

## LAFAYETTE COLLEGE POLICY ON SEXUAL ASSAULT

### I. Statement of Purpose

Lafayette College is committed to providing a learning and working environment that emphasizes the dignity and worth of every member of its community. Sexual assault in any form or context is inimical to this principle. Sexual assault can threaten the safety, well being, educational experience, and career of students, faculty, and staff and will not be tolerated in any form.

An individual found to have violated the policy on sexual assault will be subject to disciplinary action consistent with the procedures set forth below.

This policy also prohibits retaliation against individuals for bringing complaints of sexual assault. The College will take disciplinary action against persons who attempt such retaliation.

Through procedures that address both prevention and remedy, this policy aims to maintain a campus environment that is free of sexual assault.

The policy provides for: (1) education and prevention programs that inform the College community about sexual assault; (2) procedures sensitive to victims in responding to reports of alleged sexual assaults, including informing victims of medical, counseling, and support services and available alternative remedies; (3) procedures for determining violations of this policy which assure fairness to the victim and the accused perpetrator; (4) existence of College disciplinary sanctions for those who commit sexual assaults; and (5) an ongoing Presidential Oversight Committee to review the effectiveness of the College's policy and relevant programs and procedures.

### II. Policy

Sexual assault violates the standards of conduct expected of every member of the College community and is strictly prohibited.

### III. Definitions

#### Sexual Assault

Sexual assault includes any of the following:

- A. Any intentional, unconsented touching, or threat or attempt thereof, of: (i) an intimate bodily part of another person, such as a sexual organ, buttocks or breast; (ii) any bodily part of another person with a sexual organ; or (iii) any part of another person's body with the intent of accomplishing a sexual act; or
- B. Unconsented, inappropriate disrobing of another person, or intentional exposure of one's genitals to another without the other's consent; or
- C. Forcing, or attempting to force, any other person to engage in sexual activity of any kind without her or his consent; or
- D. Rape or Involuntary Deviate Sexual Intercourse as defined by the laws of the Commonwealth of Pennsylvania.

## Consent

Consent shall have been deemed to have been given if the other person assents, through an affirmative statement or action, to the sexual gesture or activity. Assent shall not constitute consent if it is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because of his/her intoxication, unconsciousness, mental deficiency or incapacity, or if the assent is the product of threat or coercion.

## **IV. Education and Prevention Programs**

The College's Sexual Assault Counseling and Education (SACE) Coordinator shall have oversight for a College wide education and prevention program on sexual assault which includes orientation and follow up programs for students, faculty, and staff, training of counselors, student life staff, group leaders, and members of living groups; providing of crisis intervention counseling and referrals; and disseminating literature on sexual assault and rape. The College Policy on Sexual Assault shall be included in the Faculty Handbook and the Student Handbook and shall be made available to all employees.

In addition, a Presidential Oversight Committee, appointed by the President and consisting of two faculty, two students, and two staff members, shall monitor the policy, procedures, and programs and recommend revisions necessary to comply with federal or state law or to support institutional goals. The President shall appoint the Chair of the committee. (This Oversight Committee may also be charged by the President to oversee the College's sexual harassment policy and procedures.)

## **V. Complaint Procedures**

The following informal and formal procedures are intended to provide a prompt response to complaints of sexual assault. They are designed to assure fairness, maintain confidentiality where possible, and enable the imposition of appropriate sanctions on members of the College community who violate this policy. The College strongly encourages persons who believe they have been the victim of sexual assault to bring this to the attention of College authorities.

### **A. Informal Procedure**

If a person reports to a College administrator, department head, faculty member, student life staff, resident advisor, or head of a living group that she or he has been sexually assaulted but chooses not to file a formal complaint at that time, that person will be referred to the SACE Coordinator, who will promptly notify him/her of available support services on and off campus and of the range of alternative remedies. The SACE Coordinator will be responsible for coordinating assistance and support for persons who report having been sexually assaulted, including matters relating to the person's physical and mental health, personal safety, and academic status, and will advise the complainant that he/she may be accompanied by a support person during this process. Informal complaints will be treated confidentially consistent with applicable legal requirements. Use of the informal procedure by a complainant does not preclude the complainant from filing a formal complaint under the procedure outlined below.

### **B. Formal Procedure**

Persons wishing to file formal complaints of sexual assault will be directed (and, whenever possible, escorted) to the Security and Safety Office, which is solely responsible for conducting an investigation of these complaints. The Easton Police will be contacted upon the complainant's request. Complainants will be told promptly of available support services, as well as legal and administrative options.

All formal complaints will be treated confidentially consistent with applicable legal requirements and customary law enforcement practices. The Security and Safety Office will work cooperatively with appropriate College offices and with the SACE Coordinator, who has responsibility for coordinating assistance and support for persons who report having been sexually assaulted. The SACE Coordinator

will work to ensure that the complainant's health, physical safety, and academic status are protected, pending the outcome of the investigation.

The complainant will be informed about the outcome of the investigation by the Security and Safety Office. The Security and Safety Office will provide the results of investigations of complaints against: (i) students to the Vice President for Student Affairs; (ii) faculty to the Provost; and (iii) staff members to the Vice President for Human Resources.

When appropriate and with the complainant's consent, disciplinary proceedings will be instituted against the accused. If the accused is a student, discipline will be handled in accordance with the procedures noted in the Student Handbook in the Statement of the Rights and Responsibilities of Students at Lafayette College. If the accused is a faculty or staff member, the responsible College Officer will commence disciplinary action according to the disciplinary procedures applicable to the accused individual(s). The responsible College Officer will inform the accused of the applicable policies and procedures to be followed.

Notices and statistics of reported sexual assaults will be reported to the College community as required by law or as otherwise appropriate.

## **VI. Sanctions**

As appropriate, a formal complaint will lead to disciplinary sanctions as follows:

For staff and faculty, College sanctions, up to and including separation from the College, will be imposed upon those determined to have violated this policy;

For students, sanctions, up to and including expulsion from the College, will be imposed upon those determined to have violated this policy;

For members of a College affiliated group or organization determined to have violated this policy by committing a group sexual assault or other sexual assault, the group or association is subject to sanctions up to and including revocation of the College's recognition of or affiliation with the group or organization. These sanctions apply if members of the group or organization knew or should have known that a sexual assault was taking place, but failed to take immediate and appropriate action to stop the assault.

The complainant will be informed of any disciplinary action imposed upon the accused.

If the complainant or the accused feels that a sexual assault complaint was not promptly resolved with due regard for the rights of the parties involved, he/she may appeal to the President.

## **VII. External Remedies**

Sexual assault and rape are criminal acts which also subject the perpetrator to criminal and civil penalties under federal and state law. Lafayette College expects all members of the College community to uphold the laws of the Commonwealth of Pennsylvania and the United States regarding sexual assault and rape. In addition to any sanction that may be imposed by the College for violations of this policy, a member of the College community who commits a sexual assault or rape may be subject to criminal sanctions and personal civil liabilities independent of those imposed by the College. Nothing in this policy shall prevent the complainant or the accused from filing a complaint with the appropriate local, state, or federal agency or in a court with jurisdiction.

## **VIII. Notice**

This policy will be widely distributed on campus so that all students, faculty, and staff will be made aware of it upon their arrival and at the beginning of each academic year.

# Lafayette College Policy on Sexual Harassment

## I. Statement of Purpose

Lafayette College is committed to providing a learning and working environment that emphasizes the dignity and worth of every member of its community. Sexual harassment in any form or context is inimical to these principles and will not be tolerated. Sexual harassment subverts the mission and the work of the College and can threaten the career, educational experience, and well being of students, faculty, and staff. Lafayette College is, further, committed to freedom of thought, discourse, and speech and the attainment of the highest quality of academic and educational pursuits. In articulating this policy, the College affirms its adherence to the principle of academic freedom, as well as its commitment to providing a learning and working environment free of sexual harassment.

The College recognizes that sexual harassment may occur regardless of the formal position or status of each person involved. Sexual harassment is especially offensive, however, when it occurs in relationships between teacher and student or between supervisor and subordinate. In those situations, sexual harassment exploits unfairly the power inherent in the position of the faculty member or other supervisory person.

An individual found to have violated the policy will be subject to disciplinary action consistent with the procedures set forth below. This policy also prohibits retaliation against individuals for bringing complaints of sexual harassment. The College will take disciplinary action against persons who attempt such retaliation.

Through procedures that address both prevention and remedy, this policy aims to achieve a campus environment that is free of sexual harassment. The policy provides for: (1) education and prevention programs that inform the College community about sexual harassment; (2) procedures sensitive to complainants in responding to reports of alleged sexual harassment; (3) procedures for determining violations of this policy which assure fairness to the complainant and the accused; and (4) the existence of College disciplinary sanctions for those who commit sexual harassment.

## II. Policy on Sexual Harassment and Other Prohibited Conduct

### A. Definition of Sexual Harassment

The term "sexual harassment" includes the following: an unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome expressive, visual, or physical conduct of a sexual nature, when:

1. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity; or
2. submission to or rejection of such conduct is used as a basis for an employment related, educational, or other decision affecting an individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work, educational performance, or status; or
4. such conduct has the purpose or effect of creating a hostile environment. (A "hostile environment" is one which is permeated with discriminatory intimidation, ridicule, offensiveness, or insult that is sufficiently severe or pervasive to interfere with an individual's academic or work performance.)

In order to constitute a violation, the "hostile environment" must be subjectively perceived by the complainant, and that perception must be reasonable for a person in the complainant's position.

It is understood that the normal activities of teaching, learning, or producing or consuming artistic or scholarly work will not be construed as "conduct of a sexual nature" merely by virtue of the representation or consideration of sexual matters in the course of these activities.

## B. General Rule Prohibiting Sexual Harassment

Sexual harassment is a form of discrimination which violates the standards of conduct expected of every member of the College community. Sexual harassment will not be tolerated in any context, whether it be between faculty and students, faculty and other faculty, coaches and athletes, supervisors and employees, staff and students, students and other students, workers and co workers, or others.

For members of the Lafayette community, all forms of sexual harassment are prohibited. In addition, the special relationship between faculty and student, and supervisor and subordinate, requires particular attention as addressed below.

## C. Other Prohibited Conduct

### 1. Instructor/Student

- a. While a student is a student of a particular instructor, the instructor shall not ask the student for a sexual favor or in other ways make a sexual advance to the student. While a student is a student of a particular instructor, any romantic advance or sexual relationship between the student and the particular instructor is prohibited. For the purposes of this policy, the term "instructor" shall include intercollegiate athletic coaches.

A student is a "student of a particular instructor":

- i. when a student is in a course taught by the instructor and/or has not yet received a final grade; or
- ii. when a student is assigned to be advised by a particular instructor;
- iii. when a student is an athlete coached by a particular intercollegiate athletic coach;
- iv. at other times when an instructor has a relationship with a student such that a student's activities at the College are being supervised or evaluated by the instructor.

- b. There are, in addition, instructor/student relationships that are less clear because, although the instructor does not have direct responsibility for the student, the instructor may indirectly affect the student's academic evaluation or career opportunities. Such situations exist, for instance, when an instructor serves on a professional advisory committee, honors committee, or holds a comparable committee assignment. In adherence to the following principles is required:

- i. an instructor must desist from any expression of sexual or romantic interest if there is any indication by the student that such interest is unwelcome;
- ii. no instructor shall indicate, explicitly or implicitly, that an academic reward or punishment could result from the student's reaction to an instructor's sexual or romantic advance; and
- iii. if a consensual sexual and/or romantic relationship develops between a student and instructor, the instructor must not thereafter take part in any activity that involves evaluation of the student's academic work or progress, without prior permission by the Provost for good cause shown.

## 2. Supervision or Evaluation of Employees

Any person (a) who has power, either individually or collectively with others, to dispense or influence rewards or punishments regarding another person, (b) who evaluates the work performance of another person, or (c) to whom another person reports regarding work assignments may not subject such other person to any unwelcome sexual conduct such as an unwelcome sexual advance or request for sexual favors, regardless of whether submission to such conduct is explicitly or implicitly made a basis for a decision affecting such person or whether such conduct creates a hostile environment.

### **III. Education and Prevention Programs**

The College's EEO Officer shall have oversight for a College wide education program on sexual harassment. The program shall include measures designed to ensure that all persons in the College community are aware of their rights and responsibilities under this policy and to inform all persons about the available mechanisms to address violations of this policy.

\*The program shall include orientation and follow up programs for students, faculty, and staff; training of counselors, student life staff, group leaders, and members of living groups; and disseminating literature on sexual harassment, which includes the identities of faculty and staff consultants and support groups available to help individuals who have been subjected to sexual harassment. The College's EEO Officer will consult with the Provost's Office and the Vice President for Student Affairs in designing and carrying out these educational efforts. The College policy on sexual harassment shall be included in the Faculty Handbook and the Student Handbook and shall be made available to all employees.

### **IV. Complaint Resolution Procedures**

The following informal and formal procedures are intended to afford a prompt response to complaints of sexual harassment or other conduct prohibited under this policy. They are designed to assure fairness, maintain confidentiality, and enable the imposition of appropriate sanctions on members of the College community who violate this policy.

The informal and formal complaint procedures set forth below are internal administrative procedures of the College. As to those forms of sexual harassment that also violate state or federal law, an aggrieved person may also file a complaint with the appropriate local, state, or federal agency or in a court with jurisdiction. The College strongly encourages persons who believe that they have been victims of sexual harassment or other conduct prohibited under this policy to bring this to the attention of College authorities. Persons who have been sexually harassed are known to experience a variety of psychological and medical consequences, and the College also encourages such persons to seek assistance from the psychologists and medical staff at the Bailey Health Center.

#### **A. Informal Resolution Procedures**

An informal complaint, which may be oral or written, may be filed by any member of the College community who believes that another member of the College community has sexually harassed him/her. Any person who receives an informal complaint of a violation of this policy should advise the complainant that he/she may make a complaint to one of the trained Sexual Harassment Consultants, who shall be appointed annually by the College's EEO Officer, the Provost, and the Vice President for Student Affairs. The Consultant will discuss the matter with the complainant and advise the complainant of available support services on and off campus, the existence of both the informal and formal complaint resolution procedures, and of alternative remedies.

In many instances, informal discussion, counseling, and mediation can be useful in resolving instances of possible sexual harassment. Problems are sometimes easier to resolve when an informal atmosphere encourages people to identify the difficulty, talk it out, and agree on how to address the issue.

The use of the informal procedures set forth below is not a prerequisite to initiating a formal complaint. The use of the informal procedure below does not involve formal disciplinary proceedings against the alleged harasser.

1. Whom to Contact

Any person who believes that he/she has been the subject of sexual harassment or other conduct prohibited under this policy may make an informal complaint to a Sexual Harassment Consultant.

2. Consultant's Role and Responsibilities

If requested by the complaining party, the Consultant will assist in attempting to resolve the complaint informally. Such assistance may involve, for example, advising the complainant in preparation for a discussion with the accused, speaking with the accused on the complainant's behalf, or exploring other possible resolutions. With the complainant's consent, the Consultant may enlist the help of other College personnel, such as department heads, deans, or administrators, in resolving an informal complaint.

Under the informal procedure, all reasonable efforts will be made to insure the confidentiality of information received, including the identities of the parties. The identity of the complaining party will be disclosed to the accused during the informal resolution process only if the complaining party gives permission. If, due to the circumstances of the alleged harassment, it is not possible to conduct a review of or resolve the complaint and yet maintain confidentiality, the complaining party will be informed and be given the option of proceeding (with disclosure of identity) or withdrawing from the informal resolution process.

Anyone with an inquiry or informal complaint may bring another member of the College community to meetings with the designated Consultant, as long as that person agrees to be bound by the confidentiality provisions of this policy.

## B. Formal Complaint Resolution

1. Filing of Complaint

A member of the College community who believes that another member of the College community has sexually harassed him/her may file a formal administrative complaint, in writing, with the appropriate College Officer (see below). A complainant is not required to utilize informal resolution procedures before filing a formal complaint.

Allegations against students should be made to one of the Deans of Students. Such complaints will be handled in accordance with the disciplinary procedures noted in the Student Handbook in the Statement on the Rights and Responsibilities of Students at Lafayette College. Allegations against members of the Faculty should be made to the Provost. In addition, allegations arising out of the teaching role of any instructor of a course should similarly be made to the Provost. Allegations against staff members should be made to the Vice President for Human Resources.

Threats or any other form of intimidation and retaliation against any member of the College community who exercises his/her right to initiate a complaint or inquiry in good faith under this policy is strictly prohibited and will itself be cause for appropriate disciplinary action.

2. Investigation

The appropriate College Officer will be responsible for conducting a prompt investigation, the purpose of which is to establish whether there is a reasonable basis for concluding that a violation of this policy has occurred. At the start of the investigation, the appropriate College Officer will inform the accused of the applicable policies and procedures. The College Officer will provide the

accused with a copy of the complaint and afford him/her an opportunity to respond. The accused will be informed of the identity of the complainant, unless the alleged harassment occurred in public and the accused would have a fair opportunity to respond to the allegations without such disclosure. The Officer will then proceed with the investigation, which may entail interviews of the complainant, the accused, and other persons believed to have pertinent factual knowledge. During such investigation, every reasonable effort will be made to protect the privacy rights of all parties, but confidentiality cannot be guaranteed.

### 3. Determination

Possible outcomes of the investigation by the Officer are: (a) a judgment that the allegations are not warranted, (b) a negotiated resolution of the complaint, or (c) a judgment that there is a reasonable basis for concluding that a violation of this policy has occurred.

The Officer will inform the parties promptly, in writing, about the outcome of the investigation.

### 4. Formal Disciplinary Proceedings

If the result of the investigation is a determination that there is a reasonable basis for concluding that an alleged violation of this policy has occurred and a negotiated settlement cannot be reached, then the appropriate College Officer will initiate formal disciplinary action as follows:

- a. for alleged violations of this policy by staff members not in the bargaining unit, the College Officer responsible for the division employing the accused will initiate disciplinary procedures;
- b. for alleged violations of this policy by union staff members, the Vice President for Human Resources will initiate disciplinary procedures in accordance with the collective bargaining agreement;
- c. for alleged violations of this policy by students, the Vice President for Student Affairs (or designee) will initiate disciplinary procedures applicable to charges of misconduct under the Statement on Rights and Responsibilities of Students;
- d. for alleged violations of this policy by members of the Faculty (including, in any teaching role, administrators with Faculty status), the Provost (or designee) will initiate disciplinary procedures in accordance with the attached procedure;
- e. for alleged violations of this policy arising out of the teaching role of any other instructor of a course, the Provost (or designee) will initiate disciplinary procedures in accordance with the attached procedure; and
- f. for any other alleged violation of this policy, the President (or designee) will initiate appropriate disciplinary procedures.

If the complainant or the accused feels that a complaint brought under this policy was not promptly resolved with due regard for the rights of the parties involved, he/she may appeal to the President.

An accused shall have rights of appeal as described in the disciplinary procedures applicable to the accused.

## V. Sanctions

Any member of the College community who engages in sexual harassment or other conduct in violation of this policy is subject to the full range of disciplinary action, up to and including separation from the College.

## **VI. External Remedies**

Lafayette College expects all members of the College community to uphold the laws of the Commonwealth of Pennsylvania and the United States regarding sexual harassment. Sexual harassment also constitutes a form of sex discrimination which is illegal under Title VII of the Civil Rights Act of 1964, Title IX of the Elementary/Secondary Education Act of 1972, and the laws of the Commonwealth of Pennsylvania. In addition to any sanctions that may be imposed by the College for violations of this policy, a member of the College community who sexually harasses another member may be held personally liable to the victim and be subject to sanctions independent of those imposed by the College. Nothing in this policy shall prevent the complainant or the accused from filing a complaint with the appropriate local, state, or federal agency or in a court with jurisdiction.

## **VII. Notice**

This policy will be widely distributed on campus so that all students, faculty, and staff will be made aware of it upon their arrival and at the beginning of each academic year.

**Formal Complaint Procedure for Alleged Violations of the  
Sexual Harassment Policy by Members of the  
Faculty or by Instructors of a Course**

1. Members of the College community who believe that they have been subjected to sexual harassment or other violations of the policy by a member of the faculty or, in his/her teaching role, by an instructor of a course may make an informal complaint to a designated Sexual Harassment Consultant listed in the College's resource guide Sexual Misconduct or may elect to make a formal complaint by filing a written complaint directly with the Provost. A person is not required to use the informal resolution procedures before filing a formal complaint.
2. If a formal complaint is filed, the Provost shall be responsible for promptly conducting an investigation. In cases where the Provost is the complainant or the accused as the result of his/her teaching role, the EEO officer of the College shall act in place of the Provost in conducting the investigation. The purpose of the investigation is to determine whether there is a reasonable basis for concluding that a violation of the College's sexual harassment policy has occurred. At the start of the investigation, the Provost shall inform the accused of the applicable policies and procedures. The Provost shall provide the accused with a copy of the complaint and afford him/her the opportunity to respond to the allegations. The Provost shall then proceed with the investigation, which may entail interviews of the complainant, the accused, and other persons believed to have pertinent factual knowledge. During the investigation, every reasonable effort shall be made to protect the privacy rights of all parties, but confidentiality cannot be guaranteed.
3. Following the investigation, the Provost shall determine whether there is a reasonable basis for concluding that a violation of the College's sexual harassment policy has occurred. If the determination is affirmative, the Provost shall attempt to negotiate a resolution of the complaint. If a negotiated resolution of the complaint cannot be reached, and the Provost has determined that there is a reasonable basis to conclude that the College's sexual harassment policy has been violated, the Provost shall report his/her conclusion and proposed sanctions to the complainant and to the accused. At this stage, the accused may elect to have the Provost resolve the matter by accepting the sanctions recommended by the Provost. Alternatively, if the accused wishes to have the case presented to a Hearing Committee, then the Provost shall provide the accused with a written investigative report that includes proposed sanctions; the accused shall have 10 calendar days to file a written response to that report.
4. Upon receipt of the response, the Provost shall inform the Chair of the Appeal and Grievance Committee about the general nature of the case in order that a Hearing Committee can be formed. The Hearing Committee shall be comprised of five tenured faculty. The Chair shall appoint any three of the five members of the Appeal and Grievance Committee to serve on the Hearing Committee, and those three members shall then select the other two members of the Hearing Committee from outside the Appeal and Grievance Committee. Prior to the actual appointment of members of the Hearing Committee at each of the two stages, the Provost shall be consulted to ensure that no proposed member is involved in the particular case or a member of the same academic department as the accused or the complainant. In forming the Hearing Committee, an effort should be made to achieve diversity with respect to gender and disciplinary perspective. In all cases, members of the Hearing Committee should consider themselves to be disinterested parties. The Hearing Committee thus constituted shall elect a Chair and be assigned a secretary, normally from the President's office, who shall provide the Hearing Committee with all requisite clerical assistance throughout the formal hearing process. In circumstances that warrant the Hearing Committee having access to an independent counsel, the Hearing Committee shall have access to an independent counsel arranged through the College Counsel's office. This independent counsel shall not be allowed to attend the Hearing but is provided to assist the Hearing Committee when such assistance is requested.
5. Promptly after the Hearing Committee is formed, the Provost shall provide the Hearing Committee, through the Hearing Committee Chair, with a copy of the original complaint, the response to the

complaint, the investigative report, and the accused's response to the investigative report. The Hearing Committee shall normally hold a Hearing within 21 calendar days of its formation. The Chair of the Hearing Committee shall notify the accused, the complainant, the Provost, and the President of the time, place, and date so scheduled by certified mail, return receipt requested.

6. The entire proceedings of the Hearing shall be recorded by a professional stenographer, and an accurate transcript shall be promptly produced from that stenographic record and made available to the Hearing Committee. The Chair of the Hearing Committee shall preside over the proceedings and shall act to ensure a fair presentation of all evidence and an equitable treatment of both parties, and to maintain decorum. Each party and the complainant in the case may be accompanied only by counsel chosen by him/her from the Faculty or Administration of the College. Procedures shall not follow formal rules of evidence, but special care shall be taken in evaluating evidence to ensure fairness.
7. At the Hearing, the Provost or his/her designee presents the case for the College, and the accused presents his/her case. The accused faculty member shall be presumed not to have violated the College's sexual harassment policy; the burden shall rest upon the College to prove that such a violation has occurred. During the Hearing, the parties shall have the following rights: to present and examine witnesses; to introduce evidence that has been previously made available to the Hearing Committee and, through the Hearing Committee, to the opposite party; to conduct reasonable cross examination of any witness on any matter relevant to the issue of the Hearing; and to offer relevant evidence in rebuttal. The accused faculty member shall have the right to question the complainant directly. Each party shall give the Hearing Committee a list of the names of all witnesses and copies of all documentary and other evidence at least 72 hours before the Hearing begins, or, in the event that a party would like to offer rebuttal evidence, at least 24 hours prior to the use of that rebuttal evidence. The Hearing Committee shall provide copies of any such witness lists or evidence to the opposing party as promptly as possible, and a list of all witnesses to be summoned by the Hearing Committee shall be made available to both parties within 48 hours before the Hearing begins. Copies of all evidence received or gathered by the Hearing Committee at any stage shall be made available promptly to both parties, and no new witness(es) may be summoned by either party or by the Hearing Committee without the Hearing Committee giving both parties 24-hour notice in advance. At its discretion, the Hearing Committee has the authority to gather such additional evidence as it deems relevant, including calling and questioning the complainant if the Provost or his/her designee has not called the complainant as a witness. Under these circumstances, the Hearing Committee shall, at its discretion, allow reasonable questioning by both parties of the complainant. If the complainant testifies at the Hearing, the complainant may be accompanied by a counsel chosen by him/her from the Faculty or Administration of the College. Under the circumstance that the Hearing Committee calls the accused as a witness, the Provost or his/her designee shall be granted the right to question the accused. However, if the accused elects not to testify, he/she may not be called as a witness by the Hearing Committee or by any party.
8. Following the presentation of all evidence, the Hearing shall be closed at the time the Hearing Committee deems appropriate. Thereupon, the Hearing Committee shall deliberate in executive session, at a time convenient to itself. The Hearing Committee shall determine by a majority vote whether the preponderance of evidence indicates that the College's sexual harassment policy has been violated. If the Hearing Committee determines that the policy has been violated, then it shall recommend appropriate sanctions. If the Hearing Committee determines that the policy has not been violated, then it shall recommend that the case be dismissed. Within 10 calendar days of the close of the Hearing, the Hearing Committee shall record its findings and its recommendations in a written record.
9. Promptly upon completion of the report, regardless of the Hearing Committee's findings and recommendations, the Chair of the Hearing Committee shall inform the Chair of the Promotion, Tenure, and Review Committee about the general nature of the case in order that a three-member Hearing Review Committee can be formed from the Promotion, Tenure, and Review Committee. The Chair of the Promotion, Tenure, and Review Committee shall promptly appoint any three of the six elected members of that Committee to serve on the Hearing Review Committee. Prior to the actual appointment of members of the Hearing Review Committee, the Chair of the Hearing Committee shall

be consulted to ensure that no proposed member is involved in the particular case or a member of the same academic department as the accused faculty member. If the Hearing was prompted by the failure of the Provost and the accused to reach an informal resolution to charges made through the filing of a formal complaint by a faculty member, then the Chair of the Hearing Committee shall also be consulted to ensure that no proposed member of the Hearing Review Committee is a member of the same academic department as the complainant. In all cases, members of the Hearing Review Committee should consider themselves to be disinterested parties. The Hearing Review Committee thus constituted shall elect a chair. Promptly upon being elected, the Chair of the Hearing Review Committee shall notify the Chair of the Hearing Committee of the formation of the Hearing Review Committee. In response, the Chair of the Hearing Committee shall give the Chair of the Hearing Review Committee the written report of the findings and recommendations of the Hearing Committee with full explanatory justification and a summary of dissenting opinion, along with the full record of the Hearing, including the transcript, all documentary evidence, and all written communications between the Hearing Committee and the parties. The three members of the Hearing Review Committee are the only persons who shall receive the Hearing Committee's report and the record of the Hearing at this time. A copy of the written report of the findings and recommendations of the Hearing Committee with full explanatory justification and a summary of dissenting opinion, along with the full record of the Hearing, including the transcript, all documentary evidence, and all written communications between the Hearing Committee and the parties, will be available in the President's suite for the accused and the Provost to review with or without counsel chosen from the College.

10. The charge of the Hearing Review Committee is to evaluate the integrity of the entire Hearing process and to ensure fairness to all parties. The role of the Hearing Review Committee is not to question or reevaluate the Hearing Committee's factual findings. Nor is it the role of the Hearing Review Committee to question or reevaluate the Hearing Committee's recommendations, except as provided in "e" below. The Hearing Review Committee shall review the report of the Hearing Committee and the full record of the Hearing, and any written statement(s) about the Hearing based on "a," "b," "c," "d," or "e" below that might be submitted by the accused or the Provost, and shall determine whether the Hearing was properly conducted. The Hearing Review Committee shall determine that the Hearing was not properly conducted if
  - a. the Hearing Committee committed a procedural error that had a material (i.e., so substantial and important as to have been decisive) effect on its findings and recommendations, or did not take into account a procedural error that occurred in an earlier stage of the process and that had a material effect on its findings and recommendations; or
  - b. the Hearing Committee violated the professional, academic, or EEO rights of the accused faculty member or of the complainant, or did not take into account an earlier violation of those rights, in such a way as to have a material effect on its findings and recommendations; or
  - c. the Hearing was conducted in an unfair or inequitable manner, in such a way as to have a material effect on the Hearing Committee's findings and recommendations; or
  - d. the Hearing Committee demonstrably considered non-germane evidence as material; or
  - e. the sanction(s) (if any) recommended by the Hearing Committee was (were) not consistent with its factual findings.

The Hearing Review Committee shall reach its determination within 14 calendar days of its receipt of the Hearing Committee's report and the Hearing record. If the Hearing Review Committee determines by a majority vote that the Hearing was properly conducted, the Hearing Review Committee's determination shall, by the end of that 14 day period, be communicated in a written report to the members of the Hearing Committee and the President, who shall also at this time receive the full record of the Hearing and the Hearing Committee's report. (At this stage, the President is the only additional person who shall receive the full record of the Hearing and the Hearing Committee's report.) If the

Hearing Review Committee determines by a majority vote that the Hearing was not properly conducted, the Hearing Review Committee shall ensure that the flaws are corrected as it deems appropriate. Depending on the nature of the flaws, the Hearing Review Committee may require that the Hearing Committee reopen the Hearing to (but not beyond) whatever extent might be necessary to correct the flaws, or, in the case of an irreparable procedural impropriety, the Hearing Review Committee may require that the Chair of the Appeal and Grievance Committee form a new Hearing Committee to initiate a de novo Hearing. (If a de novo Hearing is called for, the Chair of the Hearing Review Committee shall inform the Provost, the accused, and the original Hearing Committee. The full record of the de novo Hearing, and the report of the de novo Hearing Committee, will be subjected to the same scrutiny by the Hearing Review Committee as were the original Hearing Committee's report and Hearing record.) When the Hearing Review Committee has determined by a majority vote that all material flaws have been corrected, and that the Hearing was properly conducted, and that any potentially material new evidence that might have been brought to the attention of the Hearing Review Committee by either party has been referred to and fairly and adequately responded to by the Hearing Committee, the Hearing Review Committee shall communicate its determination in a written report to the members of the Hearing Committee and the President, who shall also at this time receive the full record of the Hearing and the Hearing Committee's report.

11. The President shall review the report of the Hearing Committee, the full record of the Hearing (including the transcript), and the report of the Hearing Review Committee; may interview witnesses at his/her discretion; and shall make a decision in the case. The President may request that the Hearing Committee reconsider the case on a specific ground or grounds. The President's request for reconsideration must be made within 30 calendar days, and the Hearing Committee has another 14 calendar days in which to make a second report. The President shall make a decision on the complaint within 30 calendar days of the Hearing Committee's initial report or its second report. The President may affirm, reject, or modify the recommendations of the Hearing Committee. The President's final decision, in writing, together with copies of the reports of the Hearing Committee and the Hearing Review Committee, must be sent to the complainant, the accused, the Hearing Committee, the Hearing Review Committee, the Provost, and the Board of Trustees, through its Secretary. Grounds for rejection or modification of the Hearing Committee's recommendations must be stated in writing. In cases where the President is the complainant or the accused as a result of his/her teaching role, disposition of the complaint is the responsibility of a Review Panel, as described in Appendix D of the Faculty Handbook.
12. Subsequent to the process described above, an accused who does not accept the President's decision may make a written appeal to the Board of Trustees, through its Secretary, not more than 14 calendar days after receiving the President's written decision. An appeal is permissible only on the ground that the procedures of the College were not properly followed. Normally, the Board does not undertake a de novo review. The Chair of the Board may appoint a Board Committee to act on its behalf in considering the appeal. The Board may at its discretion interview such persons as it deems appropriate. The Board may either affirm or overturn the President's decision, or, alternatively, it may request that the case be re-evaluated by either the President or the Hearing Committee. The Board shall report its decision to the accused, the complainant, the President, the Provost, the Hearing Committee, and the Hearing Review Committee as soon as possible.
13. If the final determination is that the College's sexual harassment policy has been violated, the report of the Hearing Committee and the President's decision shall be placed in the accused's personnel file. Should the President's recommended sanction be dismissal or suspension, such a sanction is effectuated only by a vote of the Board of Trustees. If the Board has decided in favor of dismissal or suspension of the faculty member from the College, the President shall inform the faculty member of his/her dismissal or suspension. If the President has decided in favor of any other sanction against the faculty member, and the Board has not overturned the President's decision on appeal, the President shall direct the Provost to impose the sanction.