



WEBB INSTITUTE

SEXUAL MISCONDUCT POLICY AND PROCEDURES

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STATEMENT OF POLICY

Webb Institute (“Webb”) is proud of its Honor Code, traditions, workplace, and academic environment and will endeavor to maintain a pleasant and collegial environment for employees, students, guests, and visitors, all of whom are expected to treat each other with courtesy, consideration, and professionalism. In accordance with Title IX of the Education Amendments of 1972 (“Title IX”), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by the Violence Against Women Act/Campus Sexual Violence Act (“Campus SaVE Act”), and Article 129-B of the New York State Education Law (“Article 129-B”), Webb is committed to providing a safe community, free from all forms of sex discrimination, including sexual misconduct. In accordance with Title IX, Webb does not discriminate on the basis of sex in its educational programs and activities. Under Title IX, discrimination on the basis of sex includes sexual harassment and sexual violence.

Sexual misconduct can occur in many forms and will not be tolerated in Webb’s educational programs or activities. Sexual harassment and sexual violence, including the offenses of sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking, are all forms of sexual misconduct that are strictly prohibited by Webb and Title IX. Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity.

Questions regarding Title IX, the Clery Act, the Campus SaVE Act and/or Article 129-B may be referred to Webb’s Title IX Coordinator, Ms. Lauren Carballo:

Ms. Lauren Carballo
Director of Admissions and Student Affairs
Stevenson Taylor Hall
Webb Institute
298 Crescent Beach Road
Glen Cove, NY 11542
516-403-5900
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The Title IX Coordinator’s primary responsibility is to coordinate Webb’s compliance with Title IX including, but not limited to, overseeing Webb’s response to complaints of sexual misconduct, coordinating investigations into allegations of sexual misconduct, identifying and addressing any patterns or systemic problems of sexual misconduct that arise during the investigation of a complaint of sexual misconduct, and assessing the effects of sexual misconduct on the campus climate. The Title IX Coordinator addresses all reports of sexual misconduct in an equitable and neutral manner.

Questions concerning Title IX may also be referred to the Assistant Secretary of the Office for Civil Rights (“OCR”), U.S. Department of Education, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue, SW, Washington, D.C. 20202 or call the OCR main

numbers (800) 421-3481 or (800) 877-8339 or contact OCR's New York office at ocr.newyork@ed.gov or by telephone at (646) 428-3800.

SCOPE OF POLICY

This Policy applies to:

- All students and employees involved in Webb's academic, educational, and recreational programs regardless of sex, race, national origin, disability, sexual orientation, gender identity, or other protected status;
- Visitors and guests;
- Recipients and/or providers of any Webb program, including participants in Webb's Winter Work Program;
- Third parties, including, but not limited to, subcontractors and all employees and applicants for employment in all positions.

The Policy also encompasses and applies to any allegation of sexual misconduct that:

- Takes place on Webb's property;
- Takes place on any property on which a Webb program or activity takes place;
- Webb-sponsored events that occur off campus, which include, but are not limited to,
 - off-campus incidents that have an on-campus impact or affect members of the campus community, regardless of whether such members are on-or off-campus;
 - off-campus and/or online speech or conduct, such as social networking sites, which causes a substantial disruption to Webb's operations and/or mission or affects members of the campus community.

Those members of the community inflicting such behavior on others are subject to the full range of institutional disciplinary actions, up to and including separation from Webb, and/or referral to authorities for criminal prosecution, as appropriate. Non-members of the community, such as guests or visitors, who inflict such behavior on campus, at campus events, or within campus programs may be referred for criminal prosecution, and/or barred from campus events and property, and/or referred to institutions or employers with which they are affiliated. Guests and/or visitors impacted by sexual misconduct are protected by this Policy.

While the *Guide to Residence Hall Living* and *Student Organization Handbook* will govern complaints regarding general misconduct by students, this Policy provides important definitions and other information that will be relevant to any member of the community, including students.

Complaints of discrimination or harassment that do not involve sexual misconduct are governed by the Anti-Discrimination and Harassment policy.

PART I: DEFINITIONS, RESOURCES, REPORTING OPTIONS

POLICY DEFINITIONS

Affirmative Consent means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Consent must be affirmative. The following six principles, along with the above definition, will be used to evaluate whether sexual activity was consensual:

- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated. Incapacitation may be caused by a lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and, therefore, unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, and/or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

Limitation on Consensual Relationships: The nature of the academic experience at Webb requires faculty members to develop close, supportive working relationships with students. Personal bonds should not be permitted to interfere with the professor/student relationship. Faculty members are, therefore, prohibited from having sexual relations and/or romantically intimate or amorous relationships with any Webb students.

Similarly, any administrator or employee in a supervisory role may not have sexual relations and/or romantically intimate or amorous relationships with any student or employee they supervise directly or indirectly. If, after the commencement of a consensual sexual, amorous, or romantically intimate relationship that is not prohibited by this Policy, the parties learn that due to a change in their duties, responsibilities, assignments or positions, their relationship will now be prohibited, both parties are required to notify the Title IX Coordinator as soon as possible in order to determine how to proceed. Notification is required regardless of whether the consensual relationship still exists.

Persons involved in consensual sexual, amorous, or romantically intimate relationships outside of the faculty/student, supervisor/subordinate, or others previously noted, must exercise caution to prevent the development of harassing behavior or use of authority inappropriately. Consensual relationships can change and conduct once welcomed by both, may become unwelcome to one.

The fact that there is initial consent to forming a romantic relationship or a specific sexual encounter does not preclude a charge of harassment in the future. Webb will respond to all reports of prohibited or inappropriate sexual, amorous, or romantically intimate behavior.

Bystander means a person who observes a crime, impending crime, conflict, potentially violent or violent behavior or conduct that is in violation of the rules or policies of Webb.

Complainant means the individual who reportedly experienced sexual misconduct, regardless of whether such individual reports such sexual misconduct to Webb or participates in Webb's conduct process for responding to complaints of sexual misconduct described herein.

Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers, and pastoral counselors are examples of Webb employees who may offer confidentiality.

Dating Violence means violence or coercive behavior committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual, physical, or psychological abuse, or the threat of such abuse.

Domestic Violence means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of New York, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York.

Force means the use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance. The use of force to cause someone to engage in sexual activity is, by definition, non-consensual contact, and is prohibited.

Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by a lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

In New York State, a person under the age of seventeen cannot consent to sexual activity. Sexual activity or sexual contact between an adult and someone under the age of seventeen is a violation of this Policy in accordance with the Penal Law of New York State.

Intimidation means implied threats that reasonably cause another to fear for his/her safety or well-being.

No Contact Order is a directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with applicable laws, including informing appropriate Webb employees.

Reporting Individual encompasses the terms victim, survivor, complainant, claimant, witness with victim status, or any other term used by Webb to reference an individual who brings forth a report of a violation of this Policy.

Respondent means a person accused of a violation who has entered Webb's conduct process.

Retaliation means taking any adverse action or attempting to take adverse action against a person for making a good faith report of sexual misconduct or participating in any proceeding under this Policy. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint of sexual misconduct or participation in an investigation or proceeding related to alleged sexual misconduct.

Examples of retaliation include, but are not limited to, the following actions taken because the individual has filed or makes known plans to file a complaint pursuant to this Policy:

- A professor fails a student or assigns grades lower than the student earned because the student has filed or makes known plans to file a complaint against the professor.
- A coach excludes a student from a team or limits the amount of playing time of a student during an athletic activity because the student has filed or makes known plans to file a complaint against the coach.
- A supervisor gives deflated performance evaluations, or withholds deserved support for promotion, or requires punitive work assignments of an employee because the employee has filed or makes known plans to file a complaint against the supervisor.
- A professor or administrator excludes a student from participation in an organization, club, or activity or imposes an inequitable workload because the student or employee has filed or makes known plans to file a complaint against the professor or administrator.
- A third party or person disparages a student or employee because the student or employee supports a complainant or any other participant in the process.

Sexual Activity includes any "sexual act" or "sexual contact."

- A **sexual act** means (a) contact between the penis and vulva or the penis and the anus where penetration occurs, however slight; (b) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (c) the penetration, however slight, of the anal or genital opening of another by hand or finger or by any object, with an intent to abuse,

humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (d) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

- **Sexual contact** means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with intent to abuse, humiliate, harass, degrade or arouse, or gratify the sexual desire of any person.

Sexual Assault includes non-consensual sexual intercourse and non-consensual sexual contact.

- **Non-consensual sexual intercourse** means any form of sexual penetration or intercourse (vaginal, anal, or oral), however slight, with any object by an individual upon another individual without consent and/or by force. Intercourse means: vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact).
- **Non-consensual sexual contact** means any intentional sexual touching, however slight, with any body part or object by an individual upon another individual without consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin, or touching another with any of these body parts; making another person touch any of these body parts; and any intentional bodily contact in a sexual manner.

Sexual Coercion is the application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.

Sexual Exploitation means abuse or exploitation of another person's sexuality, without consent, for the perpetrator's own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Examples of sexual exploitation include:

- Causing or attempting to cause the incapacitation of another person for purposes of comprising that person's ability to give Affirmative Consent to the sexual activity;
- Causing the prostitution of another person;
- Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person without the person's consent;
- Disseminating or posting images of private sexual activity;
- Engaging in voyeurism;
- Distributing intimate or sexual information about another person;
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent for the purpose of sexual activity; and/or
- Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.

Sexual Harassment means unwelcome conduct of a sexual nature, including, but not limited to, sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when:

- Submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of an individual's employment, educational or campus life activities, or used as the basis of any academic, student life or employment decision (quid pro quo); or

- Such conduct is sufficiently severe, persistent or pervasive such that it unreasonably interferes with or limits an individual's ability to participate in, or benefit from, Webb's educational or work programs or activities (hostile environment). Whether a hostile environment has been created will be evaluated from both a subjective and an objective perspective.

Examples of prohibited conduct that constitutes harassment include, or may include, but are not limited to:

- Verbal or non-verbal repeated and unwelcome sexual advances, innuendoes or propositions, racial or sexual epithets, derogatory slurs, off-color jokes, threats, or suggestive or insulting actions and/or sounds.
- Unwanted physical contact, including touching, interference with an individual's normal movement, or assault.
- Derogatory visual posters, cartoons or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures.

In evaluating whether a hostile environment exists, Webb will consider the totality of the known circumstances, including, but not limited to:

- The degree to which the conduct affected one or more individuals;
- The type, frequency, and duration of the conduct;
- The identity of and relationship between the alleged harasser and the subject or subjects of the harassment;
- The number of individuals involved;
- The age and sex of the alleged harasser and the subject or subjects of the harassment;
- The locations of the incidents, and the context in which they occurred;
- The effect of the conduct on the reporting individual's mental or emotional state;
- Whether the conduct unreasonably interfered with the reporting individual's educational performance or participation in Webb programs and activities;
- Whether the conduct implicates concerns related to academic freedom or protected speech; and
- Whether the conduct arose in the context of other discriminatory conduct.

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

Sexual Misconduct is a broad term that encompasses a wide range of prohibited behaviors of a sexual nature committed without consent or by intimidation, coercion, threat or force. Sexual misconduct includes, but is not limited to, sexual assault, sexual coercion, sexual exploitation, sexual harassment, dating violence, domestic violence, and stalking.

Sexual Violence refers to a sexual act perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by Webb

employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress. For purposes of this definition:

- **Course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- **Reasonable person** means a person under similar circumstances and with similar identities to the victim.

Conduct that violates Webb's Policy may also violate New York State laws and subject the perpetrator to criminal prosecution. Sex Offenses under New York law are described in Sections 130.00 to 130.96 of the New York State Penal Code, available at <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>.

INTENT

Failure to recognize that one's behavior is harassing or discriminatory to an individual or group of individuals is not an acceptable defense to sexual misconduct. Differences in perception on the part of individuals involved in complaints of sexual misconduct will be resolved based on the "reasonable person" standard in evaluating offensive behavior. All members of Webb community should consider how a reasonable person might view the behavior, not just the individual person's subjective intent.

INDIVIDUAL SPEECH GUIDELINES AND ACADEMIC FREEDOM

Webb has a role to play in encouraging the free flow of thoughts and ideas essential to higher education. While Webb does not encourage offensive or insensitive speech, principles of academic freedom limit Webb's ability to restrict speech that is germane to academic subjects and pedagogically appropriate to those subjects. However, when speech rises to the level of sexual misconduct, as defined in this Policy, it is not protected by academic freedom.

COOPERATION AND TRUTHFULNESS

All members of the Webb community, including students, faculty, and staff are expected to report all violations of this Policy and assist and cooperate in the application of this Policy, in particular by cooperating in any investigation under this Policy. Any person who knowingly misrepresents the truth, knowingly makes false allegations, or whose willful action or inaction obstructs the application of this Policy, will be subject to disciplinary action. An inquiry into a false complaint is a separate complaint and is resolved through a separate investigation.

RETALIATION

Webb prohibits retaliation against any person who reports sexual misconduct or participates in any proceeding under this Policy. Retaliation should be reported promptly to the Title IX Coordinator. Reports of retaliation will be investigated in accordance with the investigation procedures set forth in this Policy, and individuals found to have engaged in retaliation will be subject to disciplinary action independent of the sanction(s) or interim measure(s) imposed in response to the underlying allegation(s) of sexual misconduct.

RESOURCES

Any employee, student, or third party who believes that he/she is or may have been subject to sexual misconduct is strongly encouraged to report it in accordance with the procedures set forth in this Policy. For emergency or immediate assistance (twenty-four hours a day, seven days a week) contact the Glen Cove Police Department (516) 676-1000 or 911.

1. Immediate Medical Assistance and Counseling Resources

If you or someone you know is or may be the victim of any form of sexual misconduct, Webb strongly urges you to seek immediate assistance. This is the best way to ensure that the victim receives appropriate medical care and emotional support. Assistance is available from:

- Local Police and Emergency Assistance: Call 911 or (516) 676-1000
- Local hospitals: Call 911 to obtain contact information
- New York State Office of Victim Services Toll Free Number: (800) 247-8035
- New York State Domestic Violence Hotline: (800) 942-6906
- National Sexual Assault Telephone Hotline: (800) 656 - HOPE (4673)
- New York State Police Non-Emergency: (631) 756-3300 (Troop L Headquarters)
- New York State Police Sexual Assault Hotline: (844) 845-7269
- The Safe Center LI - Rape/Dating, Domestic Violence Hotline: (516) 542-0404
- Webb Psychologist, Dr. Michelle Stein: mstein@webb.edu

Victims of sexual assault should receive immediate medical attention. Sexual Assault Forensic Examiners (“SAFE”) are specially equipped and trained to handle sexual assault and gather evidence.

2. Webb Counseling Resources

Webb encourages all members of the campus community to report incidents related to this Policy. However, students who are not ready or willing to make a formal report, but still wish to speak with someone, can utilize the confidential resources of the Webb’s Psychologist, Dr. Stein. Webb also has a Memorandum on Understanding (MOU) in place with the Safe Center LI, this organization can provide counseling resources to both employees and students. The resources provided by Dr. Stein or the Safe Center LI are subject to legal confidentiality obligations that prohibit the release of information without the express consent of the individual:

REPORTING OPTIONS: WHAT TO DO IF YOU ARE EXPERIENCING (OR HAVE EXPERIENCED) SEXUAL MISCONDUCT

There are multiple avenues for reporting sexual misconduct. A complainant may choose to report to law enforcement, to Webb, to both, or to neither. These reporting options are not exclusive and a complainant may simultaneously pursue criminal and disciplinary action. Webb will work with students and employees to understand these options and how they differ.

1. Webb Notification

Webb urges victims and anyone who becomes aware of an incident of sexual misconduct to report the incident immediately to the Title IX Coordinator. Any incident of sexual misconduct reported to a Webb employee, with the exception of those designated as confidential, as set forth herein, must be reported by the employee to the Title IX Coordinator.

A Complaint Form is available on Webb's website (<http://www.webb.edu/wp-content/uploads/2016/02/Sexual-Misconduct-Complaint-Form-2018.pdf>) and in the offices of the Title IX Coordinator and the Director of Human Resources. You may choose to file the complaint form anonymously. This form will be received and reviewed by the Title IX Coordinator unless the complaint is against the Title IX Coordinator, in which case the form will be returned to, and reviewed by, the Director of Human Resources, Ms. Lana Miller (lmiller@webb.edu). Completion of the form is not mandatory and complaints can be filed orally with the Title IX Coordinator or Director of Human Resources.

The time frames included in this Policy may vary depending on the details of the complaint and, in some cases, the time of the academic year (e.g., during breaks or final exams). Webb will conduct an investigation and make all efforts to provide a resolution usually within sixty (60) days from the time Webb receives notice. However, the resolution of a complaint may vary depending on the complexity of the investigation and/or extent of the sexual misconduct. The sixty (60) day time period does not include the time period required for the appeal process. Webb may extend any time frame for good cause and will provide the complainant and respondent with a written explanation as to the reason for such extension.

a. Rights of Reporting Individuals (Students)

When Webb receives a report from a student that he or she has been the victim of sexual misconduct, including dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off-campus, Webb will provide the reporting individual with a written explanation of his or her rights and options. Webb will provide the reporting individual with written notification regarding existing counseling, health, mental health, victim advocacy, legal assistance, student financial aid and other services available for victims both within Webb and in the community. If the reporting individual is not the complainant, and the identity of the complainant is made known to Webb, Webb will provide such written notification to the complainant. A complainant will also have emergency access to the Title IX Coordinator, or his or her designee, who is trained in interviewing victims of sexual assault and who shall be available upon the first instance of disclosure by the complainant to provide information regarding

options to proceed and other important information about his or her rights under Webb policy and the law.

b. Timing of Complaint

There is no time limit on when a complaint must be made. Complainants are encouraged to report any alleged sexual misconduct immediately in order to maximize Webb's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation. Webb's ability to investigate and respond effectively may be reduced with the passage of time. However, reports may be made at any time without regard to how much time has elapsed since the sexual misconduct.

c. Student Amnesty

The health and safety of every student at Webb is of utmost importance. Webb recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Webb strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to Webb officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Webb officials or law enforcement will be not be subject to discipline pursuant to the procedures outlined in the [Webb Institute Alcohol and Other Drugs Policy](#) and the *Student Organization Handbook* for violations of alcohol and/or drug use policies occurring at or near the time of the domestic violence, dating violence, stalking or sexual assault incident.

d. Advisors

Each party may be accompanied by an advisor of his or her choice to any related meeting or Webb proceeding. The role of an advisor is limited to observing and consulting with, and providing support to, the complainant or respondent. Advisors may not speak on behalf of the complainant or respondent. At the request of the complainant or the respondent, the Title IX Coordinator will appoint to the requesting party an advisor who has been formally trained. An advisor may not direct questions to the Complaint Review Panel described below, or witnesses at the hearing, but may consult with the party that he or she is assisting. While the advisor may provide guidance and support, all written submissions must be authored by the complainant or respondent. All Webb administrators and staff will communicate directly with the complainant or respondent and not his/her advisor. The Complaint Review Panel will not allow an advisor's presence to inhibit the parties' sharing of information or the conduct of the hearing.

e. **Interim Action and Accommodations**

Any individual who has been the victim of sexual misconduct, regardless of whether he or she wishes to pursue resolution under this Policy, may request assistance in changing academic, transportation and working situations. Webb will grant such accommodations, provided they are reasonable and available. Such accommodations may include providing increased security, supervision or monitoring at locations or activities where the alleged misconduct occurred, adjusting an individual's academic or work schedule, changing an individual's housing arrangements, and issuing a No Contact Order. Webb will promptly address violations of any interim measures. Requests for accommodations in connection with incidents of sexual misconduct should be submitted, in writing, to Webb's Title IX Coordinator.

No Contact Order: Webb may impose a No Contact Order, which typically will include a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means, pending the investigation and, if applicable, the hearing. If the complainant and respondent observe each other in a public place, and that interaction would violate the No Contact Order, it shall be the responsibility of the respondent to leave the area immediately without directly contacting the complainant. In the event Webb imposes a No Contact Order, the respondent and/or complainant may request a review of the need for and terms of the No Contact Order, including potential modification, and may submit evidence in support of his or her request. Webb will conduct a prompt review in response to such request.

Order of Protection: A complainant also has the right to request the assistance of Webb in acquiring an order of protection from either the Family or Criminal Court. If an order of protection is granted, the complainant and the respondent will have the right to receive a copy of the order of protection when Webb receives the order. The complainant and respondent will also have the opportunity to meet or speak with an appropriate Webb employee who can explain the order and the consequences of violating the order, and answer any questions about the order. Additionally, if the order of protection is violated, the complainant may receive assistance from Webb in calling local law enforcement to inform them of the violation.

Interim Suspension: When the respondent is determined to present a continuing threat to the health and safety of the Webb community, the respondent may be subject to interim suspension pending the outcome of the resolution process. The respondent and complainant will, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for, and terms of an interim suspension, including potential modification, and will be allowed to submit evidence in support of his or her request.

f. Anonymous Sources

If Webb receives a report of alleged sexual misconduct by someone other than the complainant (e.g., a friend or roommate) or from an anonymous source, Webb's Title IX Coordinator will promptly notify the complainant of the report and inform him/her of available resources and assistance. In cases in which a report is made anonymously, this Policy will apply in the same manner as if the complainant had made the initial report.

2. Law Enforcement

Webb strongly encourages you to promptly report an incident of sexual misconduct to the police. Contacting law enforcement will ensure the preservation of evidence and facilitate a timely investigation and response. Webb representatives are available to assist you in notifying law enforcement of an incident of sexual misconduct and in contacting law enforcement or legal service organizations to learn about these remedies. If requested, Webb will also provide assistance with making this contact and initiating legal proceedings in family court or civil court. Except in instances where the victim is underage, Webb will respect a victim's decision regarding whether or not to report an incident to local law enforcement. Where an incident involves the suspected abuse of certain individuals, such as minors, Webb may have an obligation to report to law enforcement under New York State law.

a. Effect of Criminal Proceedings

Upon notice of the complaint, Webb's investigation will proceed regardless of whether a criminal matter is pending, though short delays may be allowed for outside law enforcement agencies to conduct their investigation. The filing of a complaint of sexual misconduct under this Policy is independent of any criminal investigation or proceeding. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. Webb will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any necessary interim measures to protect the complainant and the Webb community. However, Webb may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate the state criminal code.

REQUIRED REPORTING

Webb values privacy and understands that, for many victims of sexual misconduct, confidentiality is a primary concern. However, certain Webb employees are required by state and federal laws to share information from a report of sexual misconduct.

1. Responsible Employees

Responsible employees are accountable for actions or inaction that obstruct the application of this Policy. A "responsible employee" is any employee of the institution who has:

- The authority to take action to redress harassment,
- The duty to report harassment or other types of misconduct to appropriate officials, or
- Is someone the students or employees could reasonably believe has this authority or responsibility.

Responsible employees at Webb include all faculty members, executive staff members, members of the department handling student services, and advisors of on-campus organizations. A responsible employee must report all relevant details (obtained directly or indirectly) about the alleged incident of sexual misconduct shared by the reporting individual to the Title IX Coordinator. Such information includes dates, times, locations, and names of parties and witnesses. Although he or she cannot promise confidentiality, a responsible employee will strive to maintain privacy, and information reported to the responsible employee will be shared only with those having a need to know such information in order to respond in accordance with Webb policy. To the extent practicable and appropriate in the circumstances, investigatory and resolution procedures, as well as appeal procedures, shall reasonably insure the privacy of the parties concerned and offer as much protection as reasonably possible to the parties involved.

2. Reports Involving Minors

Child abuse includes both the physical and sexual abuse of minors under the age of seventeen. All Webb employees are directed to bring all reasonable suspicions, beliefs, and allegations of child abuse immediately to the attention of the Title IX Coordinator, who will then make the appropriate report to the New York State Child Abuse Hotline (State Central Register). Reports can be made directly to the Child Abuse Hotline at (800) 342-3720. Additional information about reporting is available at <http://ocfs.ny.gov/main/cps/>.

CONFIDENTIALITY

Webb understands that an individual who has been the victim of sexual misconduct may wish to talk about the incident with the assurance that the discussion will be completely confidential. The ability of Webb employees to maintain confidentiality is as follows:

1. Professional and Pastoral Counselors

Professional Counselors: A professional, licensed counselor whose official responsibilities include providing mental health counseling to individuals, including those who act in the role of providing mental health counseling under the supervision of a licensed counselor, are not required to report any information about an incident of sexual misconduct disclosed while acting within the scope of his/her license or certification to the Title IX Coordinator without the victim's permission. State law requires professional counselors to report: (i) when a patient is likely to engage in conduct that would result in serious harm to the patient or to others; or (ii) if there is reasonable cause to suspect that a minor has been sexually abused. Dr. Michelle Stein is the professional counselor available to all Webb Students. (mstein@webb.edu)

Pastoral Counselors: A pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides

confidential counseling, and is functioning within the scope of that recognition. A pastoral counselor is not required to report an incident of sexual misconduct to the Title IX Coordinator without the victim's permission. However, a pastoral counselor acting in some other manner, such as a faculty member, is not exempt from the reporting obligations. Pastor Dave Collins is the pastoral counselor available to the Webb Community. (dhcollins1@yahoo.com)

2. Requests for Confidentiality

Webb endeavors to respect and follow the wishes of an individual who brings forward a sexual misconduct complaint. However, complainants should understand that Webb may have ethical and legal obligations to investigate and attempt to resolve or adjudicate incidents of sexual misconduct that come to its attention. Therefore, depending on the circumstances, it may not be possible to honor a request for confidentiality while still providing a safe, nondiscriminatory environment for all members of the Webb community. The Title IX Coordinator is designated to evaluate requests for confidentiality.

When determining whether the complainant's request for confidentiality can be honored, the Title IX Coordinator will consider a range of factors, including, but not limited to, the following:

- Whether there have been other sexual misconduct complaints about the same respondent;
- Whether there is an increased risk that the respondent will commit additional acts of violence;
- Whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether Webb has other means to obtain relevant evidence (e.g., security cameras or personal, physical evidence);
- Whether the incident represents an escalation in unlawful conduct on behalf of the respondent from previously noted behavior;
- Whether the sexual misconduct was committed by multiple respondents;
- Whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- Whether the alleged sexual misconduct was perpetrated with a weapon; and
- The age of the complainant.

The presence of one or more of these factors could lead Webb to investigate the alleged sexual misconduct and, if appropriate, pursue disciplinary action in a manner that may require Webb to disclose the complainant's identity to the respondent. If Webb determines that an investigation is required, Webb will inform the complainant and take immediate action necessary to protect and assist the complainant. Webb will take all reasonable steps to investigate and respond to the complaint while maintaining the complainant's privacy to the greatest extent possible.

If, after considering these factors, Webb determines that it can honor the complainant's request for confidentiality, Webb will nevertheless take all reasonable steps to respond to the complaint consistent with the complainant's request for confidentiality, and will take immediate action as necessary to protect and assist the complainant. Webb will also consider broader remedial action, such as increased monitoring, security supervision at locations where the reported sexual misconduct occurred, increasing training, education and prevention efforts, and conducting climate

surveys. If Webb honors the request for confidentiality, the complainant must understand that Webb's ability to meaningfully investigate the incident and pursue disciplinary action against the respondent may be limited.

3. Clery Act Reporting

When reporting crimes for the purposes of Clery Act compliance, Webb will not release identifying information of the complainant or respondent. The Clery Act also requires Webb to issue timely warnings to the Webb community about certain crimes that have been reported and may continue to pose a serious or continuing threat to the campus community. Consistent with the Clery Act, Webb will withhold the names and personally identifying information of the reporting individual when issuing such timely warnings.

STUDENTS' BILL OF RIGHTS

In accordance with New York State law, all students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, complainant, accused, or respondent throughout the judicial or conduct process including during all meetings and hearing related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution.

PART II: INVESTIGATIVE PROCEDURES AND RESOLUTION

Webb is committed to providing a prompt, fair, and impartial investigation and resolution of all allegations of sexual misconduct. Part II of this Policy describes and identifies the procedures Webb will follow when it receives a report of sexual misconduct.

FILING A COMPLAINT

Complainants will be asked to either complete a written complaint or meet with the Title IX Coordinator who will complete a written complaint and ask the complainant to read and sign a verification of the complaint allegations. Once a complaint or notice is received, it will be reviewed by the Title IX Coordinator.

To ensure a prompt and thorough investigation of a complaint, the complainant should provide as much of the following information as possible:

- Name, department, and position of the person allegedly engaged in the misconduct.
- Description of the incident, including the date, location, and the identity of any witnesses.
- If the complainant is an employee, the alleged effect of the incident on the complainant's position, salary, benefits, promotional opportunities, or other terms or conditions of employment.
- If the complainant is a student, the alleged effect of the incident on the complainant's academic standing, housing environment, or social status or other terms or conditions of the educational environment.
- Names of other persons who might have been subject to the same or similar misconduct.
- Any other information the complainant believes relevant to the misconduct.

Regardless of whether an individual files a complaint or requests action, if Webb has knowledge, or reasonably should know, about possible sexual misconduct, Webb will conduct a prompt, thorough, and impartial investigation. Webb will also prepare a written record of the complaint if the complainant refuses to file or verify a written complaint form to record the details of the complaint.

The complainant reserves the right to withdraw a complaint or his/her involvement in Webb's investigation or resolution process at any time. However, in such instances, Webb's ability to respond will be limited and Title IX may nevertheless require Webb to complete the investigation processes.

MEETING WITH THE PARTIES

1. Meeting with Complainant

The Title IX Coordinator or his or her designee will schedule, within three (3) days of receiving the complaint, an individual intake meeting with the complainant.

At the intake meeting, the Title IX Coordinator or his or her designee will provide the complainant with a general understanding of this Policy and identify forms of support or immediate assistance

available to the complainant. Such information includes, but is not limited to, the complainant's right to report the incident(s) to local law enforcement agencies, information concerning available medical treatment, information on available support services, how Webb handles requests for confidentiality, and Webb's policy against retaliation. The Title IX Coordinator or his or her designee will also provide the complainant with a written explanation of his or her rights and options with respect to his or her report of sexual misconduct. The intake meeting may also involve a discussion of any interim accommodations that may be appropriate concerning the complainant's academic schedule and/or Webb employment arrangements.

At the initial intake meeting or at any subsequent time, the Title IX Coordinator or his or her designee will seek to determine how the complainant wishes to proceed, i.e., whether the complainant wishes to enter Webb's resolution process, described below, or does not wish to pursue resolution of any kind. If the complainant does not wish to pursue resolution through Webb's resolution process and either requests that his or her complaint remain confidential or refuses to participate in the initial intake meeting with the Title IX Coordinator, the Title IX Coordinator will inform the complainant that Webb's ability to meaningfully investigate and respond to the report may be limited. In such scenarios, Title IX nevertheless requires Webb to evaluate the complainant's request(s) for no action in the context of Webb's commitment to provide a safe and non-discriminatory environment for the entire Webb community.

2. Meeting with Respondent

The Title IX Coordinator or his or her designee will, within twenty-four (24) hours of receiving notice that the complainant would like to proceed with the resolution process, provide the respondent with written notification that a complaint of sexual misconduct has been filed, the date, time, location and factual allegations concerning the alleged violation, and a list of possible sanctions. The Title IX Coordinator will promptly contact the respondent to set up an intake meeting to discuss the allegations against the respondent and his/her rights under this Policy. The respondent is entitled to a presumption of non-responsibility until a finding of responsibility is made in accordance with the procedures set forth in this Policy.

INVESTIGATION

The Title IX Coordinator or his or her designee will investigate all complaints of sexual misconduct. The investigation is a neutral fact-finding process and will be conducted within a reasonable amount of time and will normally be completed within sixty (60) days. The investigator(s) will make every effort to keep the complainant and the respondent informed, on a timely basis, about the status of the investigation. During all phases of the resolution process, the parties will be provided with advance notice of any meeting they are required or eligible to attend.

The investigation will be conducted in a manner that is adequate, reliable, and impartial and may include any of the following:

- Interviews of the complainant and the respondent;
- Interviews of any witnesses;
- Interviews of individuals who may have observed the alleged misconduct or may have other relevant knowledge; and

- Gathering of any other relevant information, including, but not limited to, medical records, surveillance video, cell phone and other electronic records, and other evidence.

Each party will have an equal opportunity to submit evidence, identify witnesses, and submit questions that should be directed by the investigator(s) to the other party or to any witness, if deemed appropriate. The investigator(s) will collect and review evidence it deems necessary or helpful to the investigation of the alleged sexual misconduct.

Within five (5) business days of the investigation's completion, the investigator(s) will provide a written report of findings to the Title IX Coordinator. The complainant and respondent will each have an opportunity to review, but not copy, the investigative report in the presence of a Webb official. In response to the investigative report, both the complainant and the respondent will be given the opportunity to submit a written statement. The written statement must be submitted at least three (3) days prior to the hearing date.

Any employee or non-student who, after appropriate investigation, has been found to have violated this Policy, will be subject to disciplinary action, which may include reprimand, suspension from service for a stated period, with or without pay, termination of employment, or such other responsive actions deemed appropriate for the violation. Any student who, after an appropriate investigation, has been found to be in violation of this Policy, will be subject to disciplinary action, which may range from a warning to expulsion, depending on the severity of the misconduct, the student's cumulative conduct record, institutional precedent, and other mitigating or aggravating circumstances.

DISPUTE RESOLUTION OPTIONS

Upon completion of the investigation, if there are sufficient grounds to proceed, the matter will be adjudicated consistent with the dispute resolution options set forth below. Either a formal or an informal resolution process may be used. However, a complaint involving sexual violence of any kind cannot be resolved through informal resolution.

1. FORMAL RESOLUTION PROCESS

The formal resolution process involves a hearing before a committee comprised of three (3) members of the Complaint Review Panel ("CRP"), which is comprised of trained members of Webb's administration. All CRP members receive training, at least annually, on the issues relating to sexual misconduct, including sexual harassment, dating violence, domestic violence, sexual assault, and stalking. They will also be trained regarding how to conduct a hearing process that protects the safety of complainants, the due process rights of respondents, and promotes accountability.

Within five (5) business days of receiving the investigative report, the Title IX Coordinator will select the CRP members who will participate in the hearing. The Title IX Coordinator will also select a non-voting Chair.

a. Notice

Webb will provide written notice at least five (5) business days before the hearing date to both parties, stating the date, time, place of the hearing, and members of the CRP. A party wishing to challenge the participation of a CRP member must notify the Title IX Coordinator, in writing, within twenty-four (24) hours of receiving the written notice. The party must state the specific reason(s) for the party's objection. The Title IX Coordinator will then determine whether the party's objection has merit and review the appointment of the CRP member(s) to reassess whether the member will handle complaints impartially and objectively. If the party's claim has merit or if there is a conflict of interest where the member cannot be impartial, another member(s) will be appointed by the Title IX Coordinator to preside over the hearing.

b. Pre-Hearing Submissions

Each party will provide the Chair with a list of witnesses they wish the CRP to call, copies of documents, and a description of any other information they propose to present at the hearing at least three (3) business days prior to the hearing. The Chair will provide each party with a copy of the list of witnesses and copies of documents or other information submitted by each party. A party wishing to challenge the admittance of evidence and/or witnesses must notify the Chair, in writing, at least two (2) days before the hearing date. The party must state the specific reason(s) for the party's objection. The Chair will determine whether the challenge has merit, the relevance of any proffered evidence, and whether to include or exclude certain types of evidence. In the absence of good cause, as determined by the CRP, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided by this deadline.

c. Hearing Procedures

The hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the Chair will provide both parties with written notice explaining the reason for such change. The Chair will arrange for the hearing to be recorded. The complainant and the respondent have the right to be present at the hearing. Either party may request alternative methods of participating in the hearing, including through electronic means, if the party does not wish to be in physical proximity of the other party.

As a non-adversarial process, the hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The CRP will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. The CRP will ask for all necessary witnesses to be present, or to have provided written statements in lieu of attending the hearing. This may be done as necessary to accommodate a witness who cannot be present, or whom the CRP determines may remain anonymous. All parties will have the opportunity to present facts and arguments in full and question

all witnesses involved in the hearing. The CRP will review in advance of the hearing all the written materials provided.

The process of the hearing usually is as follows:

- Chair explains the hearing procedures;
- Participants are introduced;
- Investigator(s) present the investigation report;
- Questioning of and by both parties;
- Questioning of witnesses.

Only the CRP may question the individual parties and any witnesses unless permission is granted to modify the questioning process. The complainant and respondent will have the opportunity to suggest questions of the other party and/or of any witness. The complainant and respondent must submit suggested questions to the CRP in writing. The CRP reserves the right decline to ask questions submitted by a party where it determines that the information sought is not relevant to the resolution process.

In general, any information or questioning about the prior sexual history of the complainant or respondent with individuals other than the other party is precluded and will not be admitted as evidence at the hearing. Additionally, any information or questioning about either party's mental health history diagnosis and/or treatment is precluded and will not be admitted into evidence at the hearing. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanctions. After all witnesses have been questioned, each party may make a closing statement.

Character witnesses are not permitted at the hearing. Parties may present to the Chair for the CRP's consideration up to three (3) letters from character references.

In order to comply with the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99), and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, Webb will not disclose documents prepared in anticipation of the hearing or documents, testimony, or other information introduced at the hearing, or any notes taken at the hearing itself to anyone outside of the hearing proceedings, except as may be required or authorized by law and/or Webb policy.

If either party fails to appear at the scheduled hearing, the CRP may postpone the proceedings if there is a legitimate documented reason for the absence or proceed and determine the complaint on the basis of the evidence available, provided the absent party was duly notified of the scheduled hearing date. If the CRP determines that unresolved issues exist that would be clarified by the presentation of additional information, the CRP may suspend the hearing and reconvene it in a timely manner to receive such information. A delay may not be based on the failure of witnesses to

appear without good cause or on the proposed introduction of documents that were readily available at the time of the hearing.

d. Determination

The CRP will evaluate evidence under a **preponderance of the evidence** standard. “A preponderance of the evidence” means that the CRP, after careful consideration of the evidence, has determined that it is **more likely than not** that the respondent violated this Policy. The CRP will determine whether the respondent is responsible for sexual misconduct and will provide a written statement of such determination and a recommendation for sanctions or other appropriate measures to the Dean Matthew R. Werner (mwerner@webb.edu), when the respondent is a student, or, when the respondent is an employee, the Director of Human Resources. Ms. Lana Miller (lmiller@webb.edu).

e. Impact Statements

Within three business (3) days of the conclusion of the hearing, both the complainant and respondent will be given access to the record of the hearing and offered an opportunity to provide an impact statement to the Dean of Students or Director of Human Resources, as applicable, while he or she is deliberating on the appropriate sanctions. The record of the hearing may not be copied. The impact statement may be no longer than five (5) singled-spaced typed pages, using size 12 Times New Roman font and 1-inch margins. The impact statement is the individual’s opportunity to discuss his or her experience and the incident in question, as well as respond to how the investigation and hearing was conducted and any areas of agreement or disagreement with the investigation or hearing or determination of the CRP. The impact statement may not seek to introduce new evidence.

f. Sanctions and Disciplinary Actions

The Dean or Director of Human Resources, as applicable, may impose any of the following sanction(s):

- Reprimand or warning;
- Change in respondent’s academic schedule;
- Change in respondent’s work schedule;
- Forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership as full- or part-time faculty, adjunct faculty, staff, or administration, or student;
- Demotion or forfeiture of promotion or salary increase;
- Reassignment of Webb employment;
- Restitution;
- Disciplinary probation;
- Revocation of honors or awards;
- Restriction of respondent’s access to Webb facilities or activities;
- Community service;

- Issuance of a No Contact Order to the respondent or requirement that such an order remain in place;
- Change in respondent's housing assignment;
- Dismissal from, limitation on, or reassignment of Webb employment;
- Removal from student or employee housing;
- Suspension (limited time or indefinite, with or without pay (for employees));
- Expulsion;
- Training; and/or
- Revocation of degree.

In recommending the appropriate sanction(s), the Dean or Director of Human Resources, as applicable, may consider any record of past violation(s) of Webb policies, as well as the nature and severity of such past violation(s). Past findings of domestic violence, dating violence, stalking, or sexual assault may be relevant in the disciplinary stage that determines sanctions. The Dean or Director of Human Resources, as applicable, will also consider as part of the deliberations whether the respondent poses a continuing risk to the complainant and/or the Webb community.

The Dean or the Director of Human Resources, as applicable, shall review the parties' impact statements and the CRP's recommended sanction, and may either accept the recommended sanction, modify the recommended sanction, or reject the recommended sanction and impose a sanction that he or she deems more appropriate. Any sanction imposed will be explained and supported in the written decision of the Dean or the Director of Human Resources, as applicable.

If another Webb policy or handbook (such as the *Webb Faculty Handbook*) requires Webb to comply with specific procedures prior to imposing a certain sanction on an employee, the Director of Human Resources will ensure that Webb complies with such other procedures.

Within seven (7) business days from the determination, the Dean or Director of Human Resources, as applicable, will issue a determination letter to the respondent and the complainant. Both parties, concurrently, will receive a copy of this determination letter, which will contain the following information:

- the name of the respondent;
- whether the respondent has been found responsible or not responsible for specific violation(s) of this Policy;
- a list of the possible sanctions imposed, if any;
- the sanctions actually imposed;
- the rationale for the sanctions imposed;
- Webb's appeal process;
- any change to the results that occur prior to the time that the results become final;
- when the results become final.

Please note that Webb does not publicly release underlying information regarding investigations unless required by law. However, after students or employees are provided with an outcome, they can choose whether to disclose or discuss the outcome of the conduct process.

g. Records and Transcript Notation Policy

In accordance with Article 129-B of the New York State Education Law, if a student is found responsible through Webb’s conduct process for a crime(s) of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. § 1092(f)(1)(F)(i)(I)-(VIII), Webb will make one of the following notations on the transcript of such student:

- “suspended after a finding of responsibility for a code of conduct violation”; or
- “expelled after a finding of responsibility for a code of conduct violation”

If a student withdraws from Webb while such conduct charge(s) is pending and declines to complete the disciplinary process, Webb will note on the student’s transcript that he or she “withdrew with conduct charges pending.”

Employee records will be maintained for seven (7) years. Records pertaining to students will be maintained for seven years after the student’s graduation or after seven (7) years of academic inactivity, or in the event of suspension/expulsion, will be kept indefinitely. The academic records of students that have been found to have violated this Policy will be handled in accordance with Webb’s [Policy and Procedure for Transcript Notation](#). This Policy is posted on Webb’s website and a written or electronic copy can be obtained from the Registrar.

h. Appeal Process

The complainant or the respondent may request an appeal of the findings regarding the formal resolution process. A request for such an appeal must be submitted in writing to the Director of Development, Mr. Anthony Zic (azic@webb.edu) within three (3) business days of the receipt of written notification of the original outcome. If a request is not made in that time, then the decision is rendered final and the parties will be simultaneously so informed. An appeal of the decision may be considered if one (1) of the following grounds are present:

- i. A procedural error has occurred that significantly impacted the outcome (*e.g.*, substantiated bias, material deviation from established procedures, etc.). This error must be described in the letter requesting an appeal. Minor or harmless deviations from the process will not invalidate the proceedings;
- ii. The discovery of significant and relevant new information that was unavailable during the original process, which has become available and could impact the outcome. A summary of this new evidence, why it was previously unavailable, and its potential impact must be included in the request for an appeal; or
- iii. The sanction imposed is clearly not appropriate for the violation.

Once Webb receives a request for an appeal, a decision will be rendered by the Director of Development as to eligibility, usually within ten (10) business days. If there are insufficient grounds for an appeal, the appeal will be denied and the parties will be simultaneously informed.

If appropriate grounds are present, the appeal will be reviewed by an Appeals Panel, which is comprised of three (3) trained members of Webb's administration. The Appeals Panel shall not include the investigator or any member of the CRP and shall be assembled by the Director of Development. Regardless of whether all parties request an appeal, the complainant and respondent will be made aware of, and permitted to participate in, the appeal as it will be the only appeal conducted and its conclusion will be final. Where the complainant and respondent each request to appeal on different grounds, those grounds will be consolidated into one appeal process.

Except for appeals brought under (ii) above, the Appeals Panel's entire review process will be based on the party's appeal, the non-appealing party's response to the appeal, if any, and the Appeals Panel's record of the case. Otherwise, no additional evidence is allowed and no witnesses may be heard. The Appeals Panel will make a final determination on the appeal and issue a final determination letter to the respondent and the complainant.

2. INFORMAL RESOLUTION PROCESS

Certain complaints of sexual misconduct can be resolved through informal resolution procedures. These informal procedures may include, but are not limited to, an informal investigation, mediation, counseling, and/or any other means of resolving a complaint other than a formal resolution process. The use of the informal resolution process is voluntary and must be agreed to by the complainant, the respondent, and the investigator(s). Either the complainant or the respondent may end an informal process at any time and choose to pursue the formal resolution process, or the complainant can choose not to pursue the matter further.

The assigned investigator(s) will meet with the complainant to discuss the complaint and the process. The investigator(s) will explain to the complainant the nature of the informal resolution process, and, if acceptable to the complainant, the investigator(s), whenever possible, appropriate and safe, will attempt to resolve the problem or complaint through an informal resolution process. The complainant will not be required to meet with the respondent individual face to face. The informal resolution process attempts to resolve the issue with the complainant and the respondent by mutual agreement, which will be finalized in writing. Once a mutually agreed upon resolution is suggested, it will be reviewed, accepted, or modified by the Dean.

Once the recommendation for the informal resolution is approved, written notification will be prepared promptly by the Dean, with a copy to the Title IX Coordinator. The notification will specify the findings and the terms of the approved resolution. If either party is dissatisfied with the approved resolution, either may make a request within seven (7) business days of issuance of the written notification for formal resolution proceedings.

In cases involving employees, all mutually agreed upon resolutions are subject to the approval of the Director of Human Resources. After review of a proposed resolution, the Director of Human Resources will issue an outcome letter to the employees, with a copy to the Title IX Coordinator.

PREVENTION AND AWARENESS PROGRAMS

Creating a safe and respectful environment is the responsibility of all members of Webb's community. To promote and maintain this environment, Webb engages in comprehensive educational programming to prevent sexual misconduct (including sexual harassment, domestic violence, dating violence, sexual assault, stalking, and retaliation). Webb provides primary prevention and awareness programs for all incoming students and employees, and ongoing prevention and awareness campaigns for all students and employees. Webb seeks to ensure that all programs are culturally relevant, responsive to community needs, and informed by research and assessed for value.