

INDEPENDENT REVIEW COMMITTEE RECOMMENDED SEXUAL MISCONDUCT POLICY

Article I. Introduction

Patrick Henry College is committed to maintaining and strengthening a Biblically sound environment founded on excellent moral character and respect for human dignity. Moral responsibility should be the norm. Sexual misconduct is entirely contrary to our values. We desire to prevent sexual misconduct insofar as it is possible, foster prompt reporting, ensure timely and fair resolution of complaints, and provide dignified victim care.

A. Definitions

“Sexual misconduct” means any unwelcome conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without consent. Sexual misconduct can occur between strangers or acquaintances, including people involved in a romantic or sexual relationship. Sexual misconduct can be committed by men or by women, and it can occur between people of the same or different sex. Sexual misconduct includes:

- Dating violence
- Domestic violence
- Sexual assault
- Sexual exploitation
- Sexual harassment, including cyber-harassment
- Stalking
- Sexual contact with a minor

B. Notice of Non-Discrimination

Patrick Henry College upholds a Biblical view of human equality and recognizes that all men and women are created equal. No student will be discriminated against on the basis of race, color, national or ethnic origin, sex, age, or disability.

C. Applicability of Policy

This policy applies to any allegation of sexual misconduct made by or against a student or an employee of the College or a third party, regardless of where or when the alleged sexual misconduct occurred. The College’s disciplinary authority may not extend to third

parties who are not students or employees of the College. There is no geographic limitation to the College's prohibition on sexual misconduct.

D. Period of Limitations

There is no period of limitations. Any report of sexual misconduct, no matter how remote in time, will be handled in accordance with this policy. However, victims (also called "complainants") are strongly encouraged to report as soon as possible because remote-in-time allegations are more difficult to investigate, which may make accurate determinations impossible. Also, state statutes of limitations may remove criminal liability as an avenue to pursue. The College may also lack the ability to adjudicate allegations if the respondent student is no longer enrolled or if the respondent employee is no longer employed at the College.

Article II. Statements of Policy

- A. Sexual misconduct is prohibited.** This policy applies to every instance of sexual misconduct.
- B. Retaliation against any person for filing, supporting, or providing information in good faith in connection with a report of sexual misconduct is prohibited.**

Violations of this prohibition will be addressed through this policy and/or other disciplinary procedures. Any person who feels that he or she has been subjected to retaliation should make a report to the Sexual Misconduct Response Facilitator (SMRF).

- C. Filing false information** or a false complaint under this policy, or intentionally misleading college officials involved in the investigation or resolution of a complaint, is prohibited. Violations of this prohibition will be addressed through this policy and/or other disciplinary procedures.

D. Criminal Proceedings

The choice of whether to report sexual misconduct to local law enforcement rests solely with the complainant. However, the College strongly encourages victims of sexual misconduct to report crimes to local law enforcement and is committed to cooperating with local law enforcement during any investigation. This policy's provisions for victim care and safety will be in effect immediately upon receipt of the report by the College. However, when a report is made to local law enforcement, the SMRF and the Campus Safety Lieutenant will consult with local law enforcement to determine whether it is appropriate to immediately commence the disciplinary provisions of this policy or to wait until a prosecutorial determination has been made by local authorities.

When the College receives a report pertaining to any sexual misconduct concerning a minor, the College will comply with its legal obligation to report this allegation to local law enforcement under VA Ann. Code § 63.2-1509.

E. Confidentiality

The College will make every feasible effort to protect the confidentiality of and prevent the disclosure of the identities of the parties involved in a sexual misconduct report to any third party, including the parents of an adult student. The College will not contact the parents of an adult victim absent that student's express direction to do so. However, information regarding alleged sexual misconduct must be handled in accordance with applicable state laws. Information regarding alleged sexual misconduct may be shared among College administrators as appropriate and necessary.

Although the College cannot always control confidentiality violations by students or third parties, students and employees of the college who become aware of sexual misconduct allegations during the College's process under this policy are expected to maintain the confidentiality of all parties. Information about an allegation of sexual misconduct is to be divulged by an employee or student of the college only when the recipient needs to know the information in order to properly perform his or her duties under this policy.

Complainants and respondents may request that the College treat information regarding alleged sexual misconduct as confidential. The College will take such requests seriously; however, such requests may limit the College's ability to investigate and take reasonable action in response to a complaint. In such cases, the College will evaluate the request that a report of sexual misconduct remain confidential in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment.

The school must weigh a request for confidentiality against the seriousness of the alleged offense, the complainant's age, other similar complaints, and any applicable laws before determining whether or not to honor a confidentiality request.

The SMRF will inform the person requesting confidentiality if the College determines it will be unable to fully honor the request, describing with reasonable specificity in what respects the requester's confidentiality may be breached by the College's response to the report.

The College will not release confidential information to the parents of an adult student, or require an adult student to disclose confidential information to his or her parents, unless the student so chooses. However, in the event of sexual misconduct allegations concerning a minor, the College may contact the minor student's parents in accordance with applicable law.

When allegations of sexual misconduct are resolved in accordance with this policy, the findings and sanctions worksheet from the formal or informal process may be disclosed by the College or either party.

F. Immunity for Victims

The College takes seriously all violations of legal, Biblical, and community standards, as articulated in Chapter 5 of the College Student Handbook. However, the College recognizes that sexual misconduct may occur under circumstances wherein the complainant did not uphold these standards. Protecting the safety of students and providing proper victim care in the aftermath of alleged sexual misconduct is more important than administering disciplinary action for these violations. Accordingly, in no instance shall the school impose punitive sanctions on a complainant or other reporting student for collateral misconduct directly related to the circumstances of the alleged sexual misconduct, provided the complainant or reporting student reported the allegation in good faith. The College does not believe this creates significant potential for false reporting. False reporting is prohibited in I.I.C., and when a determination has been made that a report is false, the reporting student may be subject to disciplinary action for collateral misconduct. A finding by a Hearing Panel that a report of sexual misconduct is unsubstantiated does not constitute a determination that the initial report was false.

Article III. How and Where to File a Report of Sexual Misconduct

A. General Guidelines on Reporting

Any person may report an allegation of sexual misconduct, regardless of whether that person is the victim, the accused, or a witness.

Because sexual misconduct may constitute both a violation of College policy and criminal activity, and because the College's process is not a substitute for initiating legal action, the College encourages victims and witnesses to report sexual misconduct promptly both to College officials and to law enforcement authorities.

Individuals may choose not to report sexual misconduct to campus officials or law enforcement authorities; the College respects and supports the victim's decision with respect to reporting. However, when the nature of the allegation warrants it, the College may notify law enforcement authorities. Such notification may be necessary, for example, if the College determines that an accused poses a danger to the community generally, or to others besides the victim.

The College strongly encourages victims and witnesses to report sexual misconduct promptly. However, a report may be made at any time, regardless of how remote in time the alleged misconduct occurred.

B. Reporting Sexual Misconduct to Local Law Enforcement

Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may also contact any of the following for assistance in filing a complaint:

- Campus Safety Lieutenant (CONTACT INFO)
- Duty Security Officer (CONTACT INFO)
- SMRF (CONTACT INFO)
- Counselor (Note: This assumes the College will retain a female counselor certified by the Commonwealth of Virginia)
- Designated Victim Advocate (Note: This assumes the College will retain a victim advocate or contract with an organization who makes one available.)
- Campus Nurse (CONTACT INFO)

Individuals may report sexual misconduct to law enforcement without making a report to the College; similarly, individuals may make a report to the College without reporting to local law enforcement. Individuals may also report to victim advocacy organizations that do not report directly to law enforcement, including RAINN (www.rainn.org) and others listed in an appendix to this policy.

A criminal investigation does not preclude the College from conducting its own investigation and making its own determinations regarding the alleged sexual misconduct. However, the SMRF and the Campus Safety Lieutenant will consult with law enforcement investigators to determine whether it is necessary to delay the College's investigation while criminal investigators are gathering evidence. In such a case, the College will nonetheless take prompt steps to ensure victim care and student safety.

Prosecutorial determinations, results of criminal investigations, and/or decisions by local law enforcement not to investigate allegations are in no way binding on the College's investigative process and ultimate determination.

The College is required to report to local law enforcement any allegations of sexual contact with individuals under the age of 18. Va. Code § 63.2-1509.

C. Form of a Complaint

A standard form will be used for all reports. This form is available on the student portal, in printed form, and as an appendix to this document. All College faculty and staff will have access to this form and can provide it if requested.

D. Complaint Recipients

Individuals seeking to report sexual misconduct may speak to any of the following:

- SMRF
- Campus Safety Lieutenant
- Victim Advocate
- Counselor
- Campus Nurse
- Duty Security Officer

Victims may also report sexual misconduct to any member of the staff or faculty not referenced above, in order to ensure that the first person to whom the victim speaks can be a trusted friend or mentor. The responsibilities of that staff or faculty member are articulated in Paragraph E below.

E. Faculty and Staff Obligations to Report

A faculty or staff member with any knowledge (including direct observation) about a known or suspected incident of sexual misconduct (other than staff with professional or statutory confidentiality obligations, such as health care professionals or licensed counselors) must report the incident to the SMRF as soon as possible. No employee is permitted to investigate, resolve, or interfere in allegations of sexual misconduct without the express authorization of the SMRF and in accordance with this policy. When a victim has reported sexual misconduct to a member of the faculty or staff, including student employees, that member shall advise the victim of all resources available and appropriate reporting procedures in accordance with this policy. If the victim chooses, the faculty or staff member may serve as a support person and accompany the victim throughout every step of the process articulated in this policy. See Article V, Section F of this Policy.

F. Anonymous Reporting

Students may report sexual misconduct anonymously, via a form available as an appendix to this Policy and at: (URL). Individuals who seek to report anonymously are advised that it may be very difficult for the College to appropriately investigate and adjudicate anonymous complaints in the absence of corroborating information.

Article IV. Procedures Applicable to All Complaints of Sexual Misconduct

A. Oversight

The SMRF will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of reports filed with the College. These responsibilities are nondelegable.

B. Conflicts

If any College administrator with duties under this policy is the respondent, or has a family member who is the complainant or the respondent, then the President will appoint another College administrator to perform that person's duties under this policy. If the SMRF is the respondent, or has a family member who is the complainant or the respondent, the alternate SMRF shall assume the SMRF's duties with respect to the particular case from which the SMRF is conflicted. Any College administrator with duties under this policy may recuse himself or herself for good cause; in those circumstances, an alternate shall be appointed in accordance with the above.

C. Time for Resolving Complaint

The College will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The College's investigation and resolution of a Complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the Complaint, absent extenuating circumstances. Hearings, if any, will take place after the conclusion of the investigation.

Any party may request an extension of any deadline by providing the SMRF with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The SMRF may modify any deadlines contained in this Policy as necessary and for good cause.

D. Request for Withdrawal of Complaint

A complainant may determine after filing a report of sexual misconduct that he or she does not wish to pursue resolution of the allegations through the College. The College takes such requests seriously. However, complainants are advised that such requests may limit the College's ability to take action in response to a report.

The SMRF shall have sole authority to grant a request to withdraw a report of sexual misconduct. In making such a determination, the SMRF will evaluate the request in the context of the College's commitment to provide a reasonably safe and non-discriminatory

environment. If the SMRF permits withdrawal of a complaint, he or she will put the reasons for doing so in writing.

No student or member of the faculty or staff shall encourage a complainant to withdraw a report of sexual misconduct.

E. Student Safety Measures

Immediately after receiving a report of sexual misconduct, the SMRF shall conduct an assessment of the severity of the alleged misconduct and any ongoing threat posed by the respondent to the complainant or other students. If at that time, or at any other point during the process, the SMRF reasonably believes that a Respondent who is a member of the College community poses a substantial threat of harm to any member of the campus community; threatens or endangers College property; or disrupts the stability of normal College operations and functions; the SMRF may act as follows:

- With respect to student respondents, direct that relevant College personnel:
 - Suspend respondent from campus housing on an interim basis and/or restrict his or her movement on campus
 - Suspend the respondent's enrollment in the College
 - Suspend or reassign the respondent's employment with the College, if respondent is a part-time employee
- With respect to employee respondents, request that the President:
 - Restrict respondent's movement on campus, or take other measures to ensure student safety in the President's discretion
 - Reassign respondent or place him or her on administrative leave

In any case, the SMRF may direct any relevant College personnel to institute protective measures during the process of adjudicating an allegation of sexual misconduct, including:

- Impose and enforce a no-contact order upon the respondent, to prevent harassment of the complainant and collaboration with witnesses
- Facilitate changes in the complainant's or the respondent's class schedule, living arrangements, or work schedule
- Provide a security escort to classes
- Provide counseling services

- Provide support for academic workload, including extensions and changes in academic assignments as needed for victim welfare
- Facilitate the complainant's temporary withdrawal from and return to College

F. Initial Meetings

Victim and/or Reporting Individual Meeting. As soon as possible after a report of sexual misconduct, the SMRF shall meet with the reporting individual. If the reporting individual is not the alleged victim, the SMRF will also contact the alleged victim to meet with him or her as soon as possible. At the initial meeting(s) with the complainant and/or reporting individual, the SMRF shall:

- Provide a copy of this policy
- Explain confidentiality standards articulated in this policy, and discuss any concerns
- Encourage and offer to facilitate report to local law enforcement
- Explain avenues for formal and informal resolution of the alleged misconduct
- Explain the process for investigation and ultimate adjudication of sexual misconduct
- Refer to medical treatment and counseling services as appropriate
- Discuss available interim measures for victim safety and comfort
- Determine what avenue of resolution the victim seeks to pursue

Respondent Meeting. If the complainant wishes to pursue a formal or informal resolution through the College, or the SMRF determines that further investigation is warranted, the SMRF shall schedule a meeting with the respondent. If the complainant has elected to report to local law enforcement, the SMRF shall not contact the respondent until first coordinating with law enforcement officials to avoid damaging a criminal investigation. At the meeting with the respondent, the SMRF shall:

- Provide the respondent, in writing, sufficient information consistent with state and federal privacy laws, to allow him or her to respond to the substance of the allegation. The document shall include the name of the reporting individual and/or the alleged victim, as well as the approximate date, location, and nature of the alleged sexual misconduct
- Explain the College's procedures for formal resolution and informal resolution
- Explain the process for investigation and ultimate adjudication of sexual misconduct

- Explain confidentiality standards articulated in this policy, and discuss any concerns
- Explain the College's policy with respect to retaliation, and advise the respondent against attempting to improperly influence the procedures for adjudication
- Inform the respondent of any interim measures already determined that directly affect the respondent (e.g., changing his or her class schedule)
- Refer the respondent to medical treatment and counseling services as appropriate
- Notify the respondent of any order not to contact the complainant or any known witnesses, and advise respondent of the disciplinary consequences of violating such an order

G. The Investigation

The SMRF shall determine that an investigation of the report shall be conducted, unless it is clear on its face and/or based on the SMRF's initial meetings with the parties that no reasonable grounds exist for believing that the conduct at issue constitutes sexual misconduct. In making a determination that no reasonable grounds exist, the SMRF shall not make any judgments as to the credibility of the complainant or any witnesses, and shall construe all facts and inferences in the light most favorable to the complainant. If the SMRF determines that no reasonable grounds exist, the SMRF shall prepare a letter in which he or she provides a brief explanation of his or her reasoning. The SMRF shall provide a copy of this letter to all parties no more than ten days after making this determination.

If the SMRF determines an investigation should be conducted, the SMRF shall promptly appoint an investigator and share his or her name and contact information with the complainant and the respondent and will forward the report to the investigator. Within three days of appointment, the investigator, the complainant, or the respondent may identify in writing any real or perceived conflicts of interest posed by assigning the investigator.

Qualifications. The investigator shall be the Campus Safety Lieutenant, or, in cases of his or her unavailability, selected from the faculty or staff by the SMRF. In such cases, the investigator shall not be the Provost, nor shall it be the Dean of Student Life or any of his or her subordinates.

The investigator shall begin investigation immediately upon receipt of the report. He or she shall interview the reporting individual, the victim (if different from the reporting individual), the respondent, and all third-party witnesses, and shall make a written summary of every interview. He or she shall obtain copies of any documentary evidence, take or obtain relevant photographs, visit if possible the scene of the alleged sexual misconduct, and coordinate as appropriate with any involved law enforcement agencies. The investigator

shall remain neutral at all times and shall not become an advocate for either side during the investigation.

The investigator shall complete a written report of investigation including interview summaries, documentary and photographic exhibits, and a detailed report of the events leading up to the allegation of sexual misconduct. The report shall not include any conclusions by the investigator about ultimate issues, or make a determination as to the credibility of the allegations. The investigator shall submit the report to the SMRF.

If, at the time the SMRF receives the report of investigation, a law enforcement investigation into the allegations remains open, the SMRF shall consult with criminal investigators to determine whether there are any investigatory concerns with disclosing the report. If the SMRF determines that it will damage a criminal investigation to release the report, the SMRF shall delay as necessary the adjudication of the allegations.

If no law enforcement investigation is open, or if the SMRF, in cooperation with local law enforcement, has determined that it will not damage a criminal investigation to release the report to the respondent, the SMRF shall release the report of investigation simultaneously to both parties, in a manner that does not require the parties to both be present together. The parties must then comply with the confidentiality standards set forth in this policy.

H. Formal Versus Informal Resolution

Upon receipt of the report of investigation, the SMRF shall meet with the complainant in person to discuss the investigation. At that meeting, the SMRF shall determine whether the complainant has elected formal or informal resolution. If the complainant has elected informal resolution, the SMRF shall make an independent determination as to the propriety of informal resolution of the case, and as appropriate initiate informal resolution under Article VI of this policy.

If the complainant has elected formal resolution, or the SMRF has determined that informal resolution is inappropriate for the case, or other qualifications for informal resolution are not met, the SMRF shall initiate formal resolution under Article V of this policy.

Article V. Formal Resolution

A. Goals

The formal resolution process is designed to ensure that allegations of misconduct are thoroughly investigated and adjudicated by an objective hearing panel in a manner that respects the dignity of both parties, the complainant's right to be heard, and the respondent's right to due process.

B. Respondent's Acknowledgement of Responsibility Prior to Hearing

At any time prior to the hearing, the respondent may choose to acknowledge his or her actions and take responsibility for the alleged sexual misconduct. In such a situation, the SMRF will propose sanctions. If both parties agree on the propriety of the sanctions, the SMRF will direct relevant College personnel to impose them. If either the complainant or the respondent objects to the proposed sanctions, the Hearing Panel will convene for the sole purpose of determining sanctions. The SMRF will then direct relevant College personnel to impose the sanctions, consistent with the appeal process detailed below in Article V, Section K.

C. Composition of the Hearing Panel

Absent acknowledgement of responsibility by the respondent, the SMRF will appoint a hearing panel. The panel shall consist of no fewer than three members, two of whom must be staff or faculty members, and one of whom may be a student. Student members shall be selected randomly from the grade of junior or senior. All members must have received sexual misconduct prevention and response training during that calendar year. The SMRF will designate one member of the panel as the chair.

D. Recusal, voir dire, and challenge for cause.

Both parties have a right to a fair and impartial panel, which shall be guaranteed as follows:

- Staff or faculty appointed to a panel may recuse themselves in advance of the hearing for good cause; such good cause shall be articulated to the SMRF, who will appoint a new member as necessary. Students appointed to a panel may recuse themselves from the panel without articulating a cause.
- Both parties may question the members as a group and/or individually, and may challenge any member for cause. A time and date for the voir dire shall be set by the panel chair; it should be soon after the panel is appointed.
- Challenges for cause shall be based on the member's appearance of bias or inability to fairly evaluate the case and reach a fair judgment.
- Challenges for cause shall be submitted to the SMRF, who will make a determination on the challenge and, if the challenge is granted, provide a substitute member.
- When recusals, voir dire, and challenges for cause are complete, the chair shall declare the panel assembled.

E. Failure to Appear

If the complainant or respondent fails to appear before the panel if requested to do so, and such party was provided proper notice of the hearing as set forth above, then absent

extenuating circumstances, the panel will proceed to determine the resolution in the absence of that party.

F. Counsel and Support Persons

Legal Counsel. No party or witness may be accompanied by legal counsel during any hearing held pursuant to this policy.

Student Disciplinary Advocates. Each party may select, from among a standing pool of Student Disciplinary Advocates (SDAs), an SDA to represent that party at the hearing. SDAs shall be juniors or seniors who have received College training in sexual assault prevention and response, as well as in the procedures articulated in this policy, within the past twelve months. SDAs may have a speaking role at the hearing.

Support Persons. Both the complainant and the respondent may have a member of the College community present to support and assist them during the hearing. The chair may exclude a support person if he or she is a witness, or his or her presence would be disruptive to the hearing. A support person may communicate privately with a party but may not have a speaking role. A support person may not be an attorney, unless it is clear that he or she is not present in an attorney-client capacity (for example, if the victim's parent or close friend works in the College community and is an attorney).

G. Conduct of the Hearing

- Witnesses may testify in the form of a narrative.
- The panel may question all witnesses and develop evidence through testimony.
- Any witness, including the respondent, may decline to answer specific questions. Either party may decline to testify.
- The SDAs may question any witness after the panel has completed its inquiry. Re-inquiry by the panel and SDAs for either party is permitted in the discretion of the chair.
- Neither party may question any witness, including the other party.

H. Evidence

The SMRF shall provide the written report and the investigation to the panel immediately after the panel is assembled. The members of the panel shall review the investigation and determine what witnesses the panel wishes to call in order to execute its duties. The chair shall then issue to both parties a request for witness and exhibit lists from each party, with an attendant deadline.

- At least two days before the hearing, the chair shall send the SMRF a consolidated witness list to ensure the presence of witnesses requested by the panel and both parties.
- At the hearing, both parties have the equal right to present evidence. No rules of evidence apply at the hearing, except as provided in this Policy.
- Evidence of the past sexual history of either party is totally irrelevant and may not be introduced at the hearing, except in the following circumstances:
 - To show that the complainant has been disciplined for false reports of sexual misconduct
 - To show that the respondent has been previously accused of sexual misconduct, unless the respondent has been acquitted or found to be not responsible at a previous hearing panel
 - To show that a consensual relationship previously existed between the complainant and the respondent, in order to show mistake of fact as to consent on the part of the respondent

I. Hearing Outcome

As soon as practicable after the hearing, the hearing panel will confer in closed session and determine by majority vote whether the evidence establishes that it is more likely than not that the respondent committed sexual misconduct as alleged.

The chair will record the panel's determination on a findings and sanctions worksheet signed by the chair. If there is a minority vote, the minority member(s) may author a minority report and send it to the SMRF for consideration. If the panel finds that the respondent did not commit sexual misconduct, the chair will sign the findings worksheet, bring the hearing back to order, and issue the finding to both parties. If the panel finds that the respondent committed sexual misconduct, the panel shall proceed immediately to deliberate on appropriate sanctions. The worksheet is attached as an appendix to this Policy.

J. Sanctions

The hearing panel will determine sanctions if there is a finding that the respondent committed sexual misconduct.

Sanction selection should be guided by the gravity of the misconduct, any aggravating or extenuating facts and circumstances, and any record of prior discipline of the respondent for any infraction of the College Standards. The hearing panel should select sanctions that bring an end to the violation in question, reasonably prevent a recurrence of a similar violation,

remedy the effects of the violation, and are tailored to the facts and circumstances of the offense.

Sanctions may include, but are not limited to, the following:

- Formal letter of reprimand
- Withholding a promotion or pay increase
- Temporary or permanent reassignment of employment
- Termination of employment
- Temporary suspension without pay
- Reduction in pay
- Expulsion or suspension from the College
- Disciplinary probation
- Expulsion or suspension from campus housing
- Limits on movement about campus
- Mandated counseling
- Educational sanctions deemed appropriate by the panel
- Any appropriate sanction the panel deems to fit the underlying offense(s)

Implementation. Sanctions directed by the panel shall be executed by College personnel, but only after resolution of a timely appeal pursuant to Paragraph V.K below.

Victim Notification and Safety. The complainant shall be notified of the sanctions directed by the panel immediately after the hearing. If the panel has determined that it is more likely than not that the respondent committed sexual misconduct, the SMRF shall make a determination as to whether to make permanent or continue for a definite period any interim safety measures that impact the respondent. If the panel has determined that it is less likely than not that the respondent has committed sexual misconduct, the SMRF may still make a determination to make permanent or continue for a definite period any interim safety measures that do not impact the respondent.

Confidentiality and Disclosure. Documents prepared in anticipation of the hearings, as well as documents, testimony, or other information introduced at the hearings, may not

be disclosed by any party outside the hearing. However, either party, or the College, may disclose the findings and sanctions worksheet to any person.

K. Appeals

The complainant or the respondent may appeal the decision of the panel and/or the sanction imposed on the respondent within ten calendar days from the date of the signature of the findings and sanctions worksheet.

Appeals of findings may be filed for only two reasons: 1) material new evidence has emerged that could significantly impact the outcome of the hearing; 2) procedural errors during the hearing significantly impacted the outcome of the hearing. Appeals of sanctions may be filed for only one reason: that the severity of the sanction imposed is incommensurate to the gravity of the sexual misconduct for which the respondent was found responsible.

Appeals shall be filed in writing with the President, the Chancellor, and the Provost, with a copy to the SMRF. The SMRF shall promptly notify the other party that an appeal has been filed.

With respect to an appeal of findings, the President, the Chancellor, and the Provost shall make a joint, majority determination that either 1) the decision of the panel should stand; 2) that the decision of the panel should be overturned; or 3) that additional hearings should occur or evidence should be obtained before making an appellate determination.

With respect to an appeal of sanctions, the President, the Chancellor, and the Provost shall make a joint, majority determination that either 1) the decision of the panel should stand; 2) the decision of the panel should be commuted; or 3) that the sanctions should be reduced or increased.

Article VI. Informal Resolution

A. Qualifications for Informal Resolution

Informal resolution is only appropriate if 1) the complainant requests it; 2) the respondent agrees to such resolution; 3) the complainant and the respondent are both students of the College; 4) the SMRF determines that informal resolution is an appropriate mechanism for resolving the allegations; and 5) the report does not involve an allegation of rape or sexual assault involving a sexual act. Although informal resolution can be utilized to resolve serious offenses, and it does not suggest a view that the offense is less serious to utilize informal resolution, informal resolution should not be utilized to resolve severe or unusually violent offenses.

If there are multiple alleged offenses, all of the allegations should be resolved using the same process. For example, the parties may not seek to resolve one alleged incident at informal resolution and take another to formal resolution.

B. The Informal Resolution Process

The SMRF shall appoint a presiding officer to oversee the mediation pursuant to the informal process.

The SMRF shall provide written notice to the complainant and the respondent, setting forth (1) the date, time, and location of the mediation, and (2) the name of the individual selected to serve as the presiding officer. If only a portion of the alleged misconduct justifies continuing to adjudication, the SMRF will also specify in the notice which part(s) of the alleged misconduct will be the subject of the mediation.

Either party may challenge the participation of the presiding officer by submitting a written objection to the SMRF within three calendar days of receipt of the notice of the mediation. Such objection must state the specific reason(s) for the objection. The SMRF will evaluate the objection and determine whether to change the presiding officer. Failure to submit a timely and proper objection will constitute a waiver of any right of objection. Any substitution of the party serving as the presiding officer will be provided in writing to both parties before the date of the mediation.

The parties may not contact each other outside of the mediation, even to discuss the mediation.

Both the complainant and the respondent are expected to attend the mediation. If either party fails to appear at the mediation, and such party was provided proper notice of the mediation as set forth above, then absent extenuating circumstances, the presiding officer may either direct that the resolution of the complaint be determined according to the formal resolution process set forth above, or if the alleged victim fails to appear without good cause, dismiss the complaint.

The Mediation.

- **Complainant's rights.** During the mediation, the complainant may:
 - Confront the respondent in the presence of, and facilitated by, the presiding officer
 - Communicate his or her feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with the respondent or by communicating indirectly with the respondent through the presiding officer)

- Relay his or her wishes and expectations regarding protection in the future
- Never be left alone with respondent
- **Counsel and Support Persons**
 - Under no circumstances may legal counsel be present at the mediation on behalf of the alleged victim or the respondent.
 - As provided in paragraph V.F of this policy, either party may have a support person during any part of the process except for the actual mediation session(s).

C. Resolution

During the mediation, the presiding officer will attempt to facilitate the parties' resolution of the complaint. If the mediation results in a resolution between the parties, and the SMRF finds the resolution to be appropriate under the circumstances (giving consideration to the extent to which the resolution will protect the safety of the alleged victim and the entire school community), the informal disciplinary procedure will be concluded and the complaint will be closed. If the parties are unable to reach a resolution, the formal resolution process outlined in Article V of this Policy will promptly commence.

Upon the SMRF's finding that the mediation resolved the complaint, the SMRF will complete the worksheet provided as an appendix to this policy, stating the allegations for which the respondent admitted responsibility, the sanctions to which the parties agreed, and the SMRF's signature approving the resolution.

Adopted:

Sexual Misconduct Complaint

Date: _____

Victim (Complainant) or Reporting Individual (circle one): _____

Respondent: _____

Date when the misconduct occurred: _____

Describe what happened. You may use additional pages.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

The College is required to report all incidents involving minors to law enforcement. Adult students may choose whether or not to report sexual misconduct to the police.

If you have been raped and decide to report the incident to law enforcement, call 911 immediately. Do not bathe, brush your teeth, or wash your clothes. Even if you do not report the incident, consider seeking medical attention for your safety.

You may also contact a victim’s assistance organization that is not affiliated with law enforcement. For example, the National Sexual Assault Hotline, operated by RAINN, provides free, confidential counseling 24 hours a day at 1-800-656-HOPE.

Findings and Sanctions Worksheet

Hearing Date: _____

Complainant: _____

Respondent: _____

Allegations:

1. _____

2. _____

3. _____

Findings (mark appropriate blank):

Respondent _____ more likely than not _____ less likely than not committed the offense outlined in allegation 1.

Respondent _____ more likely than not _____ less likely than not committed the offense outlined in allegation 2.

Respondent _____ more likely than not _____ less likely than not committed the offense outlined in allegation 3.

Sanctions:

Signed:

Chair, Hearing Panel

Date

Informal Resolution Worksheet
(to be completed by Sexual Misconduct Response Facilitator
and signed by mediation participants)

Mediation Date: _____

Complainant: _____

Respondent: _____

Allegations:

1. _____

2. _____

3. _____

Responsibility:

I, _____ (Respondent's signature), admit my responsibility
for the conduct alleged above.

The parties agree that the following sanctions are appropriate:

The parties agree that this mediation has resolved the complaint.

Presiding Officer

Date

Complainant

Date

Respondent

Date

I find that this mediation has resolved the complaint. I approve this resolution.

Sexual Misconduct Response Facilitator Date

Resources for Victims, Witnesses, and Friends

The following are sexual assault resources and information for victims, witnesses, and friends of victims.

How do I know if I was sexually assaulted/raped?

- You can find general definitions for sexual assault and rape on RAINN's (Rape, Abuse & Incest National Network) website: <https://www.rainn.org/get-information/types-of-sexual-assault/was-it-rape>
- You can find information about laws specific to Virginia here: <http://www.vdh.virginia.gov/ofhs/prevention/dsvp/varapelaws/documents/2009/pdfs/statutes.pdf>

Notes: We recommend pointing students to outside definitions to avoid concerns that a College-provided definition of sexual assault/harassment may be under-inclusive.

What should I do after a sexual assault?

- Report the incident to law enforcement (911 or, if you are on campus or in Purcellville, the Purcellville Police Department at 540-338-7422).
- Contact a rape crisis center (see resources detailed below) to receive free assistance from a counselor regarding what to do after the assault and how to report the assault.
- Preserve any evidence of the assault, both in the area in which the incident took place and on your body.
- Seek immediate medical attention. Specifically request a Sexually Assault Forensic Exam (SAFE) by a Sexual Assault Nurse Examiner (SANE). Note: You may need to be transported to INOVA Fairfax as opposed to INOVA Loudoun to receive a SAFE.
- Report the incident to the College.
- Practice self-care. (Examples: <https://www.rainn.org/get-information/sexual-assault-recovery/self-care-for-survivors>.) Consider seeking professional counseling with a therapist experienced in trauma care.

What do I do if I witnessed or heard about a sexual assault, or I have a friend who is a victim?

- If the victim confides in you, listen. Express that you are sorry this has happened to them. Avoid physical displays of affection unless requested by the victim.
- Offer to accompany the victim to the hospital, police department, and the SMRF.
- Remind the victim of the various resources available to them (detailed below) and encourage them to file reports with law enforcement and the College.

- Call a rape crisis center (numbers below) and ask for advice as the friend of a victim or witness to an assault.
- If you witnessed or heard about a sexual assault, you can make a third party report to law enforcement and the College.
- Read more here: <https://www.rainn.org/get-help/help-a-loved-one>.

Where can I get help?

RAINN (Rape, Abuse & Incest National Network) operates the National Sexual Assault Hotline, which routes callers to local RAINN-affiliated rape crisis centers. The RAINN-affiliated rape crisis center closest to PHC is Loudoun Citizens for Social Justice/Loudoun Abused Women's Shelter (LAWS). When the National Sexual Assault Hotline is called, the caller will automatically be routed to a crisis center based on the area code and first three digits of the caller's phone number, unless the caller interrupts by pressing '1' when prompted and entering a zip code.

- 24/7 Toll-Free Hotline: 1-800-656-4673
- Online Hotline (chat): <https://ohl.rainn.org/online/>
- Website: <http://www.rainn.org/>. The RAINN website offers a large amount of information pertaining to sexual assault on their website, including male sexual assault (<http://www.rainn.org/get-information/types-of-sexual-assault/male-sexual-assault>)

The Loudoun Citizens for Social Justice/Loudoun Abused Women's Shelter (LAWS) offers counseling for victims and friends/family of victims, assistance in filing a report with law enforcement, legal assistance, accompaniment to forensic exams and court, and emergency safe housing.

- 24-Hour Crisis Hotline: (703) 777-6552
- Sexual Assault Services (not a 24-Hour Line): (703) 771-9020
- Website: <http://lcsj.org/services/sexual-assault/>

NCMEC (the National Center for Missing and Exploited Children) accepts reports pertaining to the following crimes committed against minors: non-familial sexual molestation, online enticement for sexual acts (this includes cell phones and "sexting"), and unsolicited obscene material sent to a minor.

- 24/7 Toll-Free Hotline: 1-800-843-5678
- <http://www.cybertipline.com>

The National Center for Victims of Crime's Online Stalking Resource Center can assist victims in navigating the complex issue of stalking. Victims can learn about their rights through a

compilation of relevant laws according to the victim's location, and access a printable log to document stalking incidents.

- <http://www.victimsofcrime.org/our-programs/stalking-resource-center>

PsychologyToday.com's therapist database can be searched for local therapists based upon zip code, specialty (such as sexual abuse and/or trauma/PTSD), religious affiliation, presence of sliding scale, and accepted insurance plans. Keep in mind that a rape crisis center may also be able to assist with a mental health referral.

- <http://therapists.psychologytoday.com>