidential Resources can maintain the confidentiality of a complainant's disclosures and will not share any information with Tougaloo College with the exception of: (i) permission given by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 16; or (iv) as otherwise required or permitted by law or court order.
- 2) **Responsible Employees:** While able to maintain an individual's privacy, "Responsible Employees" are required to immediately share all known details of incidents of discrimination, sexual misconduct or retaliation with the Title IX Coordinator. "Responsible Employees" mean those designated employees in a leadership or supervisory position, or who have significant responsibility for the welfare of students or employees.

“Responsible Employees” include the Title IX Coordinator and Deputy Title IX Coordinators; President, Vice Presidents and Deans; President’s Extended Cabinet; Public Safety Officers; Assistant/Associate Deans; Directors; Residential Life; Student Engagement; Graduate Program; Human Resources; Academic Department Chairs; Center and Program Directors; Academic Advisors; First-year and Sophomore Advisors; and Athletic Director, Athletic Teams Head Coaches and Assistant Coaches. This list is not exhaustive; any questions about the status of an employee as a ‘Responsible Employee’ should be addressed to the Title IX Coordinator.

Student employees for example, resident assistants (RAs), are required to share with the Title IX Coordinator all information about which they are aware, including the identities of the parties, if known. With the exception of resident assistants who are designated as “Responsible Employees,” all other students are encouraged to report any suspected violation of the *Comprehensive Policy*.

- 3) **All other Employees** are encouraged to share information with the Title IX Coordinator. “Responsible Employees” have the following obligations:
- a. *Reporting should be prompt.* “Responsible Employees” should report an incident of sexual discrimination, sexual misconduct and retaliation to the Title IX Coordinator as soon as is practical under the circumstances and share all details.
 - b. *Reporting is not discretionary.* “Responsible Employees” may not, for example, decide not to report alleged misconduct because he or she believes it is not sufficiently serious, or because he or she does not believe it happened. These are decisions for the Title IX Coordinator and appropriate Tougaloo officials to assess.
 - c. *Independent responses are prohibited.* Under no circumstances may any employee, department, organization, or division of Tougaloo attempt to resolve unilaterally any complaint of sexual discrimination, sexual misconduct and retaliation that is required to be reported under this policy. In these cases, the “Responsible Employee” must always notify the Title IX Coordinator first, who will determine the appropriate response after consultation with appropriate officials.
 - d. *Inform students of your obligations.* “Responsible Employees” can reasonably anticipate the possibility that students may report discrimination, sexual misconduct or retaliation to them. Tougaloo encourages these employees to inform students of their reporting obligations in advance. When discrimination, sexual

misconduct or retaliation is actually reported, the employee should tell the reporting person as early in the conversation as possible that any information provided will have to be relayed to the Title IX Coordinator, and that if the reporting person prefers to keep the information confidential, Tougaloo has resources such as the Office of the Chaplain, Student Counseling Center and the Owens Health and Wellness Center that can provide confidential assistance.

- e. *Tell the reporting person what will happen next.* “Responsible Employees” should tell the person reporting sexual discrimination, sexual misconduct and retaliation (1) that they will be informing the Title IX Coordinator of the incident; (2) why they are sharing this information—i.e., their obligation to inform those on campus in a position to respond; and (3) that the Title IX Coordinator will contact them to provide additional information and support.
- f. *Do not share the information with others.* Once you have informed the Title IX Coordinator, your reporting duties are complete. You may not share the information with anyone else. If your supervisor or someone you report to expects to be notified of such reports, you may inform them that you have relayed a complaint to the Title IX Coordinator and that they may contact the Title IX Coordinator directly.

CAMPUS REPORTING OPTIONS

Tougaloo recognizes that any member of the community may choose to report sexual discrimination, sexual misconduct and retaliation to any Tougaloo employee. For example, a student may choose to confide in a class dean, a resident assistant (RA), a faculty member, or a coach. A faculty/staff member may choose to confide in a supervisor or colleague. However, under the *Comprehensive Policy*, any employee, other than those deemed confidential by law, who receives a report of sexual discrimination, sexual misconduct and retaliation is required to share the report by mail, email, telephone, or online with the Title IX Coordinator, Sharon R. Alexander. If a person does not wish to report directly to the Title IX Coordinator, they are encouraged to contact one of the following Deputy Title IX Coordinators, who also can provide prompt assistance.

Latoya Haymer
Deputy Title IX Coordinator
Jamerson Hall
601-977-7904
Lthaymer@tougaloo.edu

Karen Cole

Deputy Title IX Coordinator

Director of Human Resources

Blackmon Administration Building

601-977-4461

Kcole@tougaloo.edu

Whenever possible, however, incidents of sexual discrimination, sexual misconduct and retaliation should be reported directly to the Title IX Coordinator:

Sharon R. Alexander

Dean of Student Services and Title IX Coordinator

Tougaloo College-Jamerson Hall

500 West County Line Road

Tougaloo, MS 39174

Telephone: 601.977.7821 or 601.720.6923

Email: Titleix@tougaloo.edu

Third-party Reporting

Any individual may make a report concerning an act of sexual discrimination, sexual misconduct and retaliation. An individual who is not a “Responsible Employee” may report the incident without disclosing or identifying parties involved. Depending on the level of information available about the incident or the individuals involved, Tougaloo may be limited in its ability to respond. Tougaloo has an online reporting form, which can be found on the College’s website on the Office of the Title IX Coordinator’s webpage. All reports of sexual discrimination, sexual misconduct and retaliation will go to the Title IX Coordinator for review and appropriate response and action. Tougaloo will ensure that third-party reports are reviewed and considered for compliance with the Clery Act.

Reporting to Law Enforcement

Tougaloo encourages complainants to pursue criminal action for incidents of sexual misconduct that may also be crimes under Mississippi criminal statutes or the applicable criminal statute of the jurisdiction. Tougaloo will assist a complainant, at the complainant’s request, in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law.

Except where the complainant is younger than 18 years old, Tougaloo will generally respect a complainant’s choice to report an incident to local law enforcement, unless Tougaloo determines that there is an overriding issue with respect to the safety or welfare of the Tougaloo community.

Where a report involves suspected abuse of a minor younger than 18, Tougaloo is required by state law to notify law enforcement and/or the Mississippi Department of Public Welfare Division of Child Welfare Services.

Tougaloo's policy, definitions, and burden of proof may differ from Mississippi criminal law. A complainant may seek resolution through Tougaloo's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination to prosecute a respondent nor the outcome of any criminal prosecution is determinative of whether sexual assault or harassment has occurred under this policy. Proceedings under the *Comprehensive Policy* may be carried out prior to, simultaneously with, or following civil or criminal proceedings and such timing will be determined by the Title IX Coordinator in consultation with the Title IX Assessment Team.

MAKING A REPORT VS. FILING A COMPLAINT

A **report** is defined as notification of an incident of sexual discrimination, sexual misconduct and retaliation to the Title IX Coordinator by any responsible employee or reporting person. A report may be accompanied by a request for resources, no further action, remedies-based resolution, and/or to initiate a formal complaint process.

Filing a **complaint** is the request to initiate the Tougaloo's formal disciplinary process. At the time a report is made, a reporting person does not have to decide whether to file a complaint. Tougaloo recognizes that not every individual will be prepared to file a complaint with Tougaloo or law enforcement, and individuals are not expected or required to pursue a specific course of action. Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time.

To the extent possible, Tougaloo will respect an individual's autonomy in making these important decisions and provide support that will assist each individual in making that determination. A report may become a formal complaint, either initiated by the complainant or the Tougaloo depending on the outcome of the Title IX assessment.

However, there may be instances in which such requests cannot be honored, as they would impair the Tougaloo's ability to ensure a safe and non-discriminatory environment for all students. Factors considered include, but are not limited to:

- The risk of the accused committing other acts of sexual misconduct, such as where other complaints have been made against the same person;

- The risk of sexual misconduct of a similar nature, such as where multiple assaults occurred at the same location or involving the same group;
- The use of physical violence and/or weapons;
- The involvement of multiple alleged perpetrators;
- Allegations of threats or retaliation by the accused against the complainant or others;
- The reporting party's age;
- The parties' rights and/or the Tougaloo's obligations under the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws.

If Tougaloo determines it can honor a request to keep information private, it will take steps consistent with that request to ensure the safety of the complainant and others. However, complainants should understand that honoring a request for privacy necessarily will impair Tougaloo's ability to investigate and normally will prevent any disciplinary action from being taken against the accused. If someone who initially requested privacy later requests an investigation, Tougaloo will honor that request. However, delays may impair Tougaloo's ability to conduct a thorough investigation or take appropriate remedial action.

If Tougaloo determines it cannot honor a request for privacy, it will inform the complainant before any disclosure is made. Tougaloo will take whatever steps it deems necessary to protect the complainant and to ensure that information is available only to those who have a legitimate need to know. Tougaloo will make it clear to the accused party and others receiving information that any act of retaliation against the complainant will not be tolerated.

Filing a Complaint with the Office of Civil Rights

If you have concerns about the way in which the institution is handling a Title IX violation, you have the right to file a formal complaint with the Office of Civil Rights. The Office of Civil Rights (OCR) handles all Title IX complaints. Generally, an OCR complaint must be filed within 180 days of the incident. Electronic complaint forms can be found on the OCR's website.

Inquiries may be made externally to: Office
for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Ave., SW, Washington, DC 20202-1100 Telephone:
(800) 421-3481
TDD: (877) 521-2172
Email: OCR@ed.gov
www.ed.gov/ocr

Office for Civil Rights (OCR) Dallas
Office
U.S. Department of Education 1999
Bryan Street, Suite 1620
Dallas, TX 75201-6810
Telephone: (214) 661-9600
Facsimile: (214) 661-9587 Email:
OCR.Dallas@ed.gov

TITLE IX SEX DISCRIMINATION, SEXUAL MISCONDUCT AND RETALIATION EQUITABLE COMPLAINT RESOLUTION PROCEDURES

Overview

These procedures provide for prompt, timely, fair, and impartial investigations and resolutions. All College officials involved in the investigation or appeal process shall discharge their obligations under these Complaint Resolution Procedures fairly and impartially. If an involved College official determines that they cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent or witness, or due to any other conflict of interest, another appropriate individual will be designated to administer these procedures.

These procedures will be implemented by College officials who receive a minimum of 8-10 hours of training on an annual basis on the issues related to sex discrimination, sexual misconduct, including sexual harassment, sexual violence, domestic violence, dating violence and stalking, other sexual misconduct, retaliation, and how to conduct an investigation and hearing process that protects the safety of involved parties, the College community, and promotes accountability. As necessary and when applicable, the College will contact and cooperate with law enforcement in situations involving sexual misconduct.

CONSOLIDATION OF INVESTIGATION

The Title IX Coordinator has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident might be relevant to the others.

Consolidation might involve multiple complainants and a single respondent, multiple respondents, or conduct that is temporally or logically connected.

DISABILITY ACCOMMODATIONS

The College is committed to full access and inclusion of students with disabilities in its processes and services, including investigations, hearings, and other student conduct processes. Students with documented disabilities involved in an investigative or hearing process should notify the Title IX Coordinator if he/she needs assistance during the process.

INVESTIGATION AND RESOLUTION OF THE STUDENT COMPLAINT

Preliminary Matters

Timing of the Investigation. The College will endeavor to conclude its investigation and resolution of the complaint within a reasonable period of time. The Title IX Coordinator may require the production of information by the parties by certain date(s) in order to facilitate a timely resolution.

Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Title IX Coordinator in writing explaining how much additional time is needed and why it is needed. The Title IX Coordinator shall respond to any such request within three (3) days.

Informal Resolution. Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. Informal resolution is a voluntary process for timely and corrective action through the imposition of individual and/or community-focused remedies designed to maintain the complainant's access to the educational, extracurricular, and employment activities at the College and to eliminate a potential hostile environment. The option to pursue informal resolution will be presented to the parties only after the College has sufficient information about the nature and scope of the conduct at issue. **In cases involving allegations of sexual assault, informal resolution is generally not appropriate.**

If the complainant, respondent, and Title IX Coordinator or designee all agree to pursue an informal resolution, the Title IX Coordinator will attempt to facilitate a resolution that is agreeable to all parties. The role of the Title IX Coordinator is not to be an advocate for either party, but rather, to aid in the resolution of issues in a non-adversarial manner. Under the informal process, the College will only conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College, and the College community.

The College shall not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. If at any point during the informal resolution process, the complainant, the respondent, or the College wishes to cease the informal resolution process and to proceed with the adjudication hearing process, the informal resolution process will stop and the formal adjudication process

described below will proceed.

Any informal resolution must adequately address the concerns of the complainant, the rights of the respondent, and the overall intent of the College to stop, remedy, and prevent Policy violations. The College will take appropriate actions as necessary and use its best efforts to remedy any harm that occurred and to prevent any further incidents of sexual misconduct. If informal resolution is reached, it will be documented in writing and signed by all parties. An informal resolution cannot be appealed.

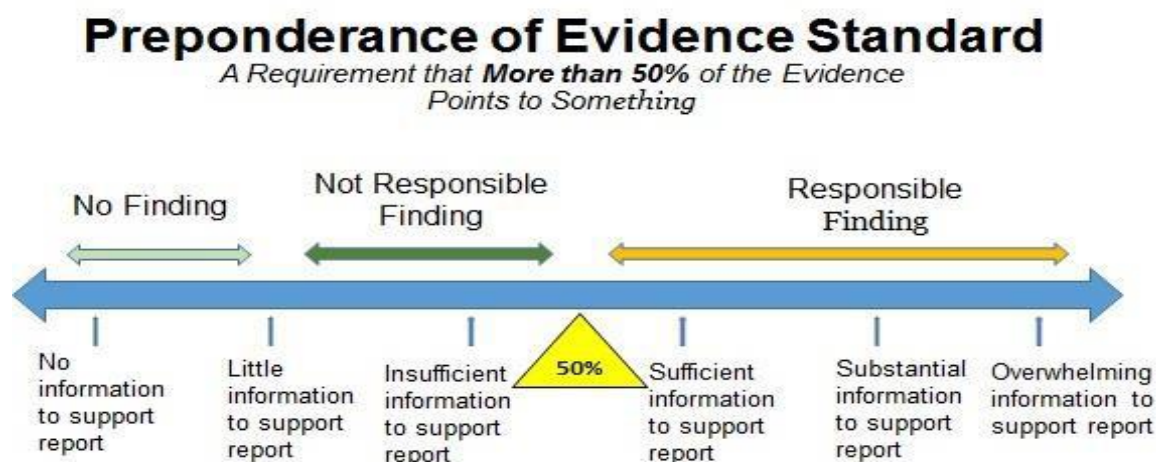
Supportive Measures. At any time during the investigation, the Title IX Coordinator may determine that supportive measures or remedies for the parties involved or witnesses are appropriate. Tougaloo, at its discretion, will implement supportive measures that may be applied to the parties, as appropriate and reasonable. Supportive measures may include, but are not limited to the following:

- contact restrictions;
- counseling services;
- public safety escort to ensure safe movement on campus;
- referral to medical or EMS services;
- assistance with identifying off-campus resources;
- assistance with transportation, parking, and/or travel needs;
- assistance in obtaining a Protection from Abuse (PFA) Order;
- academic assistance, including academic support services, tutoring, alternative course completion options, rescheduling of exams and assignments, changing class schedules, transferring course sections or withdrawing from a course without penalty;
- change of work schedules, job assignments, and worksite location;
- change of student's campus housing and assistance from Tougaloo in completing housing relocation;
- option to restrict an individual's or organization's access to certain Tougaloo facilities or activities pending resolution of the matter;
- voluntary leave of absence;
- Tougaloo-imposed leave; and/or
- any other measure that can be tailored to the involved individuals to achieve the goals of this policy.

Supportive measures are available to the parties regardless of whether the complainant pursues an investigation or seeks formal disciplinary action. Failure to comply with the terms of these measures may constitute a separate violation of the *Comprehensive Policy*.

Implementing Supportive Measures

The parties will be notified in writing when Tougaloo implements supportive measures, such as protective measures that restrict the respondent's movement on campus. Tougaloo will inform the parties that retaliation is prohibited by law under the Violence Against Women Act (VAWA) and Tougaloo's *Comprehensive Policy*, and Tougaloo will take strong responsive action to protect the safety of any individual. If Tougaloo has determined that retaliation has occurred, it will not be tolerated and will result in disciplinary action. Tougaloo has the discretion to modify any existing supportive measures with appropriate notice provided to all parties.



Preponderance of the Evidence Standard. In making any determination on the resolution of the complaint, the evidentiary standard is the preponderance of the evidence; that is, whether it is more likely than not that sexual misconduct occurred.

Advisor. The complainant and respondent in a complaint resolution procedure (both the informal and formal processes described below) have the right to be assisted by an advisor of their choice so long as that person is free of conflicts of interest and bias. The purpose of the advisor is to support an individual during the complaint resolution procedure, including accompanying the individual to in-person interviews or other meetings during the process.

- The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to the College. The advisor may not communicate directly with the investigator(s), decision maker(s), appeal review officer(s), the Title IX Coordinator or any other school official involved in the complaint resolution procedure and may not interrupt or otherwise delay the complaint resolution procedure.
- Advisors may have access to information concerning a case only when accompanying a party

(for in-person access to information) or when a party has given permission for the advisor to be copied on emails or other correspondence (for access to written communications). An advisor's access to such information is subject to the same limitations as those placed upon the parties and conditioned upon the advisor's agreement to maintain the confidentiality of any student educational records or other confidential information.

- If a party selects an attorney as an advisor, the advisor's participation in the complaint resolution process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint resolution process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
- Parties must provide the name of the person they have selected as their advisor to the Title IX Coordinator. Advisors will be required to sign an advisor agreement acknowledging receipt and understanding of the requirements described herein. Failure to comply with these requirements, including violations of confidentiality or other forms of interference with the complaint resolution procedure by the advisor, may result in the disqualification of an advisor.
- The College will notify a party to a complaint resolution procedure if another party involved in the complaint resolution procedure has obtained an advisor, and if so, whether the other party's advisor is an attorney.

Pending Criminal Investigation. Some instances of sexual misconduct may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, the College will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve the College of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the College will proceed with its own investigation and resolution of the complaint.

Initial Intake and Notice to the Parties

The initial report of sexual misconduct is to be taken by the Title IX Coordinator so he/she can decide the best course of action. Since the College must comply with the Clery Act, including assessing whether a timely notice must be provided to the community, this interview must be taken as soon as practical following the incident. In certain narrow circumstances, the Title IX Coordinator may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the Title IX Coordinator will take all reasonable steps to

investigate and respond to the matter in a manner that is informed by the complainant's articulated concerns.

After the initial intake and notification has been made, the Title IX Coordinator will commence an investigation of a complaint as soon as practicable, but generally not later than seven (7) days after the complaint is made. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes sexual misconduct.

The Title IX Coordinator will assign an investigator(s) to the case and will notify the parties by e-mail to their tougaloo.edu email addresses that an investigation will commence. The notice will state the names of the complainant and respondent, the alleged conduct that may constitute a violation of the *Comprehensive Policy*, including when and where the conduct allegedly occurred (*to the extent this information is known*), the investigation process, support resources, and appropriate referrals if applicable.

In addition, the complainant and the respondent shall (1) receive notice of the individual(s) with authority to make a finding or impose a sanction at the conclusion of the investigation and (2) have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict.

Initial Meeting with Title IX Coordinator

During the initial meeting, the complainant is able to bring an advisor and is free to share as much or as little information about the underlying incident as they would prefer. The Title IX Coordinator or designee(s) will discuss and provide the complainant with a written explanation of their rights and options, whether the incident occurred on or off campus, including (as applicable):

- the right to report or decline to report the incident to law enforcement if the conduct is potentially criminal in nature. Tougaloo is available to assist in this process;
- the right to obtain a Protection from Abuse (PFA) Order from local authorities or request contact restrictions from Tougaloo;
- the right and importance of seeking medical treatment to address physical health and to preserve evidence;
- the right to file a complaint through the applicable Tougaloo complaint resolution process;
- the right to request supportive measures, including options for changes in living, academic, transportation, etc.;

- provide the complainant with information about on- and off-campus resources, including support options and counseling;
- explain Tougaloo’s policies for confidentiality and prohibiting retaliation, as described in the *Comprehensive Policy*;
- explain the difference between confidential/non-confidential resources;
- provide the complainant with an explanation of the limitations on Tougaloo’s response should the complainant choose to remain anonymous;
- obtain the complainant expressed preference for the manner of resolution and assess any barriers to proceeding;
- provide information about the investigator and advisor of their choice;
- equal opportunity to identify and have considered witnesses and other relevant evidence;
- subject to applicable law, the right to similar and timely access to all information considered by the investigator;
- subject to applicable law, the equal opportunity to review any statements or evidence provided by the other party;
- the right to receive an explanation of the formal complaint resolution process and the preponderance of the evidence standard of proof used to resolve the complaint (“more likely than not”);
- the right to be provided a prompt, fair, and impartial investigation and resolution; and
- the right to receive an explanation of remedies-based resolutions.
- equal opportunity to appeal determination (see *Appeal Section*).

Title IX Assessment

Using the information provided in the initial report and the information gathered during the initial meeting with the complainant, the Title IX Coordinator will assess what supportive measures and resolution options are appropriate. The Title IX Coordinator may enlist the Title IX Assessment Team and others to assist in the assessment. The Title IX Assessment Team will consider the interests of the complainant and the respondent’s expressed preference for the manner of resolution in light of all available information.

During the Title IX assessment, the Title IX Coordinator will:

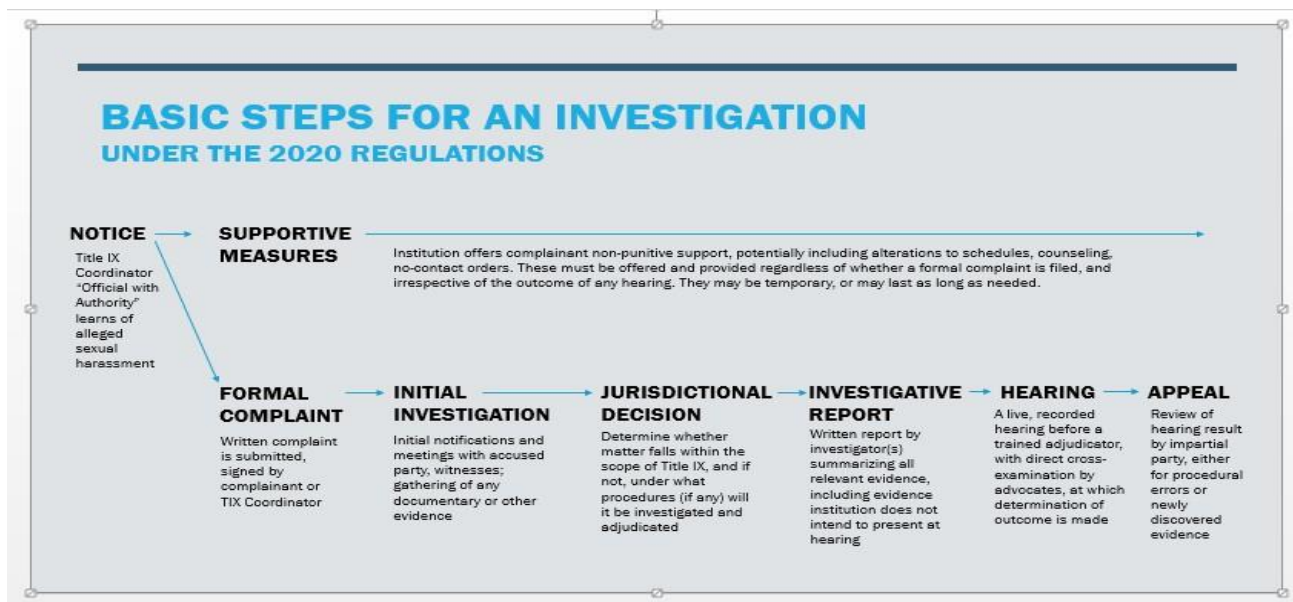
- assess the nature and circumstances of the allegation;
- address immediate physical safety and emotional well-being of the reporting party;
- assess safety concerns for the broader Tougaloo community;
- determine if concerns exist for discrimination or harassment based on other

protected classes;

- assess the reported conduct for the need for a timely warning notice under federal law;
- determine if past reports of similar conduct by responding party exist; and
- determine if any issues of academic freedom exist which may be reviewed by the Provost or designee.

The Title IX Coordinator will evaluate whether the report falls within the scope of the *Comprehensive Policy*. If it does not fall under the policy, the complainant will be so informed. In such situations, other College procedures may be applicable to the conduct complaint of.

If it is determined that the complaint is covered by the *Comprehensive Policy*, the process will continue as described in the following sections. Below is a simplified overview of the steps that are taken by the Tougaloo when a formal investigation is launched.



Formal Complaint

A formal complaint must be in writing. In addition:

- It should state the name of the alleged harasser (if known).
- It should describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s).
- It must be in the Complainant's or Reporter's own words, and may not be authored by others, including family members, advisors, or attorneys.
- It must be signed by the complainant.

- It should have an attached list of any sources of information (for example, witnesses, correspondence, records, etc.) that the complainant or reporter believes may be relevant to the investigation. However, a complaint should not be delayed if such sources of information are unknown or unavailable.

Commencement of the Investigation

The investigator will conduct a thorough, impartial, and unbiased investigation. All individuals will be treated with compassion and respect and in a manner considerate of individual privacy concerns. An investigation may include multiple meetings with the investigator. An investigation will typically include interviews of the complainant, respondent, witnesses provided by either party with relevant information about the reported incident or discovered during the investigation, and any other individuals who may have relevant information about the reported incident and/or the parties involved. Interviews will typically take no longer than two hours on one day. Should additional time be needed, the investigator and affected party will mutually agree on either rescheduling for another day or extending the length of the interview past two hours. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

During the investigation process, all those interviewed will have an opportunity to review their own interview summaries for accuracy. During any interviews with the complainant, respondent, or witnesses, if any deviation from *Tougaloo Comprehensive Policy* or procedures is suspected with the investigation, the Title IX Coordinator should be contacted immediately by the complainant, respondent, or witness.

The investigator may request any available physical or medical evidence and/or documentation from the parties. The investigator will seek to obtain relevant communications between the parties, including electronic records, voicemail messages, and/or letters. The complainant and respondent will have an equal opportunity to participate in the investigation with their advisors, provide statements, submit additional information, and/or identify witnesses who may have relevant information. It is not the burden of the complainant, respondent, witnesses, or other community members to investigate these matters. The investigator is solely responsible for all aspects of the investigation.

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a

fuller understanding of the issues under investigation. The College will not consider polygraph results. In general, a person's medical and counseling records are confidential and not accessible to the investigator unless the person voluntarily chooses to share those records with the investigator. In those instances, the relevant information from the records must be shared with the other party; it should be noted, however, that certain irrelevant information may be redacted from such records, as appropriate. The duration of the investigation is strongly influenced by the availability and/or responsiveness of all involved parties, the complexity of the circumstances of the complaint, and Tougaloo's academic calendar.

At the conclusion of the investigation, the investigator will prepare and submit a written report to the Title IX Coordinator that summarizes all information and facts. The written report will explain

(1) the scope of the investigation, (2) identify findings of fact, and information obtained throughout the course of the investigation (e.g., photos, written statements, copies of emails/text messages, etc.). Careful consideration should be given concerning whether the report should include conclusions about the allegations and recommendations for disciplinary or other corrective action. All parties will have the opportunity to review the report within ten (10) business days prior to a hearing to respond to the report in writing.

Live Hearing

If, after reviewing a sexual misconduct report and related investigative materials, the Title IX Coordinator believes that there is a probable violation of the sexual misconduct policy, and informal resolution was not pursued or no resolution could be reached, the matter will be submitted for hearing.

Prior to the hearing, the involved parties will receive a written notice stating the hearing date and will include a description of the behavior that allegedly violates the sexual misconduct policy, the investigative materials, and any other information the Title IX Coordinator deems necessary to provide to the involved parties. The notice and related materials will be sent via a secured file to the involved students' tougaloo.edu email.

Live hearings will be conducted by a decision maker (internal or external) who will be a neutral party, usually an attorney or seasoned administrator who is well-trained and experienced in dispute resolution, the dynamics of sexual misconduct across identities, and is trained in Tougaloo's policies and procedures.

The date set for the hearing shall be at least ten (10) calendar days after the date of the written notice⁴⁰

the involved parties unless both parties and the decision maker agree to a shorter time.

Other than as outlined below, hearings need not adhere to formal rules of procedure or technical rules of evidence followed by courts of law. Hearings will be conducted according to the following guidelines:

1. All procedural questions are subject to the final decision of the decision maker.
2. The hearing will normally be conducted in private in-person meeting. Admission of any person to the hearing will be at the discretion of the decision maker or Title IX Coordinator. The Title IX Coordinator may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, and/or other witness during the hearing (if conducted in-person) by providing separate facilities, and/or by permitting participation by telephone, written statement, or other means, as deemed appropriate by the decision maker.
3. Involved parties may be assisted at hearings and pre-hearing meetings by an advisor of their choice. The advisor cannot speak for the involved parties. The role of the advisor is to accompany the involved parties and advise them privately during the pre-hearing and hearing process.

The live hearing must include the following components:

- Each party's advisor must be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- Cross examinations at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by the party personally.
- May be conducted, with all parties physically present in the same geographic location, or at the institution's discretion, any or all parties, witnesses and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- At the request of either party, the institution must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision maker to simultaneously see and hear the party or witness answer questions.
- The technology may be virtual in nature.
- If a party does not have an advisor present at the live hearing, the institution must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that

party.

- Decision makers are obligated to serve impartially and thus should not endeavor to develop a personal relationship with one party over another regardless of whether one party is located in a separate room or not.
- 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 decision maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- Evidence related to the prior sexual history of the parties is generally not used in determining whether a violation of this policy has occurred and will only be considered under limited circumstances. For example, if consent is at issue, the sexual history between the parties may be relevant to determine the nature and manner of communications between the parties, which may inform the determination of whether consent was sought and reasonably appeared to have been given during the incident in question. As set forth in the consent definition, even in the context of a relationship, consent to one sexual act does not constitute consent to another sexual act, and consent on one occasion does not constitute consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain injury, to provide proof of a pattern, or to address another specific issue raised in the investigation. The decision maker will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.
- If a party or witness does not submit to cross-examination at the live hearing, the decision maker must not rely on any statement of the party or witness in reaching a determination regarding responsibility (provided, however, that the decision maker cannot draw an inference about the determination regarding responsibility based solely on the party's or witnesses' absence from the live hearing or refusal to answer cross-examination or other questions).
- The Title IX Coordinator will be present during the hearing to serve as a resource for the decision maker on issues of policy and procedure. If the Title IX Coordinator or designee recognize any deviation from Tougaloo's policy and procedures, the Title IX Coordinator or designee will have the ability to call for a short break in the proceedings to convene with the decision maker to ensure that the proceedings comply with the *Comprehensive Policy*. If the decision maker determines, by a preponderance of the evidence, that the respondent has

violated the *Comprehensive Policy*, the Title IX Coordinator and the decision maker will determine the appropriate sanction.

- Tougaloo must create an audio recording, audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

The live hearing conducted by the decision maker will proceed in the following manner:

1. Reading of the alleged violation(s).
2. The respondent's denial or admission of the alleged violations(s) (If the respondent admits to the alleged violation(s), then the decision maker may dismiss the respondent and deliberate on the appropriate sanctions).
3. Presentation of information and/or witnesses supporting the alleged violation(s) and questions; and, when necessary and appropriate, cross-examination of the complainant and/or relevant witnesses. The procedures for cross examination by the parties is explained in steps 6) and 7) below.
4. Presentation of information and/or witnesses that rebuts the alleged violation(s) and questions; and, when necessary and appropriate, cross-examination of the respondent and/or relevant witnesses. The procedures for cross examination by the parties is explained in steps 6) and 7) below.
5. Each involved party has the option of presenting a closing statement to the decision maker.
6. The decision maker will call witnesses who have relevant testimony about the alleged violations. The involved parties will receive a list of these witnesses at least 72 hours before the hearing. At the hearing, the involved parties may, when necessary and appropriate, indirectly cross-examine the witnesses by submitting written questions. Initial questions should be submitted to the Title IX Coordinator at least 48 hours before the hearing. During the hearing, additional follow-up questions may be submitted in writing to the decision maker (as set forth more fully in paragraph 7, below). The College will make reasonable efforts to make available these witnesses at the hearing; however, written statements may be used if a witness is unable to attend.
7. Involved parties may also call witnesses to appear in person at the hearing, or to submit a written statement. If parties wish to call witnesses, they must submit a list of intended witnesses and purposes of the information to be offered by each witness (or full written statements if witnesses will not appear in person) to the Title IX Coordinator at least 48 hours in advance of the hearing. Names of witnesses provided by the

complainant/respondent and allowed by the decision maker or Title IX Coordinator to appear at the hearing will be shared with the other party at least 24 hours prior to the hearing. When the credibility of a witness is relevant, the decision maker or Title IX Coordinator may require that witness to attend the hearing in person rather than submit a written statement. It is the responsibility of the party who calls the witness to request and confirm the witness' participation in the hearing. If the witness attends the hearing, the committee may ask him or her questions and the other party may indirectly cross-examine the witness, when necessary and appropriate, by submitting written questions to the committee. Witnesses may only be present while giving testimony.

8. The Title IX Coordinator and decision maker reserve the right to limit witnesses to those who have relevant testimony about the alleged violations. Character witnesses are not allowed.
9. Both parties may indirectly cross-examine each other about the events giving rise to the complaint, when necessary and appropriate. Under no circumstances, however, will a party be compelled to answer questions under cross-examination that may lead to criminal prosecution. At the conclusion of each party's or witness's testimony before the decision maker, there will be a break in the hearing so that the parties may propose questions in writing to the decision maker. All cross-examination must exclude evidence of a party's sexual behavior or predisposition, unless such evidence about that party's sexual behavior is offered (1) to prove that someone other than the respondent committed the conduct alleged by the complainant, or (2) if the evidence concerns specific incidents of the complainant's sexual behavior with respect to the respondent and is offered to prove consent, (3) to establish complainant's motivation for filing the complaint, or (4) to establish a party's pattern of conduct. The decision maker has the discretion to determine which questions are appropriate and relevant to the proceedings. The chairperson will explain to the parties any decision to exclude proposed questions.
10. Pertinent records, exhibits and written statements may be accepted as information for consideration by the decision maker at the discretion of the decision maker or Title IX Coordinator. This information must be submitted to the Title IX Coordinator at least 48 hours before the hearing. The decision maker may or may not consider any documents received after the 48-hour deadline subject to the discretion of the decision maker or Title IX Coordinator. Involved parties will receive a copy of all relevant materials submitted.

11. If, during the course of the hearing, additional policy violations are discovered, the respondent will be notified of the new alleged violation(s) and will be granted additional time, if needed, to prepare a defense of the new alleged violation(s). The respondent may waive the additional time and the hearing can proceed with the new alleged violation(s) taken under consideration by the committee. A record will be made in the hearing notes of additional alleged violation(s) and whether or not the Respondent desires additional preparation time.
12. Information about the misconduct of other students shared at the hearing may be used as a basis for disciplinary action unless immunity has been granted to the affected student(s) by the Title IX Coordinator.
13. The decision maker's determination will be made on the basis of the preponderance of the evidence standard (whether it is more likely than not that the respondent violated the sexual misconduct policy).
14. If the Respondent is found to have violated the sexual misconduct policy, the decision maker will then make a recommendation in consultation with the Title IX Coordinator on the appropriate sanction(s) and the decision maker shall decide what sanctions to impose and notify the Title IX Coordinator of the decision and sanctions.
15. The Title IX Coordinator will notify the involved parties in writing regarding the decision and sanctions (if issued) to their Tougaloo email accounts, which normally consists of the statement of alleged misconduct, a summary of the information presented in the hearing, a summary of the statement of the involved parties, statement of the decision, and the sanctions issued, if any.
16. If either of the involved parties fails to appear at the hearing or participate, the decision maker may make a decision based on the available information. If the decision maker or Title IX Coordinator determines that good cause exists for either of the involved parties not appearing at the hearing, a new date may be set.
17. The decision maker will normally render a decision within 60 days of the formal report being filed. However, there may be extenuating circumstances that render this time-frame impractical. In such cases, decisions will be rendered as promptly as possible.

Sanctions

Violation of the sexual misconduct policy may result in the imposition of one or more of the sanctions listed below. Sanctions that may be imposed are not limited to those listed. In certain

limited situations, the decision maker may impose a sanction but suspend or postpone its actual implementation. Failure to comply with the sanction(s) imposed by the decision maker may result in further disciplinary action, including but not limited to, a registration hold, placement on, or extension of, College probation, suspension, or permanent dismissal.

Sanctions are based on general principles of fair treatment. While attempting to be consistent in its disciplinary decisions, the College also seeks to be fair and sensitive to the facts and circumstances of each individual case. The following are the potential sanctions that may be imposed but the College reserves the right to impose others depending on the circumstances presented:

- **Warning:** Oral or written notice to the student that the student is violating or has violated the sexual misconduct policy and that continuation or repetition of misconduct may result in a more severe sanction.
- **Probation:** A status which indicates that a student's relationship with the College is tenuous. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found in violation of the sexual misconduct policy or other policy violations. Probation may also result in the loss of privileges including access to campus facilities, class attendance/academic completion, and participation in campus activities. At the end of the probationary period, a review of the respondent's behavior and completion of required conditions may be conducted by the Title IX Coordinator to determine if the respondent shall have any or all restrictions lifted.
- **Loss of privileges:** Such loss may include, but is not limited to, financial assistance.
- **Mandatory counseling.**
- **No Contact Order:** Restricts the respondent's ability to communicate with or access College personnel, the reporting party, and/or witnesses.
- **Restitution:** Compensation for loss, damage or injury. Failure to pay such charges may result in additional sanctions (including, but not limited to, denial of re-enrollment or refusal to release official transcripts and records).
- **Educational sanctions:** Reading/writing assignment, drug or alcohol assessment/treatment, seminar attendance, or other discretionary sanctions as deemed appropriate.
- **Suspension:** Temporary separation of the student from the College for a definite period of time, after which the student is eligible to return without reapplying through the

office of admissions. Suspension could involve suspension from the residence hall and/or physical attendance of classes.

- This action terminates a respondent's enrollment and/or residence hall contract without financial reimbursement. Conditions for readmission may be specified.
- **Expulsion:** The student is permanently separated from the College with a notation of the reasons for the termination in his/her file. No refunds are made, and the student will suffer the academic consequences of his/her actions.
- **Criminal Trespass:** The respondent may not enter specified college facilities or property. Trespassing charges could be filed if this sanction violated.

When students are suspended or expelled for disciplinary reasons, there will be no refund of tuition or room charges for the semester and financial aid may be canceled. Absences from classes and chapels are not excused and academic work that is missed may not be made up.

If a violation occurs just prior to a student's scheduled graduation, sanctions may be imposed even if all academic requirements are completed. Sanctions may include, but are not limited to, community service, research or reflective paper, restitution, loss of privilege to participate in the graduation ceremony, deferment of degree, and a transcript hold. The College may withhold issuing a degree until all sanctions are fulfilled. In the case of a serious violation, the College may permanently withhold a degree.

Determination Regarding Responsibility

Following the investigation, the decision maker must issue written notification of determination that will be provided to all parties concurrently and will include (1) the outcome of the investigation by determining whether or not a violation of College policy occurred applying the preponderance of the evidence standard, (2) a rationale for the result and the sanction(s), and (3) in instances where a violation of College policy is found to have occurred, include steps to stop the conduct, remedy its effects, and prevent its recurrence-including disciplinary actions and sanctions.

The written notification of determination will also include sanctions and steps necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of the College Community in instances of violations of the College's policy. Sanctions can include other remedial measures to correct

the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and/or retaliation.

Examples of such sanctions or remedies include: no-contact orders, classroom reassignment, permitting the student to retake courses, providing tuition reimbursement, providing additional academic support, the provision of counseling or other support services, and/or training. It also includes discipline for the respondent, including written formal warning, suspension, dismissal, or other appropriate institutional sanction(s), depending on the severity of the incident and taking into account any previous disciplinary infractions. A determination that sexual violence occurred may result in permanent dismissal or termination from the College.

The Title IX Coordinator is responsible for effective implementation of any supportive measures.

Appeals

The parties have an opportunity to appeal the outcome or sanctions. To do so, they must submit a written appeal. The length of appeal must not exceed 7 pages (double-spaced, 12-pt. font) unless prior approval is sought from and obtained by the Title IX Coordinator. The written appeal must be based on one or more of the grounds specified below. General dissatisfaction with the outcome of the decision or an appeal for mercy is not an appropriate basis for an appeal.

Grounds for Appeal

The complainant or respondent may appeal the final determination of a complaint only on the following grounds:

- Insufficient information to support the decision
- New information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the appealing student at the time of the original hearing
- Procedural irregularity in the decision maker's proceedings that undermined the appealing student's ability to present relevant supporting information
- Bias or conflict of interest by the investigator or decision maker
- Inappropriateness of the sanction for the conduct involved

Appeal Process

Appeals must be filed with the Title IX through the means described in the written notification of determination of the complaint within seventy-two (72) hours of receipt of the written notification of determination of the complaint. The response will be shared with all parties.

The appeal must be in writing and contain all of the following information:

- Name of the complainant;
- Name of the respondent;
- A statement of the determination of the complaint, including corrective action, if any;
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it; and
- Requested action, if any.

After applicable documentation is submitted according to the time frames indicated, the Title IX Coordinator will write a response indicating receipt of the materials within three (3) business days and will that response to the involved parties.

The appeal petition, responses, and applicable documentation will be forwarded to the Vice President for Enrollment Management and Student Success (or designee) who will act as the appeals officer.

Generally, the appellate process does not require a hearing, nor does it require the appeals officer to make personal contact with the respondent or the decision maker. The reviewing officer may, but is not required to, convene an advisory committee to assist in making a recommendation regarding the appeal. The appeals officer shall not be bound by the committee's recommendation.

Appeal Hearing Procedures

The primary focus of the Appeals Hearing is to review the written documentation regarding the grounds for the appeal. All parties will be notified of the date, place, and time for the Appeals Hearing and are provided with the appeals petition, responses, and documentation pertinent to the appeal. The timeline for any Title IX appeals process is 30 business days. If the Title IX Coordinator and/or appeals officer determine that an extension of the 30-day appeals timeline is warranted or necessary, they will notify the complainant and respondent in writing via email. This written notification will also include information about the reason for the delay

as well as the anticipated date of completion.

An Appeal Hearing is confidential. Legal counsel cannot represent the respondent or the appellant. The appeals officer will resolve the appeal and may take any and all actions that they determine to be in the interest of a fair and just decision. The parties will be notified in writing if the reviewing officer's decision will take longer than thirty (30) days.

The appeal officer shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the decision maker's previous written determination and/or the sanction/remedial measures imposed. The written statement shall be provided to the complainant, respondent, and the Title IX Coordinator within three (3) days of the resolution. The appeal officer's decision shall be final and effective immediately. A copy of the decision letter will be emailed to the respondent's Tougaloo email account or other appropriate contact.

Appeals can be concluded in one of the following ways:

- If the Vice President for Enrollment Management and Student Success or designee determines that none of the appeals criteria have been met, they will deny the appeal request, thereby upholding the investigation report findings and sanctions (if applicable).
- If the Vice President for Enrollment Management and Student Success or designee determines that new information not previously available needs to be considered, the case will be remanded to the Title IX Coordinator. Parties will be allowed to respond to new information and new findings as the report is issued.
- If the Vice President for Enrollment Management and Student Success or designee determines that sanctions were unreasonably disproportionate to violation and respondent's conduct history, new sanctions will be assigned.
- If the Vice President for Enrollment Management and Student Success or designee determines that there was a procedural error that had a significant impact on the outcome, the matter will be remanded to the Title IX Coordinator to remedy the error or that the Vice President for Enrollment Management and Student Success or designee take other corrective action to remedy the error.
- If the Vice President for Enrollment Management and Student Success or designee determines that a conclusion of policy violation is not supported by the findings of fact, the
- Vice President for Enrollment Management and Student Success or designee may reverse specific conclusion of policy violations. If applicable, new sanctions may be applied as well by the Vice President for Enrollment Management and Student Success or designee.

INVESTIGATION AND RESOLUTION OF THE EMPLOYEE COMPLAINT

This section is applicable to sexual misconduct reports filed by a student against faculty, staff, or third parties (e.g., vendors, alumni/ae, or visitors). In cases where a faculty or staff member is accused of other forms of serious misconduct in addition to sexual misconduct, the President may take immediate action following other policies governing misconduct, thereby making this policy inapplicable (e.g., in cases where a faculty/staff member is immediately terminated).

The Title IX Coordinator may determine that a sexual misconduct report filed by a student against a faculty, staff, or third party can be resolved through the informal resolution process instead of the grievance review process described below.

Grievance Review

The Title IX Coordinator will review formal reports and/or the complaint and any related investigative materials. The Title IX Coordinator may conduct further investigation if she or he deems necessary. The investigation may include, but is not limited to, meeting with the parties, talking with witnesses, and reviewing any supporting documents. If the report and investigative materials indicate a probable violation of the sexual misconduct policy, the matter will be reviewed as described below. The College's actions are not dependent on the initiation or outcome of criminal charges. Review proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

The Title IX Coordinator may appoint an advisory committee to assist in further investigation of the complaint and/or advise whether the sexual misconduct policy was violated and, if so, recommend corrective actions. The Title IX Coordinator shall not be bound by the committee's recommendation(s).

If the Title IX Coordinator determines that the allegations in the student's ("complainant") report warrant further consideration, then the Title IX Coordinator shall email a notice describing the behavior that allegedly violates the sexual misconduct policy and investigative materials to the person against whom the complaint is made ("respondent"). All materials will be sent to the parties' Tougaloo email addresses or other appropriate contact.

The faculty or staff member respondent shall be given fourteen (14) calendar days from receipt of the notice and investigative materials to return a written response and any supporting materials to the Title IX Coordinator. Necessary extensions may be granted at the discretion of the Title IX Coordinator. A copy of the respondent's response, investigative materials, and any supporting materials submitted by respondent will be emailed to the complainant.

Within twenty (20) business days of receipt of the written response, the Title IX Coordinator shall make a decision, by a preponderance of the evidence, based on the report, the response, and any other information the decision maker deems relevant, as to whether respondent violated the sexual misconduct policy. A copy of the decision will be emailed to both parties. If a sanction is recommended against a staff member, the decision will be forwarded to the supervisor for further action. If a sanction is recommended against a faculty member, the decision will be forwarded to the Provost/Vice President for Academic Affairs and the Dean for further action.

Once a decision has been made regarding violation(s) and any sanction(s), the Title IX Coordinator shall be notified who shall then notify the parties of the outcome within five (5) calendar days of the date of the decision.

Employee Sanctions

- **Warning** - Oral or written notice to the employee that the employee is violating or has violated the *Comprehensive Policy* and that continuation or repetition of misconduct may result in a more severe sanction.
- **Probation** - Oral or written notice to the employee that the employee is violating or has violated the *Comprehensive Policy* and that continuation or repetition of misconduct may result in a more severe sanction. Probation may include limitations on employment actions and/or relationships, and any other restrictions deemed applicable to the situation.
- **Suspension** - Temporary separation of the employee from the College for a definite period of time, after which the employee is eligible to return.
- **Administrative Leave** - The temporary removal from the work environment of an employee, with or without pay, following an allegation of misconduct, or other similar circumstance, that requires an investigation and review of the related facts.
- **Removal from employment** - The termination of the employment relationship between the College and the employee, regardless of the reason based on the Faculty Handbook and Employee Staff Handbook.
- **Other actions** determined by supervisor and the Office of Human Resources (i.e. expulsion from campus).

Appeal Process

The primary focus on the Appeals process is to review the written documentation regarding the grounds for the appeal. Either the staff member's supervisor (for misconduct by a staff

member) or designee or faculty member's supervisor (for misconduct by a faculty member) or designee shall serve as the "appeal officer" for appeal decisions in sexual misconduct cases. The respondent must submit a written request for appeal to the Title IX Coordinator within seven (7) calendar days from the date of the sanction being issued. The request for appeal must specifically set forth all grounds for appeal. General dissatisfaction with the outcome of the decision or an appeal for mercy is not an appropriate basis for an appeal. The written appeal must specifically address at least one of the following criteria:

- Insufficiency of the information to support the decision
- New information, sufficient to alter a decision, or other relevant facts not submitted to the grievance officer, because such information and/or facts were not known to the person appealing at the time of the decision
- Procedural irregularity in the proceedings that undermined the respondent's ability to present a defense
- Bias or conflict of interest of any of the parties involved in the investigation or sanctions
- Inappropriateness of the sanction for the violation of the *Comprehensive Policy*

The appeal officer may, but is not required to, convene an advisory committee to assist in making a recommendation regarding the appeal. The reviewing officer shall not be bound by the committee's recommendation.

Within twenty (20) business days from the date of receipt of the written request for appeal, the appeal officer shall make a final decision based on the submitted materials and any other information the Title IX Coordinator deems relevant. The appeal officer may affirm, reverse, or modify the Title IX Coordinator's decision. The reviewing officer may also return the case to the Title IX Coordinator for further consideration. The appeal officer's decision shall be final and effective immediately. A copy of the decision letter will be emailed to the respondent's Tougaloo email account or other appropriate contact.

All written decisions made, and materials produced in connection with a grievance conducted under this Policy shall be retained by the Title IX Coordinator.

Special Procedure Concerning Complaints Against the President, the Title IX Coordinator Deputy Coordinators, or Other Senior Level Administrators

If a complaint involved alleged conduct on the part of the College's President, the College's Board

of Trustees ("Board") will designate the Investigating Officer. Based on the information gathered by the investigation, the Board (or designee) will prepare and issue the written investigative report determining the complaint and, as necessary, implementing any sanctions or remedial measures. The determination of the Board is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Title IX Coordinator, Deputy, or any senior level administrator, the President will designate the Investigating Officer.

Based on the information gathered by the investigation, the President (or designee) will prepare and issue the written investigative report determining the complaint and, as necessary, implementing any sanctions or remedial measures. The determination of the President is final and not subject to appeal.

COMPLAINTS OF RETALIATION, VIOLATION OF SUPPORTIVE MEASURES, AND VIOLATION OF SANCTIONS

Failure to comply with Supportive Measures

All individuals are encouraged to report to the Title IX Coordinator any concerns about the failure of another to abide by any restrictions imposed through a supportive measure. In the event of an immediate health or safety concern, individuals should contact 911 or Extension 7857 (on campus) immediately. The College will take immediate action to enforce a previously- implemented measure, which may include additional interim restrictions and/or disciplinary penalties for failing to abide by a College-imposed measures. In evaluating whether a party has violated the conditions of an supportive measure, the Title IX Coordinator has the authority to conduct expedited fact-gathering (with appropriate notice and the opportunity to be heard), to impose separate disciplinary action for the violation based on the facts as gathered, and/or to incorporate the failure to comply with the measure into the underlying investigation and charges of prohibited conduct.

Any complaint relating to retaliation in violation of this Policy, violations of supportive measures, or violations of sanctions should be reported promptly to the Title IX Coordinator. The College will take appropriate action against any individual who retaliates against another person in violation of this Policy or who violates interim measures or sanctions.

When the College receives a complaint of retaliation or of violations of supportive measures or sanctions, the Title IX Coordinator may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. Options for resolution include but are not limited to:

informal discussions and resolution facilitated by the Title IX Coordinator or designee, or assignment of a designated individual to investigate the complaint and determine an appropriate response.

This process will be separate and distinct from the complaint resolution procedures outlined above for addressing sexual misconduct complaints. For a complaint of retaliation or of violations of supportive measures or sanctions, the Title IX Coordinator or designee will document the complaint received, the process used, and the outcome.

In instances where the outcome of the process results in a suspension longer than one year, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights as set forth in this Policy. The College will notify the parties of the outcome of the complaint. Any party with concerns about the process or outcome should consult with the Title IX Coordinator.

ACCOUNTABILITY

All matters associated with the Title IX process and hearings are confidential. The College will treat any violation of confidentiality as a serious offense and will maintain zero tolerance for such violations. All persons participating must maintain confidentiality and the complainant, witnesses and committee members are afforded complete privacy. All records and proceedings are considered confidential and will be maintained separate from personnel and student files, available only on a “need to know” basis and will be stored in the Title IX Coordinator's office. All attempts to influence witnesses and any harassment of any of the parties involved in the case will not be tolerated. Any violation of the accountabilities referenced above will result in disciplinary action up to and including termination of employment in the case of a faculty or staff member, or in the case of a student, expulsion from the college.

RECORDKEEPING

Throughout all stages of the investigation, resolution, and appeal, the Title IX Coordinator, Deputy Title IX Coordinator(s), Investigator, Decision Maker, and the Appeals Officer, as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these Complaint Resolution Procedures.

RESOURCES

Overview

Tougaloo is committed to treating all members of the community with dignity, care, and respect. Any individual affected by sexual misconduct, whether as a victim/survivor, complainant, respondent, or third party, will have equal access to support and counseling services through the Tougaloo. Tougaloo recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. Tougaloo encourages any individual who has questions or concerns to seek the support of campus and community resources. These professionals can provide information about available resources, procedural options, and assistance to any party in the event that a report and/or resolution under this policy are pursued.

Individuals are encouraged to use all available resources, regardless of when or where the incident occurred and whether it is reported to the Tougaloo or law enforcement. Information about on- and off-campus resources are included in the Sexual Assault and Harassment Policy, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, interim measures, and other services available to victims, both within the institution and in the community. In general, all interim measures that require action by the Tougaloo are implemented through the Title IX Coordinator. The confidential advocate or resource can also assist with referrals to medical assistance, counseling, campus resources, and provide detailed information about other interim measures available.

Education and Prevention Programs

Tougaloo as a community is committed to the prevention of sexual misconduct through education and awareness programs. Throughout the year, programs designed to promote awareness are presented by a variety of inclusive campus resources. The Tougaloo's Title IX Coordinator works with the Zero Tolerance Program Educator and Vice President for Enrollment Management and Student Success to tailor programming to meet campus needs and climate. Prevention and education programs include an overview of Tougaloo's policies

and procedures; relevant definitions, including prohibited conduct; how to conduct investigations and grievance process including hearings, appeals and informal resolution processes; how to serve impartially; discussion of the impact of alcohol and illegal drug use; effective consent; safe and positive options for bystander intervention; and information about risk reduction, resources, and reporting options.

Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training on a periodic basis.

Ongoing training is provided for the Title IX Coordinator, investigators, decision-makers, and anyone who facilitates informal resolution.

Emergency Support Services for Sexual Misconduct

Tougaloo encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible after an incident of sexual misconduct. This option can provide for physical safety, emotional support, and medical care to the victim/survivor. It is the best option to ensure medical care, if necessary, and may assist in an investigation by preserving potential evidence. Tougaloo will offer to escort any Tougaloo community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the Tougaloo's resources and complaint processes. Assistance is available from Tougaloo and local law enforcement 24 hours a day, year-round, by calling the Department of Public Safety and/or the Jackson Police Department.

Any individual can request that a member of the Department of Public Safety and/or Jackson Police Department respond and take a report. The Tougaloo can also assist individuals in obtaining a Protection from Abuse (PFA) order, Sexual Violence Protection order, or Protection from Intimidation order (for minors) from local authorities. We request that all Tougaloo community members who obtain a protection order notify Public Safety to enable the Tougaloo to provide appropriate assistance. The Tougaloo will comply with and implement applicable restrictions described in any court-issued protection order.

An individual can also contact the Central Mississippi Health Center nurse practitioner (during the academic year) and/or a local medical provider 24 hours/day or the Central Mississippi Center for Violence Protection or the Bridge Forensic Clinic Sexual Assault Center.

EMERGENCY RESPONSE RESOURCES

- **Tougaloo Department of Public Safety**

Chief of Public Safety

One Jackson Place on Tougaloo View Drive

601-977-7876

Public Safety officers are available 24/7/365 to respond to emergency/crisis incidents as well as non-emergency reports. Public Safety staff can assist with medical escorts, connecting students to after hour resources, the on-call Division of Student Services staff, or an on-call nurse. They can provide assistance with contacting the Jackson Police Department to make a report to law enforcement or obtain a Protection from Abuse order.

- **Jackson City Police** (24 hours) 911 or 601-960-1234
- **Domestic Violence Center** (24 hours) 800-898-3234
- **Crisis Intervention Services** (24 hours) 800-270-1620
- **National Sexual Assault Hotline** (24 hours) 800-656-4673
- **Sexual Assault Crisis Line** 800-270-1620 texting not supported on this line
- **Emergency House Crisis Line** 844-673-5499 texting not supported on this line

ON-CAMPUS RESOURCES

Confidential resources: For individuals who are seeking confidential consultation and support, there are several resources available on campus. The trained professionals designated below can provide counseling, information, and support under legally protected confidentiality:

- **Medical providers:** The Student Health and Wellness Center confidential staff includes: nurse practitioners, registered nurses, and physicians. An after-hours on-call system provides students with access to a registered nurse for confidential consultation and referral. Student Health and Wellness Center staff can provide the option to any victim/survivor to be evaluated by a nurse to conduct a physical examination and offer to connect them with confidential counseling resources including the campus advocate, counseling and professional services, and/or the local rape crisis and/or domestic violence centers. The primary purpose of the medical evaluation is to check for physical injuries and reduce risk of pregnancy, as appropriate, or complications from sexually transmitted infections as a result of the assault.

- **Mental Health Providers:** Counseling Services offer a wide range of free and confidential services in a safe space to help students who have experienced violence or trauma of any kind. Initial consultation, individual and group counseling, crisis intervention, and medication reviews are available. Tamar Counseling Group remains available to assist students via phone consultation. Learn more about how to get assistance from Tamar Counselors at <https://www.tamarcounselinggroup.com>.
- **Religious and Spiritual Life Counselor:** This individual provides spiritual guidance along with confidential support on a range of matters. In this policy, “religious counselor” is synonymous with “pastoral counselor” as defined by the U.S. Department of Education and refers to a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition as a pastoral counselor. *(See The Handbook for Campus Safety and Security Reporting, U.S. Department of Education, Chapter 4, p. 4-11, 2016.)*
- **Sexual Assault Advocate and Violence Prevention Educator:** Violence Prevention Educators/Advocates are a confidential source of support and advocacy for issues related to sexual assault, sexual harassment, relationship violence, and stalking. They are available to provide information and referrals and can assist victims in navigating the different resources available both on and off campus. Additionally, they are available to provide support and guidance to friends and family of victims. They are also responsible for working with the Title IX Coordinator to provide campus wide education via programs, events, trainings, etc.

Because these relationships involve privileged conversations, these confidential resources will not share information with the Title IX Coordinator or any other employee of the Tougaloo without the individual’s express permission. They may, however, submit non- identifying aggregate information (nature, date, time, and general location of the incident) about the incident for purposes of making a statistical report under the Clery Act.

OFF-CAMPUS RESOURCES

Community medical providers. A medical provider, such as the Mississippi Coalition Against Sexual Assault (601-948-0555) and local hospitals (e.g., Baptist Memorial

Hospital, University of Mississippi Medical Center), can provide emergency and/or follow-up medical services and provide a forum to discuss any health care concerns related to the incident in a confidential medical setting. These are the current local hospitals, which identify as having Sexual Assault Nurse Examiners (SANE) trained to work to collect evidence in a manner consistent with evidence-collecting requirements in Mississippi.

If the incident involves a sexual assault that happened within 72 to 96 hours, the victim/survivor has the option and is encouraged to have evidence collected and preserved by a Sexual Assault Nurse Examiner (SANE) at a local hospital. Preserving the evidence can be used if the victim/survivor chooses to seek resolution through the campus complaint process or take criminal action. If the victim/survivor chooses to have evidence collected, they can be escorted to the nearest hospital by the Department of Public Safety to the medical provider of the victim/survivor's choice. The victim/survivor can later return to the Campus Health Center for follow-up medical care.

Under Mississippi law, a medical provider may be required to notify law enforcement of a sexual assault under certain circumstances. The medical provider, however, will share limited information with law enforcement, and a complainant may decline to speak with a law enforcement officer or participate in a criminal prosecution. The medical provider will typically also notify a local rape crisis-counseling center.

Center for Violence Prevention

#1-800-799-SAFE

601-932-4198 or 1-800-266-4198

Catholic Charities, Jackson Rape Crisis Center

200 N. Congress St., Suite 100

Crisis Line: 601-366-0750, 601-982-7273

Mississippi Coalition Against Sexual Assault

MSCASA 888-987-9011

24 Hour Rape Crisis Hot-Line

800-656-HOPE 4673)

National Sexual Violence Resource Center (NSVRC)

717-909-0710 or Toll Free: 877-739-3895

TTY: 717-909-0715

Tamar Counseling Group

350 W Woodrow Wilson Ave, Suite 3572

769-251-5303