



# Annual Security and Fire Safety Reports 2018





# Annual Security and Fire Safety Reports 2018

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## 1. Introduction

The College of the Holy Cross is committed to providing a safe and secure community, where students, faculty and staff may experience academic, professional and personal success.

To achieve this goal the Department of Public Safety provides a comprehensive program of police, security, crime prevention, fire safety, emergency medical, parking, transportation and related public safety services to help ensure the College community rERTins a safe and pleasant place to live, work and learn. The Department of Public Safety works collaboratively with students, staff and faculty in the development of crime prevention, security assessment, response and education. This collaboration is the foundation of maintaining an environment which encourages mutual respect, caring and safety for the campus community.

## 2. Preparation of the Annual Security and Fire Safety Reports and Disclosure of Crime Statistics

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (more commonly referred to as the “Clery Act”) was passed in 1990 and requires all postsecondary educational institutions participating in federal Title IV student financial assistance programs to disclose certain crime statistics, safety related policies and procedures, fire safety information, and fire statistics in annual security and fire safety reports to be published by October 1st each year. The College of the Holy Cross publishes its annual security and fire safety reports on the Department of Public Safety website: <http://www.holycross.edu/campus-life/public-safety/safety-security-fire-report>. The College, through the Department of Public Safety, disseminates a notice of the availability of these reports via a mass email to all current students, faculty, and staff. Anyone may obtain a paper copy of the Annual Security and Fire Safety Reports by contacting the Department of Public Safety at (508) 793-2224, or by making a request in person at the Department of Public Safety, which is located on the campus in the Fieldhouse.

These reports are published by the Director of Public Safety using information collected from Public Safety records (including campus safety authority reports as further described below), Director of Title IX Initiatives’ records, local law enforcement (e.g., Worcester Police Department, West Boylston Police Department), as well as state and federal law enforcement partners. The Public Safety Department records and maintains crime statistics for publication in the Annual Security and Fire Reports each year. (Except where noted, the College’s reference to years in these Reports relate to the calendar years for which the Clery Act requires reporting.)

The Department of Public Safety officers enter all reports of all crime incidents reported to the department in an automated case management software program called ReportExec. Once an officer enters the report, a Department of Public Safety administrator reviews the report to ensure it is appropriately classified in the correct crime category. The Department of Public Safety periodically examines the data to ensure that all crimes that have been reported are recorded in accordance with the crime definitions outlined in the FBI Uniform Crime Reporting (UCR) Handbook and the FBI National Incident Based Reporting System (NIBRS) Handbook (sex offenses only).

The Department of Public Safety maintains a close relationship with the Worcester Police Department and the West Boylston Police Department to ensure that we are notified of any crime report that is made directly to the Worcester Police Department and/or the West Boylston Police Department.

### Campus Security Authorities

The Clery Act requires the College to disclose certain crimes that occur within the College’s Clery geography and that are reported to campus security authorities (“CSAs”). CSAs include any member of the Department of Public Safety; any individual who has responsibility for campus security, but who is not a member of the Department of Public Safety; any individual identified by the College as someone to whom a crime should be reported; and any College official who has significant responsibility for student and campus activities. Individuals with these job functions or who have been designated as CSAs receive annual training on mandatory reporting obligations.

A designated CSA must report to the Department of Public Safety or the Title IX Coordinator, as appropriate, of the existence of all known incidents so that the incidents can be recorded as statistics and, where appropriate, included in the College’s Annual Security and Fire Safety Reports.

Examples of the College’s CSAs include, but are not limited to:

- Department of Public Safety staff members
- Athletic coaches
- Advisors to student groups
- Student affairs staff members
- Title IX Coordinator and Deputy Title IX Coordinators
- Residential Life staff members

Professional counselors and pastoral counselors acting in their professional capacity are not CSAs, and the Clery Act specifically exempts them from the responsibility to report to the Department of Public Safety criminal behavior disclosed to them.

### 3. The Department of Public Safety

#### Role, Authority and Training

The officers of the Department of Public Safety, other than the traffic enforcement officer, are all armed Sworn Police Officers in accordance with the provisions of M.G.L.c. 22C §63 and have full law enforcement authority in and upon all property owned, controlled, occupied or used by the College.

Department of Public Safety officers receive recruit training at the Massachusetts State Police Academy or Municipal Police Academies before they are commissioned as Department of Public Safety Officers. Annually, all officers receive of in-service training in First Aid, CPR, Firearms, All Hazard Training, Hate Crimes, Stalking and Dating and Domestic Violence, and legal updates. Officers also receive specialized training in investigations, crime prevention, and instructor certification in Rape Aggression Defense (RAD) training.

#### Working relationship with local, state agencies

The Department of Public Safety maintains a close working relationship with the Worcester Police Department, the West Boylston Police Department, the Massachusetts State Police, the Worcester County District Attorney 's office and federal law enforcement agencies.

### 4. Reporting Crimes and Other Emergencies

The College strongly encourages individuals to promptly and accurately report crimes, suspicious activities, emergencies, and dangerous situations occurring on or near campus to the Department of Public Safety or the Worcester Police. While the Department of Public Safety investigates crimes that occur on College property, Public Safety will assist individuals with contacting the Worcester Police to make reports if the individual requests or requires assistance for any crimes that occur outside of the College property. The College also encourages prompt and accurate reporting of crimes to the Department of Public Safety or local police when a victim of a crime elects to, or is unable to, make such a report. Working together, community members and the Department of Public Safety can reduce crime.

Reports can be made by calling the numbers listed at right at any time. Reports may also be made to Department of Public Safety officers patrolling on foot, bicycle or in clearly marked vehicles. Individuals may also make a report via mail or email.

#### Department of Public Safety

Emergency: 508-793-2222  
Non-emergency: 508-793-2224  
Fieldhouse

#### Worcester Police Department

Emergency: 911  
Non-emergency: 508-799-8606  
9-11 Lincoln Square, Worcester, MA 01608

#### West Boylston Police Department

Emergency: 911  
Non-emergency: 508-835-3233  
39 Worcester Street, West Boylston, MA  
01583

#### Confidentiality of matters reported to the Department of Public Safety

An individual may report a crime to the Department of Public Safety in matters in which the reporting party does not wish to pursue either judicial or disciplinary action. Please note that the Department of Public Safety cannot ensure that an allegation will remain confidential, however, because there are instances in which the Department is obligated to notify College personnel, such as the Title IX Coordinator and others, of incidents that may implicate the College's Sexual Misconduct Policy or incidents may indicate a pattern of crime with regard to particular location, method, or assailant, or in order to alert the campus community to potential danger. The College has listed confidential resources in this Report and the Sexual Misconduct Policy for individuals who would like to speak with someone on a confidential basis. Please see Section 8d for more information.

Individuals may anonymously report an incident of sexual misconduct, including violence (sexual assault, dating violence and stalking) by using the online reporting form located here: <https://apps.holycross.edu/titleix/reports/new>. All such reports are included in the annual disclosure of crime statistics. In addition, anonymous reports assist the College in evaluating whether a Crime Alert should be issued and in collecting valuable information about incidents of sexual violence that are not ultimately reported to the police. Those who are required to report crimes may not use this anonymous online reporting form to fulfill their reporting obligation.

Any publically available record keeping, including Clery Act reporting and disclosures, will not contain personally identifying information of victims. Additionally, confidential resources at the College, acting in their professional capacity are not CSAs, and the Clery Act specifically exempts them from the responsibility to report to the Department of Public Safety criminal behavior disclosed to

them<sup>1</sup>. College chaplains, counselors and medical personnel will inform individuals of their ability to provide a confidential report of an incident to the College for inclusion of the crime statistic in the Annual Security & Fire Safety Reports.

## Reporting Missing Persons

A person may be declared “missing” when their whereabouts are unknown and unexplainable for a period of time that is regarded by knowledgeable parties as highly unusual or suspicious in consideration of their behavior patterns, plans or routines, or 24 hours whichever is sooner. There are many instances in which persons are missing for unexplained reasons and under circumstances where they may be considered at risk.

### Where do I report a missing person?

Department of Public Safety - 508-793-2222  
Worcester or West Boylston Police  
Department - 911

In every instance when a person is reported missing, response time is of the essence. A Resident Assistant, Professional Staff Member or any other reporting party associated with the College, upon being notified of a missing person as defined shall immediately call or notify Public Safety (x2222).

Should a student be deemed missing for 24 hours the local and/or state law enforcement agency will be notified. The College will notify a custodial parent or guardian of any student under the age of 18 who is not emancipated, not later than 24 hours after the student has been declared missing.

Students at the College have an option to identify a confidential individual to be contacted not later than 24 hours after the student has been determined to be missing. Students may register a confidential contact person at any time by updating their information with the institution. This information will only be accessed by authorized campus officials and law enforcement in furtherance of a missing person investigation.

The Department of Public Safety will respond to all instances of missing persons and notify the Dean on Duty. The Department of Public Safety will also gather as much information as possible from the reporting party to include name, age, last known whereabouts, residence, physical and emotional condition at the time last seen, what, if anything, was communicated by the person and any other pertinent information available. The Department of Public Safety will also conduct a “hasty search” on foot if appropriate under the circumstances from the last known location to the most probable route of travel to the residence hall, other building on or off campus (within the immediate College area), or reasonable place on campus based upon the initial information gathered.

If the missing person is not found, nor their whereabouts discovered, during the search, the Dean on Duty will be immediately advised, along with the Director of Public Safety or designee. Should information be gathered or conditions exist during the course of the above events that the missing person is in imminent danger, the appropriate local and/or state emergency response personnel will be immediately notified.

## 5. Timely Warnings - Crime Alerts and other Notifications or Advisories

To keep the campus community informed, the College will issue alerts (referred to as “Crime Alerts”) for Clery Act crimes (which include, but not limited to, arson, aggravated assault, criminal homicide, robbery, burglary, sexual assaults, and hate crimes) occurring on campus, other College-controlled property and/or public property immediately adjacent to campus) that are reported to the Department of Public Safety or other College campus security authorities or are reported to the College by local police agencies, and are determined by the College to represent a serious or continuing threat to students, employees and our campus community. The College will notify the campus community of Crime Alerts through email notifications.

The purpose of these Crime Alerts is to notify the campus community of the incident and to provide information that may enable community members to protect themselves from similar incidents. The College will issue Crime Alerts whenever the following criteria are met:

- i. A crime is committed;
- ii. The perpetrator has not been apprehended; and
- iii. There is substantial and on-going risk to the physical safety of other members of the campus community because of this crime.

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<sup>1</sup> Confidential resources generally will not share identifiable information without the reporting individual’s permission, unless:

- Sharing is required to address an imminent risk of harm to the safety of the community at large, the individual sharing the information, or another member of the community; or
- The individual alleged to have been harmed is a minor (under 18), in which case the Massachusetts Department of Children and Families must be notified.
- Elder or disabled individual abuse has been alleged.

Please note that such employees who receive reports when not functioning in their licensed or confidential capacity (e.g., when teaching a course) are not prohibited from making a report. For example, a Jesuit professor or administrator is not a confidential resource when they are teaching classes, or acting as administrators.

Such crime alerts will be issued for: Clery Act crimes that are reported to any campus security authority or the local police; or when the College determines that the incident represents an on-going threat to the campus community. The College is not required to issue a crime alert with respect to crimes reported to a pastoral or professional counselor.

The purpose of these Crime Alerts is to notify the campus community of the crime and to provide information that may enable community members to protect themselves from similar incidents. Crime Alerts will not include the names of victims. The College is not required to issue a Crime Alert with respect to crimes reported to a pastoral or professional counselor acting in that capacity.

Additionally, the College may, in some circumstances, issue Crime Alerts when there is a pattern of crimes against persons or property.

The Director of Public Safety and/or the Director of Title IX Initiatives, or their designees, will make the determination in consultation with other offices, if a Crime Alert is required. The Director of Public Safety, or his or her designee, is responsible for issuing the Crime Alert.

For incidents involving off-campus crimes, the College may issue an advisory to the College community if the crime occurred in a location used and frequented by students and employees.

The College also has the ability to send notifications to any campus community members and parents or guardians of students of the College who registers an email address with the Department of Public Safety through the STAR system. These messages are a very effective way to send important information to the campus community and can assist members of the community to make informed choices about safety.

## **6. Emergency Response and Evacuation Procedures**

**The College requests that you heed emergency notification warnings and follow any instructions given.**

### *Emergency Management Plan*

The Holy Cross Emergency Management Plan addresses the College's response to emergencies by taking an all-hazards approach. The Emergency Response Team (collectively, "ERT") including but not limited to designated representatives from the departments of Public Safety, Finance and Administration, Facilities, and Athletics, have primary responsibility for maintaining the plan.

### *Training, Drills and Exercises*

No less than once a year, the ERT will plan and conduct or cause to be planned and conducted a simulated emergency exercise, including, but not limited to, drills to test a single procedural operation (e.g. initiating an emergency alert text) and an exercise involving a test of coordination of efforts. Tests and exercises may be announced or unannounced. Follow-through activities to review the test and/or exercise, assessment of the emergency plan and capabilities with measurable goals and the College's emergency response and evacuation procedures will be conducted. The ERT are responsible for documenting each test, including the exercise, the date, time and whether it was announced or unannounced.

In conjunction with at least one emergency exercise each year, the College will notify the community of the exercise and remind the community of the information included in the College's publicly available information regarding emergency response and evacuation procedures by email.

### *Procedures for Reporting Emergencies*

The College's procedures for reporting emergencies are described above under "Reporting of Crimes and Emergencies." Holy Cross may receive initial warning of an emergency or pending disaster from a number of sources, including 911 calls; students, faculty, staff or visitors; the National Weather Service (NWS); local, state or federal emergency officials or the media. When an emergency or disaster appears imminent, Holy Cross emergency personnel will notify the Department of Public Safety, the Public Information Officer and the ERT.

### *Emergency Response*

In the event of an emergency, each Emergency Management Administrator is responsible for convening the ERT group to assess the situation and determine the appropriate response. The ERT will convene with other members of the Emergency Management Leadership and Support Teams and other representatives to provide support and a coordinated response across the College.

Additional personnel, including members of the Emergency Response Team, Emergency Personnel (as defined in the College's Emergency Personnel Policy), employees of Student Health Services and volunteers, may also be called upon during an emergency.

Further, the ERT may rely upon local resources and emergency responders, including but not limited to Worcester Emergency Management, Worcester Police Department, Worcester Fire Departments and Worcester Public Works. The ERT may also seek assistance from neighboring institutions of higher education.

## **Emergency Communications Systems**

### *General Information and Clery Requirements*

To provide the campus community with information necessary to make informed decisions about their health and safety, the College will issue emergency notifications upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. The College will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

In evaluating whether a significant emergency or dangerous situation exists, the College will rely upon information received by first responders, including but not limited to Public Safety, Facilities or the relevant College department that witnessed the event. Generally, in an event that implicates campus safety, Public Safety will evaluate whether an emergency exists. When there is an issue with campus facilities, the College will rely upon Facilities' staff to determine the status of an incident. ERT will be available and will communicate about issues in a timely manner via text message. If necessary, the College will rely upon external agencies to inform decision making regarding the status of and appropriate action in the event of an emergency.

Upon the determination that a significant emergency or dangerous exists, the College will send an emergency communication to the segment of the population that is affected. This will generally include the whole campus. In determining the content of the message, the College will rely upon (1) template messages written in advance; and/or (2) new messages written in real time, as relevant to the circumstances and with input of the Public Information Officer, and other departments as appropriate.

### *Emergency Notification Systems*

#### *Blackboard ConnectED*

Blackboard ConnectED is a hosted emergency notification system which allows the sender to transmit alerts via text or sms message, email and phone call simultaneously. Students are required to setup an emergency contact number each semester before proceeding which may be updated at any time.

The Director of Public Safety and his or her designees have the primary authority and responsibility for the maintenance, management and use of the emergency communication systems. In the event of an emergency, the designated Department of Safety personnel may send alerts through Blackboard ConnectED and the audible campus alert system as well as the Chief Facilities Officer, the Associate Director of Information Technology and the Information Security Officer or their designees.

#### *Email*

The College may also use its email system to send notifications and updates. The following individuals are authorized to send campus-wide emergency emails: Director of Public Safety, Vice President for Communications, Director of Marketing and Communications, and Director of Human Resources or their designees.

#### *Website*

The College's official website has the capacity to display an emergency banner. The Director of Marketing and Communications or designees is responsible for determining when information can be posted and the specific content to be provided. In the event of an emergency, the Director of Marketing and Communication (and/or designees) will direct appropriate staff to make the requested communications.

#### *emergency.holycross.edu*

The College maintains a webpage reserved solely for emergency notifications, hosted at [emergency.holycross.edu](http://emergency.holycross.edu). The Director of Marketing and Communications and designees has the authority for determining when information can be posted and the specific content to be provided.

## *Social media sites*

The College maintains two official social media accounts that can be used in the event of an emergency. The College's official Facebook page is hosted at <https://www.facebook.com/collegeoftheholycross/>. The College's official Twitter page is [https://twitter.com/holy\\_cross](https://twitter.com/holy_cross). The Director of Marketing and Communications (or designees) is responsible for maintaining these pages, creating appropriate content and its distribution.

## *Periodic Testing*

The Emergency Response Team will facilitate testing on our emergency communications systems twice a year, using all systems of emergency management. These events will be scheduled and communicated with Holy Cross campus students, faculty and staff to minimize disruption. Public Safety will maintain a log of this testing to include a description of the exercise, the date and time of the test, and a statement of whether it was announced or unannounced.

## **Security of and Access to Holy Cross Facilities**

### **Access to Campus Facilities**

Most campus facilities, other than student residence halls, are accessible to members of the campus community, their guests, and visitors during the day, at night and on weekends depending on scheduled events and time of the year.

### **Access to Residence Facilities**

All exterior doors to student residence halls and most residential corridors are locked 24 hours a day. An electronic computerized card access system monitors all exterior doors and the corridor doors to the residential areas.

Access to the halls is by the Holy Cross Crusader One Cards, which are issued by the Department of Public Safety. The cards are programmed to allow access into the residence halls. Students are encouraged to report all missing and lost cards as soon as possible to the Department of Public Safety. All reported missing and lost cards are immediately removed from the card access system and replacement cards are issued. All exterior doors to the residence halls are equipped with an anti-prop/vandalism device. This device activates an alarm in the Department of Public Safety Dispatch Center when a door is propped or held open. When an alarm is activated, a public safety officer is dispatched to investigate the cause of the alarm.

All overnight guests of students must be registered in STAR (the College's Student Record system). They must register their motor vehicle with the Department of Public Safety.

### **Maintenance and Security of Campus Facilities**

The College maintains a very strong commitment to campus safety and security. The College reviews all employee injuries, reports of hazards and makes recommendations to the College Administration for corrective action. Members of the Department of Public Safety and the Department of Facilities regularly observe the College grounds, exterior lighting, parking lots and access to all buildings and reports concerns through the Department of Facilities.

The Department of Public Safety, Facilities, and the Student Government Association conduct a periodic check of campus lighting. Public Safety Officers are required to identify and report any possible safety hazards and lighting problems during their regular patrols and report their findings to the appropriate authorities. On-call Facilities personnel may be contacted to respond to any maintenance emergency. Contact can be made through the Department of Public Safety by calling 508-793-2224, anytime day or night.

The campus buildings and grounds are patrolled 24 hours a day by Public Safety officers in vehicles, bicycles and on foot. All buildings are secured in the evenings and opened for special events or activities.

## **7. Crime Prevention Programs**

### **Security Awareness and Crime Prevention Programs and Tools**

The Department of Public Safety places particular emphasis on crime prevention. A primary vehicle for accomplishing this goal is the College's crime prevention program. This program is based upon the dual concepts of eliminating or minimizing criminal opportunities whenever possible and encouraging students and staff to be responsible for their own safety/security and the security of others.

The following is a listing of the crime prevention programs and tools offered by the College of the Holy Cross:

#### **a. Escort Programs**

The Department of Public Safety provides a personal safety escort service for persons walking on campus and from campus, to a



principal place of residence within a reasonable distance of the campus, during all hours when personal safety is a concern.

**b. New Student Orientation**

A crime prevention presentation, accompanied by brochures and other printed material, is given to new students during the beginning of each academic year. Security is also discussed at the opening day panel for parents and new students.

**c. Residence Hall Security**

Crime prevention programs accompanied by literature and other printed materials are available in residence halls on a regular basis. Security presentations are given to Resident Assistants (RAs) each year in August, at a training workshop.

**d. Emergency Telephones**

All residence halls have exterior emergency telephones. Some parking lots have emergency phones; all are identified by a blue light and signs.

**e. Crime Prevention Presentations**

Crime prevention presentations are made annually to such groups or organizations as resident students, commuter students, faculty and staff including specific academic departments. Programs are tailored to the interests of those requesting a presentation.

**f. Printed Crime Prevention Material**

Printed crime prevention brochures, posters etc. related to sexual assault, residence hall safety reminders, off campus safety and library security are distributed at various locations throughout campus.

**g. Electronic Access Systems Card**

An electronic access system monitors all residence hall exterior entrances. An alarm monitoring system is located in the Public Safety office.

**h. Crime Prevention Officer**

The Crime Prevention Officer attends off campus workshops and maintains communication with other institutions to stay abreast of new ideas and programs in the crime prevention area. This position is currently inactive.

**i. Video Surveillance**

The College deploys a video surveillance system of campus properties and buildings.

**8. Sexual and Gender Violence Prevention and Response Policies, Support, and Education**

The College of the Holy Cross is a community of trust based in the Jesuit tradition whose existence depends on strict adherence to standards of conduct set by its members. Among these are standards regarding human sexuality, any expression of which must affirm the integrity and dignity of oneself and others. Sexual misconduct, in all forms, violates the sanctity of the human body and spirit and will not be tolerated within the College community. The College is committed to providing an environment of wellbeing, learning, and accountability for its members by preventing the occurrence of sexual misconduct and addressing its effects.

**a. Policy**

The College rejects and condemns all forms of harassment, discrimination, retaliation and disrespect, and is committed to sustaining a welcoming environment for everyone and especially for those vulnerable to discrimination on the basis of race, religion, color, national origin, age, marital or parental status, veteran status, sex, disability, genetic information, sexual orientation or gender identity. It is the policy of the College to adhere to all applicable state and federal laws prohibiting discrimination. The College does not discriminate unlawfully in admission to, access to, treatment in or employment in its programs and activities on the basis of a person's race, religion, color, national origin, age, marital or parental status, veteran status, sex, disability, genetic information, sexual orientation, gender identity or any other legally protected status, while reserving its right where permitted by law to take action designed to promote its Jesuit and Catholic mission.

The College's commitment to non-discrimination includes an assurance that the College will not tolerate discrimination or harassment on the basis of sex, sexual orientation or gender identity, including, but not limited to sexual violence, dating or domestic violence, or stalking, or retaliation, in its community. The College follows through on that commitment, in part, through the implementation of a Sexual Misconduct Policy that defines prohibited conduct and the process by which the College will address such conduct in different circumstances.

The Sexual Misconduct Policy applies to all College community members, and all members of the College community are responsible for being familiar with and abiding by the Sexual Misconduct Policy at all times.

The College will also provide additional relevant resources for the community on the Title IX website. While separate from the Policy, these additional resources are part of the College's ongoing efforts to ensure an environment free of discrimination on the basis of sex.

## **b. Definitions of Covered Offenses**

### **Definitions of Prohibited Conduct and Consent under the College of the Holy Cross Sexual Misconduct Policy**

The following are the definitions of conduct that is prohibited under the College's Sexual Misconduct Policy. These definitions are made available to the College community on the College's website: (<http://www.holycross.edu/sexual-respect-and-title-ix>):

#### **Sexual Violence/Sexual Assault:**

Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Physical sexual acts include, but are not limited to, vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact. This definition includes rape, sexual assault, sexual battery, and sexual coercion and includes assault with the specific intention to commit such an act. Sexual violence may involve individuals who are known to one another or have an intimate and/or sexual relationship (relationship violence), or may involve individuals not known to one another.

#### **Other Inappropriate Sexual Contact:**

Having or attempting to have sexual contact of any kind other than that defined as "Sexual Violence" with another individual without consent. Other inappropriate sexual contact may include kissing, touching, or making other inappropriate contact with the breasts, genitals, buttocks, mouth, or any other part of the body that is touched in a sexual manner and without permission.

#### **Stalking:**

More than one instance of unwanted attention, harassment, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to alarm or place that individual in fear of harm or injury, including physical, emotional, or psychological harm. This includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, texts or other similar forms of contact are used to pursue, harass, or make unwelcome contact with another person. Stalking and cyber-stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

#### **Relationship Violence (including Domestic Violence and Dating Violence):**

Relationship violence is any intentionally violent or controlling behavior of one individual by a person who is currently or was previously in a relationship with that individual. Relationship violence may include actual or threatened physical injury, sexual violence, psychological or emotional abuse, and/or progressive social isolation.

#### **Consent and Coercion:**

Consent is the affirmative and willing agreement to engage in a specific form of sexual contact with another person who is capable of giving consent. Consent cannot be obtained through: (a) the use of coercion, or (b) by taking advantage of the incapacitation or impairment of another individual, including someone who is incapacitated or impaired by intoxication or drugs, is underage, is unconscious, or is asleep. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has chosen freely to engage in a sexual contact.

Coercion is defined for purposes of this section as the application of unreasonable pressure to take part in sexual activity or in any of the prohibited conduct listed in the Sexual Misconduct Policy. Unreasonable pressure can be exerted through physical or emotional force, intimidation, misuse of authority, tricks, or outright threats. When someone makes it clear that he or she does not want to engage in sexual activity or does not want to go beyond a certain point of sexual interaction, continued unreasonable pressure beyond that point may be considered coercive.

Silence, passivity, or the absence of resistance does not imply consent. Relying solely on non-verbal communication may result in confusion about whether there is effective consent. It is important not to make assumptions. If confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and verbally clarifies the other's willingness to continue. Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease. Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual contact. An essential element of consent is that it be freely given.

In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances including, but not limited to, the extent to which an individual affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from intimidation, fear, or coercion; whether a reasonable person in the position of the individual alleged to have committed the conduct would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or

reasonably apparent to the individual alleged to have committed the conduct, demonstrating incapacitation or fear.

### **Definitions of Prohibited Conduct under Massachusetts' State Law:**

In addition to the definitions of conduct that is prohibited by the College, the following are excerpts compiled from the Massachusetts General Laws that describe how certain relevant behavior is defined in Massachusetts. These definitions are not identical to the definitions of conduct prohibited in the College's *Sexual Misconduct Policy*, but the College considered these definitions in developing its *Policy*. These definitions are made available to the College community on the College's website: <http://www.holycross.edu/sexual-respect-and-title-ix>.

#### **Sexual Assault (Rape, Indecent Assault & Battery):**

Sexual assault is defined under Massachusetts law as rape or indecent assault and battery.

Rape is defined as occurring when a person has "sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise..."

Indecent assault and battery occurs when one person touches another person in an "indecent" way. Examples of indecent assault and battery include touching a person's buttocks, breasts, or genitals without consent. The Commonwealth must prove that the defendant touched the alleged victim without justification or excuse; and that the touching was "indecent;" and that the alleged victim did not consent.

An indecent act is one that is fundamentally offensive to contemporary standards of decency.

#### **Stalking:**

The act of "willfully and maliciously engaging in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress and makes a threat with the intent to place the person in imminent fear of death or bodily injury." Stalking includes, but is not limited to, acts or threats conducted by mail or by use of a telephonic or electronic communication device. Communications include, but are not limited to, electronic mail, internet communications, instant messages or facsimile communications.

#### **Domestic and Dating Violence:**

"Abuse" is defined as "the occurrence of one or more of the following acts between family or household members:

- attempting to cause or causing physical harm;
- placing another in fear of imminent serious physical harm;
- causing another to engage involuntarily in sexual relations by force, threat, or duress."

Family or household members are defined as "persons who:

- are or were married to one another;
- are or were residing together in the same household;
- are or were related by blood or marriage;
- having a child in common regardless of whether they have ever married or lived together; or
- are or have been in a substantive relationship, which shall be adjudged in consideration of the following factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship."

#### **Consent:**

In Massachusetts, it is illegal to have sex under any circumstances with someone who is incapable of giving consent due to incapacity or impairment; incapacity or impairment may be caused by intoxication or drugs, or because a victim is underage, mentally impaired, unconscious, or asleep. For purposes of this policy, consent is an explicitly communicated, reversible, mutual agreement to which all parties are capable of making a decision.

Massachusetts has several laws that define the age of consent and the additional penalties that attach if a person is under the age of 16 or 14. *E.g.*, statutory rape laws, indecent and assault and battery on a person under the age of 14.

### c. Resources and Guidance for Reporting and/or Complaining Parties

Individuals who have experienced sexual violence, other inappropriate sexual contact, relationship violence, and stalking experience a wide range of normal feelings and have many questions and concerns. No one deserves to be abused, assaulted or stalked. We want you to know that you are not alone. There are many College resources to assist individuals.

In an emergency, dial 911. Immediately get to a safe place and call someone you trust.

#### **Confidential Off-Campus Medical Attention after Sexual Assault or Other Violence**

Medical attention is strongly encouraged to treat any possible injuries, including internal injuries or infections, even if there is no visible injury. Please note that there are some medical actions that are more effective if taken within a few days after an incident, such as sexually transmitted infections, pregnancy testing, evidence collection and toxicology testing if there are signs that drugs or alcohol facilitated the offense. Prompt medical attention may be especially helpful to prevent the transmission certain of sexually transmitted infections, such as HIV, as long as medications are administered within the first 24-72 hours following an assault. Generally one may discuss the incident with licensed medical personnel on a confidential basis.

For these reasons, the College recommends that any person who has experienced sexual violence obtain medical assistance at a hospital immediately after or within 72 hours of a sexual assault. These providers offer physical exams and provide sexual and reproductive health services (e.g., sexually transmitted infections and pregnancy testing). Sexual assault nurse examiners (SANE) are available to collect evidence in the event the individual seeks to pursue criminal charges or a protective order.

- St. Vincent's Medical Center, Emergency Room, 508-363-6025
- University of Massachusetts-Memorial Hospital, Emergency Room, 508-334-6481
- University of Massachusetts-University Campus, Emergency Room, 508-421-1750
- University of Massachusetts-University Campus, Emergency Mental Health, 508-856-3562

Department of Public Safety officers will transport you to the hospital without the need to disclose the purpose of the visit. You may also secure a cab through Health Services or be transported by friends to the hospital.

A Sexual Assault Medical Examination is used to (a) collect evidence important in criminal prosecution or a civil case; and (b) treat possible injuries or illness sustained from the offense. Having the examination provides an opportunity to obtain any possible evidence necessary to support your case should you choose to handle the matter through the criminal justice or other legal process. This examination is a voluntary procedure and it does not commit you to any legal action. You are not required to make a police report. Any evidence collected during the examination is held up to six months in a confidential file which is identified only by a number, not a name. It is an individual's right to ask for a sexual assault nurse examiner to perform the examination.

There is no charge for a sexual assault medical examination completed in a Massachusetts hospital within five days of a sexual assault occurring in the Commonwealth. The hospital where the examination occurred will work with the Massachusetts Victim Compensation & Assistance Division for the payment of any lab work, emergency room fees, physician fees during the hospital visit, and/or medications prescribed. You may also be eligible for additional expenses associated with your aftercare deemed medically necessary as a result of the incident. This can include further medical treatment, medications, counseling, replacement bedding and clothing (taken during the administration of the kit), security measures, etc. To be eligible for these post-exam expenses, you will need to complete the MA Sexual Assault Forensic Kit Post Exam Application provided at the time of discharge.

If a victim-survivor did not obtain an examination, the MA Victim Compensation Fund may also cover the costs of the examination care as well as post-examination care (for example, for follow up care for sexually transmitted infection prevention, medication, and testing, counseling, security measures, lost wages, among others) but only if a standard Crime Victims Compensation application to the fund is completed and submitted from the victim survivor. Additionally, a report must be filed with law enforcement. More information can be obtained at [www.mass.gov/ago/vcomp](http://www.mass.gov/ago/vcomp).

#### **WHAT TO DO IF YOU OR SOMEONE YOU KNOW EXPERIENCES SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE OR STALKING**

- Go to a safe place.
- Contact the police (911), Public Safety (508-793-2222) or call someone you trust.
- Get medical attention as soon as possible to make sure your physical injuries are treated, including any internal injuries or infections and to collect important evidence for possible criminal action.

The Director of Health Services is available to assist individuals in determining what resources are available. A confidential meeting can be scheduled by calling Health Services at 508-793-2276.

The staff can provide immediate care in a safe environment and review available options with you. Transportation to a local hospital with a support person of your choice can be arranged.

### Consider Steps to Preserve Evidence

Any person who has experienced sexual violence is encouraged to take steps to preserve evidence of the incident, as doing so may be necessary to the proof of the crime or to obtain a protective order. Your clothing and surroundings may contain valuable evidence. Try to refrain from going to the bathroom unless you save a urine specimen in a clean container. Try to refrain from drinking, showering, douching, brushing your teeth, combing your hair, changing your clothing, or straightening up anything. It is natural to want to do these things, yet it is important that a physician be able to examine you as you are from the incident. If you need to change your clothes, place each garment worn during the incident in a separate paper (not plastic) bag. If the incident involves any written or electronic communications (such as texts, pictures, videos, social media posts, phone calls), try to preserve copies and not delete the originals.

### d. Reporting Options

The College of the Holy Cross encourages individuals to report incidents and provides a variety of reporting resources to assist with reporting. The Title IX Coordinator leads the College's efforts to respond to reports of conduct that could trigger the Sexual Misconduct Policy. While individuals may report for inclusion in the Annual Security Report and/or seek resources as set forth below, any non-confidential reports will be managed by the Title IX Coordinator. Please see Section 4 for more information regarding reporting crimes and other emergencies.

#### *Confidential College Reporting*

**On Campus Medical, Counseling and Pastoral Resources.** Some College resources are individuals designated as "confidential resources." These College employees serve in professional roles in which communications are provided confidential status under the law (e.g., licensed mental health care providers, licensed medical providers, pastoral counselors and clergy) and may not report identifying information about behavior that may implicate the Sexual Misconduct Policy without the consent of the individual who supplied the information in question or otherwise in compliance with law.<sup>2</sup> However, these confidential resources will inform individuals of their right to file a complaint under the Sexual Misconduct Policy and/or with the police and may assist in that process. They will tell individuals about the option to report anonymously for inclusion in the annual Clergy statistics.

Victims may also use the online form to anonymously report sexual violence <https://apps.holycross.edu/titleix/reports/new>. These reports will be included in the annual statistics where applicable pursuant to the Clergy Act.

Publicly available record-keeping such as timely warnings and the daily crime log will not include personally identifying information.

#### *College Reporting (Not confidential)*

To report a violation or make a complaint under the Sexual Misconduct Policy, please contact the Title IX Coordinator or a Deputy Title IX Coordinator.

You may also make a report to, or discuss an allegation under our Policy with, other College employees. The College recognizes that individuals may feel most comfortable disclosing incidents to College employees whom the individual knows well. However, it is important to note that College employees, other than the confidential resources described above, are obligated by law to disclose reports and information concerning unlawful discrimination on the basis of sex, sexual orientation, gender identity, or marital or parental status, sexual harassment (including, but not limited to, sexual violence, relationship violence, stalking and sexual misconduct), or retaliation toward any member of the College community that is shared with them to the Title IX Coordinator. These employees are known as

#### **CONFIDENTIAL ON-CAMPUS REPORTING**

**Counseling Center**, Hogan 207, 508-793-3363 (M-F, 9:00-12:00; 1:00-5:00); After hours, contact Public Safety (508-793-2222) and request to be put in touch with the Psychologist on Call.

**Health Services**, Loyola Hall, 508-793-2276 (M-F, 9:00-12:00; 1:00-5:00); Nights and weekends: Contact the Physician on Call, 508-334-8830.

**Chaplains' Office**, Campion House, 508-793-2448 (M-F, 9:00-5:00); Nights and weekends, after hours, contact Public Safety (508-793-2222) and request to be put in touch with a Chaplain.

**Employee Assistance Program: KGA, Inc.** 800-648-9557

**Faculty Ombudspersons**, Isabelle Alvarez-Borland, (508-793-3451); Mathew Schmalz, (508-793-2557)

<sup>2</sup> Confidential resources generally will not share identifiable information without the reporting individual's permission, unless:

- Sharing is required to address an imminent risk of harm to the safety of the community at large, the individual sharing the information, or another member of the community; or
- The individual alleged to have been harmed is a minor (under 18), in which case the Massachusetts Department of Children and Families must be notified.

- Elder or disabled individual abuse has been alleged.

Please note that such employees who receive reports when not functioning in their licensed or confidential capacity (e.g., when teaching a course) are not prohibited from making a report. For example, a Jesuit professor or administrator is not a confidential resource when they are teaching classes, or acting as administrators.

“Responsible Employees.” With the exception of the confidential resources listed above, all full-time and part-time faculty and employees and Residence Assistants are considered Responsible Employees.

Once a Responsible Employee learns about an incident, allegation or receives a report, the College is on notice and then may be required to investigate. Whenever possible, Responsible Employees will disclose their duty to report incidents before someone reveals information about an incident. The College encourages individuals to speak with a Responsible Employee so that an incident can be investigated and properly resolved.

When a report is made to the Department of Public Safety, the Director of Title IX Initiatives, the Title IX/Nondiscrimination Investigator or any Deputy Title IX Coordinator, the person to whom the report is made shall inform the individual of their option to notify local law enforcement authorities, including the Worcester Police Department, the West Boylston Police Department or the Department of Public Safety. The Reporting Party retains the right to report or to not report to law enforcement at all times.

The individual shall be informed of the importance of preserving evidence required for proof of possible criminal activity. The individual shall also be informed of the resources such as on and off-campus counseling, mental health, and other student services and will be provided with their written notice of rights, options, and resources.

The College will act with discretion with regard to the privacy of individuals and the sensitivity of the situation when it receives a report of conduct that could trigger the Sexual Misconduct Policy. Absent special circumstances, Title IX Coordinator and Deputy Title IX Coordinators will share information with College personnel who assist in implementing the College’s policies and procedures.

There are certain instances in which the College has a broader obligation to the College community and may need to override an individual’s request for privacy or a request that the College not investigate a matter or a request not continue with an investigation where a Complaining Party is unwilling to participate in further investigation. Because such requests could impact the College’s ability to appropriately address and resolve the behavior in question, the College will weigh these requests very carefully.

In the case of sexual misconduct allegations, the Title IX Coordinator will evaluate the request for confidentiality or that an investigation/discipline not occur by considering a range of factors including, but not limited to, whether:

- There have been similar complaints about the same individual
- There appears to be a pattern of perpetration
- The alleged responding party has a history of violence
- The alleged responding party threatened further or future violence
- The misconduct was alleged to have been committed by multiple perpetrators
- The alleged responding party holds a position of power over the alleged victim or others
- The alleged victim is a minor
- Whether the alleged behavior may constitute Quid Pro Quo Harassment or create an Inappropriate Environment Based on Sex
- The College possesses no other means to obtain relevant evidence

The presence of one or more of these factors may lead the College to commence an investigation or continue an investigation. If so, the College will inform the Complaining/Reporting Party prior to proceeding and will to the extent possible share information only with the individuals responsible for handling the College’s response and others involved in the investigation. In the event that a Complaining/Reporting Party requests that the College inform the Responding Party that the Complaining/Reporting Party asked the College not to investigate or seek discipline, the College will honor the request and inform the Responding Party that the College made the decision to proceed.

**The College’s Title IX Director and  
Deputy Title IX Coordinators**

**NOT CONFIDENTIAL**

**Director of Title IX Initiatives/ Title IX**

**Coordinator:**

Tracy Kennedy

Hogan Campus Center, Room 505

508-793-3336

[tkennedy@holycross.edu](mailto:tkennedy@holycross.edu)

**Assistant Director of Title IX  
Initiatives/Deputy Title IX Coordinator:**

Cheryl Rogers

Hogan Campus Center, Room 505

508-793-2596

**Deputy Title IX Coordinators:**

Alan Hurley

Human Resources, O’Kane Room 72

508-793-2426

Paul Irish

Hogan Campus Center, Room 109

508-793-2669, [pirish@holycross.edu](mailto:pirish@holycross.edu)

Ellen Keohane

Smith Hall, Room 101

508-793-2652, [ekeohane@holycross.edu](mailto:ekeohane@holycross.edu)

Rose Shea

Luth Athletic Complex, Room 243B

508-793-2318, [rshea@holycross.edu](mailto:rshea@holycross.edu)

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

### ***Criminal Reporting (not confidential)***

Individuals who believe that they may have been victims of a crime may file a criminal complaint with the Department of Public Safety and/or the local police department where the incident occurred. An individual may make BOTH a criminal complaint and a complaint to the College under its Sexual Misconduct Policy.

The College encourages individuals to report incidents to the police so the police can take appropriate measures to help individuals and prevent future crimes. However, individuals are never required to report an incident to the Department of Public Safety or the local police and can decline to do so.

If anyone would like assistance in filing a report with local law enforcement, the Department of Public Safety will help. If you wish to file a report with off-campus authorities, you may choose to go directly to the local police department. The College will provide transportation for you to go to the police department to file a report. You also may choose to have the police come to campus. The College can arrange for a discreet and private place to meet for this purpose.

By filing a report, you are not committed to seeking criminal prosecution of the assailant. However, the College will evaluate its obligation to conduct an internal investigation.

### **Abuse Prevention and Harassment Orders**

The College complies with Massachusetts law in recognizing Abuse Prevention Orders (under M.G.L. c. 209A) and Harassment Prevention Orders (under M.G.L. c. 258E). Any person who obtains an Abuse Prevention Order (commonly referred to as a “209A Order”) or a Harassment Prevention Order (commonly referred to as a “258E Order”) from Massachusetts or any reciprocal state should provide a copy to the Department of Public Safety and the Title IX Coordinator.

In the event a person is seeking to obtain either an Abuse Prevention Order or a Harassment Prevention Order, the Department of Public Safety will make all reasonable attempts to help facilitate the required process. An individual that has received or is in the process of seeking such an order may also meet with the Department of Public Safety to develop a Campus Safety Plan, which is a plan for the Department of Public Safety and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location or allowing a student to complete assignments from home, etc.

If you need help with obtaining an order, the Massachusetts Office for Victim Assistance (<http://www.mass.gov/mova/>) offers a program called SAFEPLAN that provides specially trained and certified advocates to help victims of domestic violence, sexual assault, and stalking who are seeking protection from abuse many courts across the Commonwealth. Call the Safelink hotline for Jane Doe, Inc., the Massachusetts Coalition Against Sexual Assault and Domestic Violence at 1-877-785-2020 for more information.

There are other programs in some Massachusetts courts that provide people who can help you fill out the forms and go with you to the courtroom. In some cases the advocate is from the local domestic violence service provider. In other cases, victim-witness advocates at the county District Attorney’s Office assist individuals in filing for an order under M.G.L. c. 209A or M.G.L. c. 258E.

If you are in crisis and courts are closed, you can call or go to the Department of Public Safety or the Worcester Police Department, West Boylston Police Department, or other police department. The Department of Public Safety, working in conjunction with the Worcester Police Department, West Boylston Police Department, or other police department can help facilitate an immediate protective order.

#### **Criminal Reporting Options**

- **Holy Cross Department of Public Safety**, Fieldhouse 508-793-2222.
- **Worcester Police Department**, Sexual Assault, 9-11 Lincoln Square (Exit 17 off I-290, turn left), 508-799-8606
- **West Boylston Police Department**, 39 Worcester Street, 508-835-3233
- **District Attorney’s Office**, Child Abuse and Sexual Assault Unit, 255 Main Street, Worcester, MA, 508-792-0214

## **Rights and Resources, including Accommodations and Interim Measures**

WRITTEN NOTICE. Individuals who have reported sexual assault, domestic/dating violence, or stalking, whether or not the incident occurred on or off campus, shall receive a written explanation of their rights and options. This written explanation identifies existing counseling, health, mental health, advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims, both within the institution and in the Worcester community. It also describes options available assistance in, and how to request, changes to academic, living transportation and working situations or protective measures. The College of the Holy Cross will make such accommodations or provide such protective measures if the individual requests them and they are reasonably available, regardless of whether the individual chooses to report the incident to the Department of Public Safety, the Title IX Coordinator (or any investigators or deputies) or to local law enforcement.

The College will maintain the confidentiality of any accommodation or protective measure provided, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodation or protective measures.

### **Process: Stages, Timing, Sanctions**

The College of the Holy Cross's process for investigating and resolving complaints is conducted by officials who receive annual training on the issues related to dating/domestic violence, sexual assault and stalking. They are trained in how to conduct an investigation that protects the safety of the parties and promotes accountability. The College's overarching goal is that all complaints be investigated in a prompt, fair, and impartial manner.

The College's commitment to non-discrimination includes an assurance that the College will not tolerate unlawful discrimination or harassment on the basis of person's sex, marital or parental status, sexual orientation, gender identity or any other unlawful basis or retaliation in its community.

The College follows through on that commitment, in part, through the implementation of its Sexual Misconduct Policy and Process for Investigating and Resolving Complaints. These policies and procedures apply to all College community members, and all members of the College community are responsible for being familiar with and abiding by them at all times.

This process describes how the College will investigate a report that an individual or group of individuals has engaged in conduct that could violate the College of the Holy Cross Sexual Misconduct Policy (<http://www.holycross.edu/sexual-respect-and-title-ix>), and determine what, if any, safety measures and/or disciplinary sanctions are appropriate.

### **1. Initial Steps; Interim Measures**

After receiving a report of conduct that could fall under the Sexual Misconduct Policy, the Title IX Coordinator, or his or her designee<sup>3</sup>, will take a number of initial steps. These initial steps are not an investigation. Rather, these initial steps will enable the College to assess the need to take any immediate action to address the safety and health needs of the Complaining Party<sup>4</sup> and the College community, and to determine the next steps for investigating the reported conduct and the need for any interim measures.

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

(A) The Title IX Coordinator will contact the Complaining Party and encourage him/her/zim/them to meet to discuss the nature and circumstances of the reported conduct, review relevant documentation that is available and address the need for any interim measures. Examples of interim measures with respect to sexual misconduct may include no-contact orders, requests for academic adjustments, changes to living, dining, transportation, working and/or immigration situations, statutorily provided leave to employees pursuant to M.G.L. c. 49, §52D, and other actions to address the situations and the Complaining Party's immediate physical safety and emotional

<sup>3</sup> Where the Title IX Coordinator is listed as the designated point of contact for any role in the Sexual Misconduct Policy, he or she may designate a Deputy Title IX Coordinator or another qualified member of the College community to assume the role at issue, as necessary and appropriate. Where another College official or employee is listed as the designated point of contact for any role in the Sexual Misconduct Policy, he or she may designate another College official or employee to assume the role at issue, as necessary and appropriate.

<sup>4</sup> The individual who experienced conduct that may have violated the Sexual Misconduct Policy will be referred to as the "Complaining Party." The individual who is alleged to have violated the Sexual Misconduct Policy will be referred to as the "Responding Party." When the Complaining Party and the Responding Party are discussed collectively, they will be referred to as the "Parties" and may be referred to as a "Party." There may be instances where another person, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under the Sexual Misconduct Policy, and that person is referred to as the "Reporting Party." In those limited circumstances, the College will determine which of the protections provided to the Complaining Party under the Sexual Misconduct Policy are also applicable to the Reporting Party.



needs and concerns on an interim basis.

**(B)** The Title IX Coordinator will assess the reported conduct to determine whether the circumstances pose a threat to the health or safety of the College community that warrants issuance of a timely warning, a stay-away order for any persons, or any other interim protections, including, but not limited to, suspension of a student, placing an employee on leave, or restricting any individual from other privileges prior to completing an investigation. During the interim action, the College reserves the right to prohibit the individual from entering upon the College's property or participating in any College activities absent written authorization from an appropriate College official. The failure of an individual to comply with an interim restriction is a violation of this Policy and may lead to additional disciplinary action. The decision to impose interim restrictions will be communicated by the Title IX Coordinator in writing and will be effective immediately.

**(C)** The Title IX Coordinator will notify the Complaining Party about: (a) the availability of the Sexual Misconduct Policy; and (b) the right to report and the right to decline to report the matter to Department of Public Safety and/or to local law enforcement if the conduct is potentially criminal in nature (and that such a report will not change the College's obligation to potentially investigate the matter but it may briefly delay the timing of the investigation if a law enforcement agency requests that the College delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct).

**(D)** The Title IX Coordinator will notify the Complaining Party of the available resources for seeking medical treatment, counseling, spiritual guidance, other interim measures and other resources.

**(E)** If the Title IX Coordinator determines the reported conduct could, in any way, trigger the Sexual Misconduct Policy, he or she will contact the Complaining Party to discuss that determination. In connection with allegations of sexual misconduct, if, at this time, the Complaining Party requests that the process not move forward, the College will weigh that request against the College's obligation to address any risk of harm to the Complaining Party or other individuals in the community and the nature of the incident or conduct at issue. Except in limited circumstances in which a Complaining Party's request not to proceed to investigation is granted, the Title Coordinator will proceed to Section 3. Also, see Section d, Reporting Options above. If an investigation or informal resolution will be commenced (or such earlier time as the Title IX Coordinator determines is appropriate), Title IX Coordinator will notify the Responding Party of available resources for seeking medical treatment, counseling, spiritual guidance, interim measures, and other resources.

**(F)** If the Title IX Coordinator determines that the reported conduct would not, in any way, trigger the Sexual Misconduct Policy, he or she will advise the Complaining Party of such in writing and refer the reported conduct to the appropriate administrator for handling consistent with any other appropriate College policy. (If new information is subsequently provided, the decision whether or not to investigate the reported conduct may be reevaluated.)

## **2. Optional Informal Resolution Procedure.**

*The following Informal Resolution Procedure may not be used in an effort to resolve allegations of Sexual Violence, Other Inappropriate Sexual Contact, Inducing Incapacitation, Stalking or Relationship Violence, as each of those terms is defined in the Sexual Misconduct Policy.*

At any time prior to convening a Determination Panel, a Party may request an informal resolution of a complaint rather than a n investigation by contacting the Title IX Coordinator in writing. All Parties and the Title IX Coordinator must agree to informal resolution for this option to be used. The Title IX Coordinator will assess the request for informal resolution against the severity of the alleged violation and the potential risks to campus community members. If the Title IX Coordinator determines that informal resolution is appropriate, the Title IX Coordinator will notify the Parties.

The Title IX Coordinator will designate a College representative to facilitate a dialogue with the Parties in an attempt to reach a resolution. The allegation will be deemed resolved when the Parties expressly agree to an outcome that is acceptable to them which is approved by the Title IX Coordinator in consultation with other appropriate College administrators. A Party may withdraw from the informal resolution process at any time. The informal resolution process will be conducted in accordance with procedures specified by the Title IX Coordinator, as determined in his/her sole discretion.

The Title IX Coordinator may initiate an investigation at any time that deems it appropriate in his or her sole discretion.

## **3. The Investigation Phase**

**(A) Notice of an Investigation.** If it is determined that the reported conduct could trigger the Sexual Misconduct Policy and an investigation is required, the Title IX Coordinator will prepare a written notice to the Complaining Party and Responding Party that will include a brief description of the allegations, the portions of this Policy that are alleged to have been violated, and any interim measures in place about which either Party must be made aware. This written notice does not constitute a finding or a determination of responsibility.

**(B) Information about Advisors in Connection with Allegations of Sexual Violence, Other Inappropriate Sexual Contact, Relationship Violence and Stalking.** In connection with an allegation of sexual misconduct involving sexual violence, other inappropriate sexual contact, relationship violence or stalking<sup>5</sup>, each Party, including any Reporting Party, may have a single advisor of such Party's choice present during any College disciplinary proceeding, including any related meeting, interview, or hearing, held pursuant to the Sexual Misconduct Policy. Once an advisor has been selected by a Party, the Party must provide the name and contact information of the advisor to the Title IX Coordinator. Changes to the advisor selected by a Party may be made for good cause with the prior approval of the Title IX Coordinator, as determined in his/her sole discretion. Advisors may not participate actively while present at any disciplinary proceeding and may not speak or otherwise communicate on the part of the Party that the advisor is advising. However, the advisor may ask to suspend any meetings, interviews, or hearings briefly to provide private consultation related to the disciplinary proceeding in progress. An advisor is subject to the same confidentiality expectations applicable to others in attendance. Accommodations, including scheduling of interviews or reviews, generally will not be made for any advisors if they unduly delay the process. The advisor is not permitted to attend a meeting or proceeding without the Party without the prior approval of the Title IX Coordinator, as determined in his/her sole discretion. The College reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the Title IX Coordinator. A union-represented employee who is a Responding Party may choose as an advisor a person who is not a union representative, if the Responding Party does not desire to have the union representative participate in the proceeding.

**(C) Support Services and Resources.** The Title IX Coordinator will notify the Responding Party about (a) the availability of the Sexual Misconduct Policy, (b) available resources set forth in Sections IV and V, and (c) discuss interim measures. The Parties should review College and Community Resources Sections regarding the available support services and resources at the College and in the community. At the request of either a Party or witness, the Title IX Coordinator can discuss further the support services, resources, and options available.

**(D) Designation of Investigator.** The Title IX Coordinator will designate at least one investigator to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the "Investigative Report"). At the College's discretion, the investigator may be an internal or an external investigator and more than one investigator may be assigned. All investigators – internal or external – will be selected from a group of qualified and trained individuals employed by the College or engaged by the College for the purpose of conducting investigations under the Sexual Misconduct Policy. The Title IX Coordinator will provide the Parties with the name of the person(s) assigned to investigate the reported conduct (the "Investigator(s)"). As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Investigator(s), the Parties should inform the Title IX Coordinator (in writing) of any conflicts of interest with regard to the selected Investigator(s). The Title IX Coordinator will consider the nature of the conflict and determine if different individual(s) should be assigned as Investigator(s). The Title IX Coordinator's decision regarding any conflicts is final. The Title IX Coordinator may consult with other College personnel (e.g., the chair of the Committee on Faculty Affairs in the case of teaching faculty) to discuss any conflicts of interest.

**(E) Nature of the Investigation.** The investigation will include separate interviews with the Complaining Party, the Responding Party, and any witnesses whom the Investigator(s) believe will provide necessary and relevant information. The investigation may include the review of documentation or other items relevant to the reported conduct. The Investigator(s) will provide the Parties with written notice of meetings at which their presence is required.

**(F) The Parties' Identification of Potential Witnesses and Documentation.** The Parties have the opportunity (and are expected) to provide the Investigator(s) with the identification of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator(s) to speak. The Parties also have the opportunity (and are expected) to provide the Investigator(s) any documentation or other items or questions they would like to be considered or posed to any witness or the other Party. All information and questions described in this section must be presented to the Investigator(s) in writing and include a brief description as to how the persons, documents, and/or items are relevant to the reported conduct. This information must be provided to the Investigator(s) during the Investigation Phase and without delay upon becoming aware of it. The Investigator(s) will exercise discretion in their determination of what information and questions to consider and which potential witnesses identified by the Parties can provide relevant information to the investigation.

**(G) Investigation Prohibitions.** Neither Party will be permitted to question or cross-examine directly the other Party directly during the investigation or disciplinary proceedings questions are for the other Party may be submitted to the Investigator(s) as described above. Moreover, the Investigator(s) generally will not gather or consider information related to either Party's sexual history outside of the conduct in question except as relevant to the alleged policy violation, as determined in the sole discretion of the Investigator(s).

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<sup>5</sup> Advisors are not permitted in connection with investigations of any other allegations of violations of the Sexual Misconduct Policy. Nothing in the College's Sexual Misconduct Policy is intended to undermine or alter any rights afforded to a union-represented employee, as provided by applicable law or any collective bargaining agreement, including, but not limited to, a union-represented employee's *Weingarten* rights.

**(H) Responding Party Voluntary Agreement to Policy Violation.** At any point prior to the convening of a Determination Panel, a Responding Party may agree in writing to the alleged violation(s) of the Sexual Misconduct Policy and, in the cases of sexual harassment not involving sexual violence, other inappropriate sexual contact, sexual exploitation, stalking or relationship violence, a sanction proposed by the Vice President of Student Affairs (students), Provost/Dean of the College (faculty) or the Director of Human Resources (staff or third party), as applicable. In cases of sexual violence, other inappropriate sexual contact, sexual exploitation, stalking or relationship violence, the individuals responsible for imposing sanctions will determine and impose sanction(s) pursuant to Section 5(a) below.

#### **4. Investigative Report and Determination of Responsibility by Determination Panel**

**(A) Content of the Investigative Report.** At the conclusion of the Investigation Phase, the Investigator(s) will prepare an Investigative Report, which should include a summary of the factual information presented during the Investigation Phase, a separate section where the Investigator(s) point out relevant consistencies or inconsistencies (if any) between different sources of information, and a separate section describing the Investigator(s)' perception of the demeanor of the individuals interviewed. The Investigative Report will not include a determination by the Investigator(s) as to whether a Party has violated the Sexual Misconduct Policy or what sanctions may be appropriate. These determinations will be made by the Determination Panel, as described below.

**(B) Review by the Parties.** The Parties will have an opportunity to review the Investigative Report and may submit written comments about the content of the Investigative Report to the Investigator(s) within five (5) calendar days of the date they are notified that the Investigative Report is available for review. This review will take place at a secure location and in a secure manner determined by the College. The time to submit written comments can be extended for a brief period if the Title IX Coordinator concludes, in his/her sole discretion, that the additional time is warranted. Likewise, the secure location and manner of reviewing the Investigative Report can be modified if the Title IX Coordinator deems it necessary and appropriate. Each Party may have such Party's advisor review the Investigative Report with them in connection with an allegation of sexual misconduct involving sexual violence, other inappropriate sexual contact, relationship violence or stalking. Photographs or any other copies of the Investigative Report are not allowed by either Party or advisor. The comments submitted by the Parties may not exceed ten (10) double spaced pages (12 point font and one inch margins) unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Title IX Coordinator. After reviewing the submissions, if any, from the Parties, the Investigator(s) may determine that either additional investigation is required or no further investigation is needed. If further investigation is conducted, the Investigator(s) will include any additional relevant information in the Investigative Report. The Investigative Report will then be submitted to the Title IX Coordinator. Any submissions made by either Party pursuant to this section, as well as any other documentation deemed relevant by the Investigator(s), will be attached to the Investigative Report.

**(C) Convening the Determination Panel.** The Title IX Coordinator will convene a three-member Determination Panel (the "Determination Panel") from a previously established pool of College community members trained to decide cases pursuant to this Policy and sexual misconduct cases. In no instance shall the Panel include students. In the event that a Responding Party is a teaching faculty member<sup>6</sup>, at least one of the members of the Determination Panel shall be a tenured faculty member. The Title IX Coordinator will provide the Parties with the names of the persons assigned as the Determination Panel members for their case. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the assigned Determination Panel members, the Parties should inform the Title IX Coordinator (in writing) of any conflicts of interest in regard to the selected members assigned to the Determination Panel. If a conflict of interest is raised regarding any of the individuals assigned to the Determination Panel, the Title IX Coordinator will consider the nature of the conflict and determine if different individuals should be assigned to the Determination Panel. The Title IX Coordinator may consult with other College personnel (and shall consult with the chair of the Committee on Faculty Affairs in the case of any conflict of interest with respect to a proposed Determination Panel member who is a teaching faculty member) to assess any conflicts of interest. The Title IX Coordinator's decision regarding any conflicts is final. The Title IX Coordinator will then submit the Investigative Report to the Determination Panel members and set a subsequent date for the Determination Panel to meet to determine responsibility.

**(D) Review and Determination by the Determination Panel.** The Determination Panel will make a determination as to whether or not the Responding Party is responsible for violating the Sexual Misconduct Policy by having engaged in some or all of the reported conduct. The Determination Panel has the authority to accept the Investigative Report without seeking additional investigation, or to ask the Investigator(s) to conduct additional investigation on specific points. The Determination Panel, in its discretion, may invite the Investigator(s) to attend a Determination Panel meeting if the Panel believes it would be helpful to have an opportunity to ask the Investigator(s) any questions arising from the Investigative Report. The Determination Panel also has the authority, in their discretion, to speak directly with any persons identified in the Investigative Report. The Determination Panel, as the ultimate decision-maker in the

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<sup>6</sup> For purposes of this Policy, the "teaching faculty" is defined by reference to Chapter I, Section A of the Faculty Statutes.

matter, is provided broad discretion. In appropriate circumstances, the Title IX Coordinator may give special instructions to the Determination Panel.

**(E) Notification of Decision.** Upon reaching a determination of responsibility, the Determination Panel will provide a written notification of its decision to the Title IX Coordinator. If sanctions are necessary, they will be assigned in accord with Section 5 below. The notification will consist of a brief statement of the allegations and the determinations made by the Determination Panel and with respect to a Responding Party who is a student, any sanctions that are imposed pursuant to Section 5. While the notification may, at the discretion of the Determination Panel, include a brief description of the determination process, it will not include any recommendations for sanctions with respect to Responding Parties who are employees or faculty members.

**(F) Standard of Proof.** All findings and determinations of responsibility for a violation of the Sexual Misconduct Policy under the Sexual Misconduct Policy will be made using a preponderance of the evidence standard. This standard requires the determination of whether it is more likely than not that a fact exists or a violation of the Sexual Misconduct Policy occurred. Please note that the preponderance of the evidence standard is not the standard used for criminal culpability in most jurisdictions and a determination of responsibility under the Sexual Misconduct Policy does not equate with a finding of a violation of criminal laws. Conversely, lack of a prosecution or conviction in a criminal proceeding does not necessarily imply that the College's Sexual Misconduct Policy was not violated. The two procedures are significantly different and utilize different standards for determining violations.

**(G) Student Groups, Organizations and Teams.** A student group, organization or team may be held collectively responsible for a violation of this Policy when one or more members of the group or other individuals associated with the group, organization or team are found responsible for a violation of this Policy and the Determination Panel separately determines that:

- members of the group, organization or team acted in concert with respect to misconduct;
- the individual found responsible for committing the misconduct was either acting on behalf of the group, organization or team or engaged in an activity sponsored, financed or endorsed by the group, organization or team or its leaders;
- the misconduct grows out of, occurs during, or is related to any activity or event sponsored, financed or endorsed by the group, organization or team;
- any leader, officer, or team captain of group, organization or team had knowledge of the misconduct or incident before or while it occurred and failed to take corrective action; and/or
- a pattern of individual misconduct by members of the group, organization or team is found to exist.

The designated student leader or leaders (e.g., president, officer(s), or team captain(s)) shall represent the student group, organization or team throughout the process. There shall be no right of individual appeal of any member of the student group, organization or team to a group sanction.

## 5. Determining Sanctions

**(A) Sanctioning Decision.** The College employees responsible for determining sanctions are as follows:

(i) **Students.** Sanctions regarding students and student groups, organizations and teams will be determined by the Determination Panel. A Student Affairs representative will appear before and address the Determination Panel regarding sanctions. The Determination Panel's determination will be shared with the Parties as set forth in Section 6. Sanctions may be determined during the same meeting in which responsibility is determined, as set forth in Sections 4(c) and (d).

(ii) **Teaching Faculty.** The Title IX Coordinator will provide the Provost/Dean of the College ("Dean of the College") with a copy of the Determination Panel's written notification of its determination of responsibility as well as the Investigative Report. The Dean of the College will determine an appropriate sanction(s). If the Dean of the College determines that a sanction of dismissal for cause is recommended, the sanction will be reviewed under Section 7(b)). The Dean of the College will then provide written notification to the Title IX Coordinator of the action taken with regard to the faculty member.

(iii) **Exempt Employees, Other Than Teaching Faculty.** Sanctions regarding exempt employees, as defined by the College, will be determined by the Employee's Vice President (or his/her designee) or in the case of an employee in the Athletics Department or who reports to the President, the President's designee. The Director of Human Resources (or his/her designee) will be consulted on any sanction. The Title IX Coordinator will provide such officials with a copy of the Determination Panel's written notification of its determination of responsibility as well as the Investigative Report.

(iv) **Non-Exempt Employees.** Sanctions regarding non-exempt employees, as defined by the College, vendors, independent contractors and other third parties will be determined by the Director of Human Resources (or his/her designee). The Title IX Coordinator will provide such officials with a copy of the Determination Panel's written notification of its determination of responsibility as well as the Investigative Report.

**(B) Types of Sanctions.**

(i) **Employees, including Faculty Members.** Sanctions imposed with respect to Responding Parties who are employees or faculty members may include, but are not limited to, one or more of the following: dismissal from employment, non-renewal of an employment contract, suspension, probation, reprimand, warning, training and/or counseling, no-contact order, among others.

(ii) **Students.** Sanctions may include, but are not limited to, one or more of the following: expulsion, suspension, probation, reprimand, warning, restitution, education/counseling, no-contact order, restriction from extracurricular programs or activities, loss of leadership opportunity or positions in activities, housing restriction/relocation, and/or loss or restriction from College employment.

(iii) **Student Groups, Organizations and Teams.** Sanctions for groups, organizations and teams may include suspension, revocation or denial of registration or recognition, probation, reprimand, warning, restitution, education, restriction, among other possible sanctions.

(iv) **Considerations.** In determining an appropriate sanction, the College may take into account the following:

- The nature and circumstances of the misconduct.
- The impact of the misconduct on the Complaining Party.
- The impact of the misconduct on the College community.
- The disciplinary history of the Party deemed responsible.
- Any other mitigating or aggravating circumstances in order to reach a fair and appropriate resolution in each case.
- Range of sanctions typically imposed for similar violations.

**Possible sanctions for those found responsible for sexual violence, other inappropriate sexual contact, domestic/dating violence, stalking and hate crimes:**

10 hours community service

15 hours community service

20 hours community service

25 hours community service

Reflection paper

1 hour educational training

2 hours educational training

3 hours educational training

4 hours educational training

5 hours educational training

Probation 1 semester

Probation 2 semesters

Probation 3 semesters

Probation 4 semesters

Probation 5 semesters

Probation 6 semesters

Probation 7 semesters

Probation 8 semesters

Suspension 1 semester

Suspension 2 semesters

Suspension 3 semesters

Suspension 4 semesters

Suspension 5 semesters

Suspension 6 semesters

Suspension 7 semesters

Suspension 8 semesters

Suspension 9 semesters

Suspension 10 semesters

Expulsion/termination of employment

*Except for expulsion/termination of employment, all sanctions may be combined with one or more other sanctions listed in Section 5(b)(i) or (ii) above.*

(v) **Additional Remedies.** The sanctioning authority described in Section 5(a) may also identify additional remedies to address the effects of the conduct on the impacted Party. Remedies may include extending or making permanent any interim or safety measures. If a Complaining Party or Responding Party declined or did not take advantage of a specific service or resource previously offered, the College may re-offer the service as applicable or necessary. The Title IX Coordinator also may consider broader remedial action for the campus community, such as increased supervision or monitoring, targeted or increased education and prevention efforts, and review of policies and procedures. In addition, in the Title IX Coordinator may refer any matter raised, but not addressed hereunder, that may

potentially violate any other College policy, rule, or procedure to the appropriate College officials to address such matters, irrespective of the finding under this Policy.

## 6. Notification of Investigation Outcome

Upon completion of Sections 4 or 5, as necessary, the Title IX Coordinator will inform the Parties simultaneously and in writing of (i) the outcome of the disciplinary proceeding; and (ii) the procedures for either Party to appeal the result of the disciplinary proceeding. The Title IX Coordinator will also inform other College officials with a legitimate educational or employment interest about the outcome of the finding. Notice to these other individuals will be accompanied with a request that the information should remain confidential except in situations in which disclosure is necessary to protect the safety of the community.

If the alleged victim is deceased as a result of a crime involving sexual assault, other inappropriate sexual contact, stalking, domestic/dating violence or hate crime, the next of kin of such alleged victim will be provided the notice of outcome upon written request to the Title IX Coordinator.

## 7. Appeals

The appeal period may take approximately 7 days from delivery of notice of request for an appeal, but may be shorter or longer, depending on a variety of factors, including but not limited to: academic calendar, schedules of the parties involved, information and issues contained in the request for an appeal and other factors.

### (A) All Appeals (Other Than Appeals Involving a Responding Party Who Is a Teaching Faculty Member with a Recommended Sanction of Dismissal).

The following appeal process applies to all appeals other than any appeal involving a determination in which a Responding Party is a Teaching Faculty Member with a recommended sanction of dismissal which are addressed under Section 7(b) below. Within seven (7) calendar days of the delivery of the notice of the decision of responsibility and/or sanction, either Party may appeal the decision by submitting to the Title IX Coordinator a letter stating why the Party requesting the appeal believes the determination of responsibility and/or the sanctions were inappropriate. A Party appealing under this section may only appeal on the following grounds:

- **Procedural error** by the Investigator(s) or Determination Panel that materially prejudiced the Party requesting review; and/or
- **Newly discovered material information** that was not known to the Party requesting review and not available to the Investigator(s), the Determination Panel, or the individual determining the sanction, and which likely would have changed the finding of responsibility or the sanction imposed had it been available.

The Party submitting the appeal must set forth in detail the grounds for review and must attach all materials that he or she wishes to have considered in the appeal process. The Title IX Coordinator will provide a copy of the appeal submitted by one Party to the other Party, and the other Party may submit materials that he or she wishes to have considered in the appeal process within seven (7) calendar days of receipt of the appeal. The appeal and appeal materials submitted by a Party may not exceed ten (10) double spaced pages (12 point font with one inch margins) unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Title IX Coordinator.

**The Appellate Officer(s):** In the instance of an appeal under this Section 7(a), the Title IX Coordinator will appoint one or more Appellate Officer or Officers (the "Appellate Officer(s)") from a previously established pool of College employees who have received training on sexual misconduct cases and appeals; in any case involving a teaching faculty member, there will be a three Appellate Officer panel, including at least one tenured faculty member (selected by the Title IX Coordinator in consultation with the chair of the Committee on Faculty Affairs). The Vice President of Student Affairs (or his/her trained designee) generally will be the Appellate Officer for matters in which a Responding Party is a student. The Title IX Coordinator will provide the Parties with the names of the assigned Appellate Officer(s) for their case. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the assigned Appellate Officer(s), the Parties should inform the Title IX Coordinator in writing of any conflicts of interest in regard to the assigned Appellate Officer(s). The Title IX Coordinator will consider the nature of the conflict and determine if different individual(s) should be assigned as the Appellate Officer(s). The Title IX Coordinator may consult with other College personnel to discuss any conflicts of interest (and shall consult with the chair of the Committee on Faculty Affairs in the case of any conflict of interest with respect to a teaching faculty member assigned as an Appellate Officer). The Title IX Coordinator's decision regarding any conflicts is final.

The Appellate Officer(s) will decide the merits of the appeal and, in so doing, may consult with the Investigator(s), the Determination Panel, the individual(s) issuing the sanction, or any other individual that the Appellate Officer(s) deems appropriate. In appropriate circumstances, the Title IX Coordinator may give special instructions to the Appellate Officer(s).

Sanctions of all types (including, but not limited to, any form of suspension, dismissal, or separation from the College) can be imposed, in full or in part, while an appeal is pending at the sole discretion of the College.

The Appellate Officer(s) may deny the appeal and affirm all or part of the determination of responsibility or the determination of sanction, or the Appellate Officer(s) may refer the matter back to the Investigator(s), the Determination Panel, and/or the individual determining the sanction for further consideration. If the matter is referred back to the Investigator(s), the Determination Panel, and/or the individual determining the sanction for further consideration, the Appellate Officer(s) will provide specific instructions with the referral. In the event of a referral for further consideration, the Title IX Coordinator will be consulted and further proceedings may be commenced, as appropriate under the circumstances and consistent with this Policy.

The decision of the Appellate Officer(s) regarding the appeal will be in writing and is final. The Title IX Coordinator will inform the Parties simultaneously and in writing of the outcome of the appeal.

**(B) Appeals with respect to a Responding Party who is a Teaching Faculty Member Involving a Recommended Sanction of Dismissal.**

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

(i) Within seven (7) calendar days of the delivery of the notification of the investigation outcome and/or sanction, either Party may appeal the decision by submitting to the Title IX Coordinator a letter stating why the Party requesting the appeal believes the determination of responsibility and/or the sanctions were inappropriate. A Party appealing under this section may only appeal on the following grounds:

- a. Procedural error by the Investigator(s) or Determination Panel that materially prejudiced the Party requesting review; and/or
- b. Newly discovered material information that was not known to the Party requesting review and not available to the Investigator(s), the Determination Panel, or the individual determining the sanction, and which likely would have changed the finding of responsibility or the sanction imposed had it been available; and/or
- c. That the sanction of dismissal was inappropriate based on a consideration of the nature and circumstances of the misconduct, including the severity, frequency and duration, the impact of the misconduct on the Complaining Party and/or the College community, the disciplinary history of the Responding Party found responsible, and any other mitigating or aggravating circumstances and the need to take effective corrective action to prevent the reoccurrence of the violation(s) and remedy its effects.

The Party submitting the appeal must set forth in detail the grounds for review and must attach all materials that he or she wishes to have considered in the appeal process. The Title IX Coordinator will provide a copy of the appeal submitted by one Party to the other Party, and the other Party may submit materials that he or she wishes to have considered in the appeal process within seven (7) calendar days of receipt of the appeal. The appeal and appeal materials submitted by a Party may not exceed ten (10) double spaced pages (12 point font with one inch margins) unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Title IX Coordinator.

In the instance a Party appeals, the Chair of the Committee on Faculty Affairs in consultation with the Title IX Coordinator will convene a three-member Appeal Panel (the "Appeal Panel") consisting of tenured members of the Committee on Faculty Affairs (or other tenured faculty members from a previously established pool in the event there are not enough members of the Committee on Faculty Affairs to so serve) who have received training on sexual misconduct cases and appeals. The Title IX Coordinator will provide the Parties with the names of the persons assigned to the Appeal Panel for their case. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the assigned Appeal Panel members, the Parties should inform the Title IX Coordinator (in writing) of any conflicts of interest in regard to the individuals assigned to the Appeal Panel. The Title IX Coordinator will consider the nature of the conflict and determine if different individuals should be assigned to the Appeal Panel. The Title IX Coordinator shall consult with the chair of the Committee on Faculty Affairs to assess any conflicts of interest. The Title IX Coordinator's decision regarding any conflicts is final.

The Appeal Panel will decide the merits of the appeal and, in so doing, may consult with the Investigator(s), the Determination Panel, the Dean of the College issuing the sanction, or any other individual that the Appeal Panel deems appropriate.

Sanctions of all types (including, but not limited to, any form of suspension or separation from the College but excluding dismissal of a faculty member) can be imposed, in full or in part, while an appeal is pending at the sole discretion of the College.

The Appeal Panel may deny the appeal and affirm all or part of the determination of responsibility or the determination of sanction, or may refer the matter back to the Investigator(s), the Determination Panel, and/or the Dean of the College (regarding determination of the sanction) for further consideration. If the matter is referred back to the Investigator(s), the Determination Panel, and/or the Dean of the College (regarding determination of the sanction) for further consideration, the Appeal Panel will provide specific instructions with the referral. In the event of a referral for further consideration, the Title IX Coordinator will be consulted and further proceedings may be commenced, as appropriate under the circumstances and consistent with this Policy.

Any Appeal Panel decision regarding the appeal under Section VII.B.7(b)(i)(a) (procedural error) or (b) (newly discovered information) is final. Any Appeal Panel decision regarding an appeal under Section VII.B.7(b)(i)(c) (recommended dismissal) and/or any Dean of the College's recommended sanction of dismissal under Section VII.B.4 will be referred to the President for review under immediately following section.

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

a. If the Dean of the College recommended a sanction of dismissal and no appeal was requested, the President will refer the sanction recommendation to the Executive Committee of the Board for review and consideration.

b. If the Dean of the College recommended a sanction of dismissal and the Appeal Panel recommended a sanction less than dismissal, the President will determine whether to accept the Appeal Panel sanction recommendation (which shall then become the final sanction); impose a different sanction that is less than dismissal (which shall then become the final sanction) or recommend a sanction of dismissal for review and consideration by the Executive Committee of the Board.

c. If the Dean of the College and the Appeal Panel recommended dismissal, the President will refer the sanction recommendation(s) to the Executive Committee of the Board for review and consideration.

d. If the President refers a recommended sanction of dismissal to the Executive Committee of the Board, the referral will be communicated in writing by the President to the Complaining Party and Responding Party. The President will provide the Executive Committee with the Investigative Report, any response of the Complaining Party and/or Responding Party to the Investigative Report, the Determination Panel written findings, the recommendation of the Dean of the College of dismissal, and if applicable, the written appeal materials submitted by the Complaining Party and/or the Responding Party to the Appeal Panel, the Appeal Panel's written decision pursuant to Section VII.B.7(b)(i), and the Dean of the College's recommended sanction following such appeal. The Executive Committee may grant both the Responding Party and the Complaining Party the right to address the Executive Committee, if the Executive Committee deems it appropriate. The Executive Committee of the Board of Trustees will make the final determination of the sanction.

e. The Title IX Coordinator will inform the Parties simultaneously and in writing of the outcome of the appeal. Training of the President and Executive Committee of the Board. Each of the President and the Executive Committee of the Board of Trustees shall receive training on sexual misconduct cases and appeals prior to reviewing any matter under this Section VII.B.7(b)(ii). Any appeal involving a determination in which a Responding Party is a Teaching Faculty Member with a recommended sanction of dismissal of the Teaching Faculty Member will be reviewed under the Statutes of the Faculty only.

## 8. Timeframe for Completion of Investigation and Disciplinary Process

The College cannot promise the definitive timeframe of this process, but will endeavor to complete its investigation and disciplinary process, if any, within sixty (60) days of the delivery of the written notice of the investigation to the Parties. This time period does not include the time for any appeal. The U.S. Department of Education has made clear that the length of investigations may vary with the complexity and unique factors in each case. Examples of such factors include, without limitation, circumstances in which critical witnesses are unavailable or if law enforcement requests the College temporarily halt its investigation for a brief period of time. Accordingly, all timeframes set forth in this Policy may be altered by the Title IX Coordinator for good cause. The College's overarching goal is that all complaints be investigated in a prompt, fair, and impartial manner.

## 9. Additional Matters

**(A) Duty of Honesty.** All Parties and witnesses are obligated to be completely honest during the course of the entire process set forth in this Policy. Any person who knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process may be subject to separate College disciplinary action. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of violation of the policy.

**(B) Duty of Cooperation.** All Parties and witnesses are obligated to cooperate with the Title IX Coordinator and any persons charged with implementing the Sexual Misconduct Policy and these procedures. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under the Sexual Misconduct Policy may be subject to separate and/or additional College disciplinary action.



**(C) Respect for Privacy.** The College values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to the Sexual Misconduct Policy. The U.S. Department of Education has provided guidance indicating that there are situations in which it may be necessary for an institution to override a request for privacy or confidentiality in order to meet its obligations under the law. In the event circumstances result in the College overriding a request for privacy or confidentiality to meet its obligations, the College will do so with the utmost sensitivity and respect for the circumstances and the individuals involved. See Section d. Reporting Options above.

**(D) Recording the Proceedings.** The Parties are not permitted to make video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under the Sexual Misconduct Policy or these procedures or the Investigative Report. The Title IX Coordinator may make exceptions to this prohibition in limited circumstances if he or she concludes, in his or her sole discretion, that a recording is warranted, and upon written request of the Party seeking the recording that explains the need for the recording.

**(E) Follow-up with Reporting Party.** Where the Title IX Coordinator deems appropriate, he or she may contact the Reporting Party to provide an update on the process, the timing and extent of which will be determined by the Title IX Coordinator and depend upon the nature of the allegations and the situation.

**(F) Prohibition against Retaliation.** The College will not tolerate retaliation in any form against any persons for their participation or involvement in the reporting, investigation, and/or resolution of matters reported or subject to the Sexual Misconduct Policy. The College will take appropriate steps to prevent and/or address retaliatory conduct immediately. The College includes retaliation in its definition of prohibited conduct under this Policy. Engaging in conduct that may reasonably be perceived to: adversely affect a person's educational, living, or work environment because of their good faith participation in the reporting, investigation, and/or resolution of a report of a violation of the Sexual Misconduct Policy; or discourage a reasonable person from making a report or participating in an investigation under the Sexual Misconduct Policy, any other College policy, or any other local, state, or federal complaint process, e.g., filing a complaint with an entity like the U.S. Department of Education. Retaliation includes, but is not limited to, acts or words that constitute intimidation, threats, or coercion intended to pressure any individual to participate, not participate, or provide false or misleading information during any proceeding under the Sexual Misconduct Policy. Retaliation may include abuse or violence, other forms of harassment, and/or making false statements about another person in print or verbally with intent to harm their reputation. Retaliation can be committed by any individual or group of individuals, not just a Responding Party or a Complaining Party. Retaliation may constitute a violation of the Sexual Misconduct Policy even when the underlying report made did not result in a finding of responsibility. Retaliation, even in the absence of provable discrimination or harassment in the original complaint or charge, constitutes a serious violation of this Policy.

**(G) Amnesty for Students Reporting Sexual Violence, Relationship Violence and Stalking.** The College encourages reporting under the Sexual Misconduct Policy and seeks to remove barriers to reporting. Students may be hesitant to report sexual violence, relationship violence or stalking out of a concern that they, or witnesses, might be charged with a violation of the College's drug and alcohol policies or Community Standards. While the College does not condone such behavior, the College places a priority on the need to address sexual violence, relationship violence and stalking. The College generally will not hold a student who in good faith reports or is a witness during an investigation of sexual violence, relationship violence and stalking under the Sexual Misconduct Policy accountable for disciplinary violations of the College's Community Standards that do not place the health and safety of any other person at risk or create a danger to the College community. The College retains the right to require students to attend counseling or drug/alcohol related courses even in circumstances in which disciplinary conduct will not be pursued under this part.

**(H) Special Situations.** The College retains the right to determine, in its sole discretion, if it will address a report of conduct under the Sexual Misconduct Policy administratively and outside of the process described herein when the safety of the College community is at risk, if the material facts are undisputed, if there are extenuating circumstances involving either of the Parties, or if the Title IX Coordinator, in consultation with appropriate administrators, determines it is in the best interest of the College and/or the community to do so. Without limiting the foregoing:

(i) In any situation in which the behavior alleged by the Complaining Party is determined, in the sole discretion of the Title IX coordinator, to appear to pose concerns of minor or moderate significance for the community (specifically excluding all allegations of the following Policy violations: sexual violence, quid pro quo harassment, other inappropriate sexual contact, relationship violence, and stalking), the Title IX Coordinator may direct the matter to be investigated and/or resolved outside the process set forth in Section VII.B. In such case, the Title IX Coordinator may require an adequate, reliable and impartial investigation and resolution of the alleged Policy violations pursuant to the Discriminatory Harassment Policy (employees and third parties) or Community Standards (students) with the following additional provisions (a) the process will use the definitions of the Prohibited Conduct, the preponderance of evidence standard, and the potential sanctions set forth in this Policy; (b) both the Complaining Party and the Responding Party will have an opportunity to present witnesses and evidence as described in the applicable procedure; (c) there will be designated and reasonably prompt time frames for the major stages of the process; (d) there will be written notice to the Complaining Party and the Responding

Party of the outcome of the complaint; and (d) the College will take steps to prevent recurrence of violation(s) and remedy discriminatory effects on the Complaining Party and others, if appropriate.

(ii) When an investigative report in a student matter indicates that there may be possible Student Code of Conduct violations in addition to an alleged violation of the Sexual Misconduct Policy, the Title IX Coordinator will consult with the Director of Student Conduct and Community Standards or designee, to determine appropriate Community Standards violations. In these situations the investigation and resolution procedure may follow the Sexual Misconduct Policy to determine whether violations of the Code of Conduct and Community Standards took place in addition to the alleged violation of the Sexual Misconduct Policy as determined by the Title IX Coordinator.

(iii) When an investigative report in employee or third party matter indicates that there may be possible violations of other College policies, rules, procedures or agreements, in addition to an alleged violation of the Sexual Misconduct Policy, the Title IX Coordinator will consult with relevant College personnel, to determine appropriate violations. In these situations the investigation and resolution procedure may follow the Sexual Misconduct Policy to determine whether violations took place in addition to the alleged violation of the Sexual Misconduct Policy as determined by the Title IX Coordinator.

(iv) If, following the receipt of an alleged violation of the Sexual Misconduct Policy, the Complaining Party declines to participate in the investigation or resolution process, the Title IX Coordinator may decide to administratively close the investigation at any point in the investigation and resolution process after consideration of the factors set forth in Section VI.A.1 in the Title IX Coordinator's sole discretion.

(v) Delegation. Where the Title IX Coordinator is listed as the designated point of contact for any role in the Sexual Misconduct Policy, he or she may designate a Deputy Title IX Coordinator or another qualified member of the College community to assume the role at issue, as necessary and appropriate. Where another College official or employee is listed as the designated point of contact for any role in the Sexual Misconduct Policy, he or she may designate another College official or employee to assume the role at issue, as necessary and appropriate.

## Programming

*"Informed by the presence of diverse interpretations of the human experience, Holy Cross seeks to build a community marked by freedom, mutual respect, and civility." - Mission Statement, College of the Holy Cross*

The prevention of sexual assault, relationship violence and sexual harassment is aligned with the mission of the College, where students are challenged to answer the question *"What are our obligations to one another?"* Respect for, and obligation to, another individual is the foundation of healthy relationships and the key to prevention.

Consistent with this mission, the College of the Holy Cross provides prevention programming and educational opportunities throughout the year and throughout a student's time at the College. Education begins at Summer Gateways Orientation, where College staff members discuss the College's Sexual Misconduct Policy, including resources and safety measures. At Fall Gateways Orientation, new students also participate in "Equalogy," an interactive play that addresses sexual assault. Incoming students also participate in HAVEN, an online program that educates participants about the importance of understanding healthy relationships, definitions of prohibited behaviors, the intersection between alcohol and sexual assault and campus resources. During the first semester of the academic year, first year students also participate in mandatory bystander programming instruction facilitated by the College's Relationship Peer Educators (RPE), a student organization and key partner in the College's awareness raising and prevention efforts.

### **Bystander Intervention Tips:**

- Join the conversation, change the topic and distract the parties.
- Offer to walk someone home.
- Enlist friends - yours or theirs.
- In volatile situations, call the Department of Public Safety or local law enforcement.
- Never put yourself in harm's way.

Programming is also offered to community members throughout the year. RPEs provide ongoing awareness raising programs and events on healthy relationships and the root issues underlying sexual violence. RPEs facilitate the One Love Foundation's Escalation workshop, a primary prevention program designed to address sexual and relationship violence. In addition, students participate in other opportunities to raise awareness of these issues and reduce risk, including Take Back the Night vigil, sponsored by the Women's Forum, and RAD self-defense classes, offered by the Department of Public Safety.

The Office of Title IX Initiatives offers programming on the Sexual Misconduct Policy to students, with a goal of preventing sexual and relationship violence by discussing definitions of prohibited conduct and the consequences of violating the Policy. Students are provided information on the College's process, including rights, resources and potential sanctions. The program also raises awareness and provides information on risk reduction and tips for bystander intervention.

New employees are required to participate in online sexual harassment prevention training, a training that discusses forms of sexual harassment and provides tips for stepping in as a bystander. All employees are offered programming on the College's Sexual Misconduct Policy on a regular basis; this program discusses the College's Sexual Misconduct Policy and Process for Investigating and Resolving Complaints, available resources and tips for bystander action. In addition, through a variety of academic programs and departments, including the Gender, Sexuality and Women's Studies concentration, the College offers numerous opportunities to learn from guest speakers on the topic of gender, including sexual assault, dating violence, sexual orientation, gender identity/expression and other gender/sex-related topics.

Programming and educational opportunities for all community members are offered throughout the year by a variety of departments: the Sexual Assault Facts, Education and Response (SAFER) Advisory Committee, the Department of Public Safety, the Office of Residential Life, the Counseling Center, the Chaplains' Office, Academic Departments, the Office of Student Involvement, the Athletic Department, the Gender, Sexuality and Women's Studies concentration, Human Resources and the Office of Title IX Initiatives, all provide programs to community members to facilitate an understanding of these issues with the goals of prevention, bystander awareness, risk reduction, and awareness raising.

**Sexual assault is never the fault of the victim-survivor. While no safety measure is failsafe, here are risk reduction tips to consider:** Trust your instincts. If you feel unsafe, go to a safe place and call for help. Be active in supporting a safe community. If you see others engaging in potentially inappropriate actions, speak up and get involved if you safely may do so, or contact someone to assist you. Perpetrators seek to take advantage of vulnerabilities. Be alert to people pressuring you or others to use alcohol or other drugs. Alcohol and drugs are often used by perpetrators to create vulnerability to sexual assault.

## **9. Sex Offender Registration**

### **Campus Sex Crimes Prevention Act**

The Federal Campus Sex Crimes Prevention Act requires colleges and universities to issue a statement advising the campus community where state law enforcement agency information concerning registered sex offenders may be obtained. The Act also requires registered sex offenders to provide to appropriate state officials notice of each institution of higher education at which the offender is employed, carries on a vocation, or is a student.

### **How to Inquire**

Members of the College community may request information about sex offenders in Massachusetts at the Massachusetts Sex Offenders Registry Board, at 978-740-6400 or <https://www.mass.gov/orgs/sex-offender-registry-board>, the Worcester Police Department 508-799-8606 or the West Boylston Police Department at 508-835-3233.

### **Penalties for Improper Use of Sex Offender Registry Information**

Sex offender registration information shall not be used to commit a crime against an offender or engage in illegal discrimination or harassment of an offender. Any person who uses sex offender registration information for such purpose shall be punished by not more than two and one-half (2 ½) years in a house of correction or by fine of not more than \$1000.00 or both. M.G.L. c. 6, § 178N.

Any person who uses sex offender registration information to threaten to commit a crime may be punished by a fine of not more than \$100.00 or by imprisonment for not more than six months. M.G.L. c. 275, § 4.

## **10. Alcohol and Drugs**

### **Alcohol and Drug Policies**

In accordance with the federal Drug-Free Workplace Act of 1988 and the federal Drug-Free Schools and Communities Act of 1989, College policies prohibit the unlawful manufacture, cultivation, distribution, dispensation, use, or possession illegal drugs (including controlled substances) or any drug paraphernalia and the unlawful possession, use or sale of alcohol by any member of the College community on College property and in connection with College sponsored events and activities on or off campus.

All community members must comply with the applicable College alcohol and drug policy and all applicable federal, state, and local laws regarding drugs and alcohol. Individuals who violate College policy are subject to disciplinary action, up to and including immediate dismissal and also may be referred for prosecution. In addition, students charged with a violation of federal, state or local law, whether on or off the College premises, may be subject to College disciplinary action. The College will cooperate fully with law enforcement officials in the investigation and prosecution of drug related cases. In addition, students present at the time of a drug or alcohol violation may be subject to sanctions in accordance with the Code of Student Conduct and Community Standards.

Marijuana remains an illegal drug under federal law and is therefore treated as an illegal drug for the purpose of College policies. All marijuana use is prohibited on College property and in connection with College activities, even if the intended purpose is for medicinal

reasons. These prohibitions also extend to products derived from marijuana such as edibles. In addition, drug related paraphernalia such as pipes, bowls, bongs, grinders, vaporizers, or other such devices are also prohibited. Though performing work under the influence of or impaired by marijuana is prohibited, employee requests for a reasonable accommodation to use medical marijuana off-site in compliance with Massachusetts law will be evaluated on a case-by-case basis in compliance with state law and any competing federal or contractual obligations.

The College also prohibits the use or transfer of any alcoholic beverage by any employee while on College premises or while performing any job-related activity, whether on or off College premises other than the moderate consumption of alcohol by off-duty employees over 21 years of age while attending a College function at which the College has authorized alcohol to be served. Some College employees over 21 years of age may be required to possess or transport alcohol in connection with the proper performance of their positions (e.g., service of alcohol at a College function at which the College has authorized alcohol to be served).

The College forbids serving alcohol to anyone under the legal drinking age.

Please note, federal law requires that a student who has been convicted of a drug-related offense shall be ineligible for financial aid for one (1) year or until such time as the student completes an appropriate drug rehabilitation program.

Alcoholic beverages may not be brought to athletic events, nor may they be consumed at such events. This prohibition includes intramural and club sports as well as spectators at varsity athletic contests. The College has a "Tailgating Policy" that is a component of the College's comprehensive approach to the consequences associated with alcohol use and abuse.

We encourage all students and employees to read and adhere to the College's alcohol and drug policies, available at:

- **Student Policy Alcohol and Drug Policies:** <https://www.holycross.edu/sites/default/files/files/studenthandbook.pdf>
- **Employee Drug and Alcohol Policy:** [www.holycross.edu/policies-procedures](http://www.holycross.edu/policies-procedures)

#### **Alcohol and Drug Abuse Education for Employees**

The College recognizes that alcohol and drug abuse are treatable illnesses. The College strongly encourages employees to seek assistance for problems of drug and alcohol abuse before the individual's relationship with the College is jeopardized. Early intervention and support may improve the success of rehabilitation. A number of counseling and rehabilitation programs are available to individuals, on a confidential basis, to provide education, counseling and coordination with available community resources to assess the seriousness of suspected drug and alcohol issues and address drug and alcohol abuse problems. A list of local programs is available from the Human Resource department and reprinted here:

##### **REHABILITATION AND COUNSELING:**

- AdCare Hospital. 107 Lincoln Street, Worcester, MA 01605, 1-800-ALCOHOL or 800-252-6465 or 508-799-9000
- Spectrum Health Systems. 585 Lincoln Street, Suite 302, Worcester, MA 01608, 800-464-9555 ext. 1161

##### **COMMUNITY RESOURCES:**

- The Office of Wellness Programming. From time-to-time the Office of Wellness Programming in the Division of Student Affairs also sponsors an AA meeting on Campus. Contact them at X2302 for more information.
- The College's employee assistance program provides counseling, consultation and referrals on free, confidential basis. (800) 648-9557, [www.kgreer.com](http://www.kgreer.com), [info@kgreer.com](mailto:info@kgreer.com).
- Alcoholic Anonymous- Worcester Area Intergroup, 100 Grove Street, Suite 314, Worcester, MA, 01605, 508-752-9000. Local meeting look-up at: [www.aaworcester.org/meetinglookup.htm](http://www.aaworcester.org/meetinglookup.htm)

In appropriate circumstances, an unpaid leave of absence may be granted an employee to participate in a rehabilitation program. Also, the College's group health insurance plan may provide certain benefits during drug or alcohol rehabilitation to subscribers. For information, consult the booklet or website describing benefits available under the plan, or contact your health insurance carrier. While the College recognizes substance abuse as a treatable condition, there are positions of such critical nature that substance abuse may be grounds for immediate termination including safety sensitive positions and positions which require possession of a driver's license. In addition, addiction and/or substance abuse do not excuse a violation of College policy or applicable law.

#### **Alcohol and Other Drug Education for Students**

All incoming students whether they are first year or transfer students are expected to take an on-line alcohol education course called, AlcoholEdu for College. This course is given prior to the students' arrival on campus with a follow-up portion of the course given six weeks into the semester. In addition, incoming students attend a program during Fall Gateways called, "Think Before You Drink". This program includes a student made film entitled, "Reality Check: Drinking on a College Campus" and a discussion with a member of the

Students for Responsible Choices, a peer education group dedicated to promoting low-risk choices regarding the use of alcohol and other substances. Students may access alcohol and drug educational information, counseling, and referral through a variety of offices on campus. These include the Office of Wellness Programming, the Counseling Center, Health Services and the Chaplains' Office.

The Office of Wellness Programming presents additional programs to the campus wide community throughout the academic year. These include Alcohol Awareness Week, campus speakers, a 21st birthday card initiative, and participation in the National Alcohol Screening Day. Other alcohol education occurs, when the director presents trainings and workshops to a variety of campus groups including: Orientation Leaders, Resident Assistants, and athletic teams. For students who have violated the College alcohol policy, educational meetings are a component of the college sanctioning procedure. Students who have violated the college alcohol policy may be required to meet with the director for an educational meeting. Students who have required hospitalization due to alcohol intoxication are required to meet with the director for BASICS, (Brief Alcohol Screening and Intervention for College Students), or are referred to on or off-campus resources.

### **Campus Advisory Board on Alcohol (CABA)**

This Board is composed of students, faculty, staff and administrators. The primary responsibility is to make recommendations to the Vice President for Students Affairs on campus policy and best practices related to the issue of alcohol.

### **Good Samaritan Policy - Students**

Holy Cross considers the safety and personal well-being of the student body a priority. The College recognizes that there may be alcohol or other drug-related medical or safety emergencies in which the potential for disciplinary action could act as a deterrent to students who want to seek assistance for themselves or others.

The Good Samaritan Policy is designed to enable dangerously intoxicated or impaired students, or their guests, to receive the professional medical treatment they need.

When a student aids an intoxicated or impaired individual by contacting Public Safety or Residential Life staff, neither the intoxicated individual nor the individual or student reporting the emergency will be subject to disciplinary action.

In rare circumstances such as cases where other violations occur, students may be referred for disciplinary adjudication. Examples include, but are not limited to fights, verbal or physical harassment, disorderly conduct, property damage or vandalism.

For drug violations for which the above indicated programs would not be appropriate, the College utilizes the services of campus resources as well as private providers in the community to provide appropriate services and educational opportunities.

### **Hazing Policy**

Hazing is prohibited under Massachusetts General Laws (M.G.L. c. 269, §17) and by the Student Code of Conduct (<https://www.holycross.edu/office-student-conduct-community-standards/community-standards-procedures>).

Hazing refers to any activity or situation created that may humiliate, abuse, degrade or endanger a person's physical or mental health, in connection with joining or belonging to a group or organization, regardless of the person's willingness to participate. This includes, but is not limited to the following: forced or coerced consumption of alcohol or drugs; morally degrading, humiliating or illegal activities or games; physical abuse (whipping, paddling, branding, beating, forced calisthenics, creation of excessive fatigue); forced isolation; sleep deprivation; being forced to wear embarrassing or humiliating attire in public; and consumption of vile substances.

## **11. Fire Safety Report**

### **Fire Safety**

The College of the Holy Cross Residence Halls all have a complete Sprinkler System and a fully addressable Simplex Fire Detection System. Each building reports a fire signal directly to the Worcester Fire Department along with the campus Public Safety dispatch center. All systems are tested annually to meet state and local codes. In addition, each student room is supplied with a dry chemical fire extinguisher and a smoke detector wired to the Department of Public Safety and the Worcester Fire Department. Evacuation plan placards are located on each floor.

Should a student or employee discover that a fire has occurred they should report it immediately to Public Safety (x2222) or to the Worcester Fire Department (911).

**Definition of a Fire:** For the purposes of fire safety reporting, a fire is, "Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner"

Fire drills are held campus wide for the residence halls twice per year.

**Total 2017 Fire Drills: 2 per residence hall (22 in total).**

Whenever the fire alarm is activated, students are required to leave the building immediately, and may not return until the building fire alarm system has been deactivated, as well as receiving permission from the Residence Life staff or Public Safety. Tampering with or misuse of fire alarms, fire extinguishers, smoke detectors, or any fire safety equipment or signage is prohibited.

Students are not allowed to use or possess personal grills or hibachis that use propane or charcoal in the residence halls or outside of the residence halls. For a listing of permitted and prohibited items in student housing please see the Student Handbook ([www.holycross.edu/sites/default/files/files/studenthandbook.pdf](http://www.holycross.edu/sites/default/files/files/studenthandbook.pdf)).

For health and safety reasons, all buildings at the College of the Holy Cross, including residence halls, are smoke free. Smoking is not permitted in any area of the buildings. In order to keep entryways smoke free, smoking is not permitted within twenty feet of entryways.

Students are provided **Fire Safety Education** during orientation to the College of the Holy Cross and at other times as needed.

Employees are provided fire safety and education during new hire orientation and at other times at the direction of their supervisors. It is the policy of the College that should anyone discover a fire situation as defined, they are to activate the fire alarm and leave the building immediately.

**Public Fire Log**

Because the College is an institution that maintains on-campus student housing, it must maintain a written, easily understood fire log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility. The fire log must include the nature, date, time, and general location of each fire.

Any entry or addition to an entry to the fire log must be made within two business days of receipt of the information. There were no defined fires in the residence halls for the years 2015 or 2016. The following were the fires reported in **2017**:

Name of Facility	Fires	Injuries	Deaths
Alumni Hall	0	0	0
Carlin Hall	0	0	0
Clark Hall	0	0	0
Figge Hall	0	0	0
Hanselman Hall	0	0	0
Healy Hall	0	0	0
Lehy Hall	0	0	0
Loyola Hall	0	0	0
Mulledy Hall	0	0	0
Wheeler Hall	0	0	0
Williams Hall	0	0	0
Total	0	0	0

## 12. Annual Disclosure of Crime Statistics Pursuant to the Clery Act

### Definitions Used For Reportable Crimes.

The following definitions apply to the incidents of crime disclosed in the crime statistics tables contained within this report:

#### Clery Act Geography Definitions

- **On-campus:** Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and any building or property that is within or reasonably contiguous to the area identified in the previous sentence of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).
- **Non-campus buildings or property:** Any building or property owned or controlled by a student organization<sup>7</sup> that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.
- **Public property:** All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

#### Clery Act Felony Definitions

- **Murder and Non-negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.
- **Negligent Manslaughter:** The killing of another person through gross negligence.
- **Sexual Assault:** Any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.
- **Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- **Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon that could cause serious personal injury is used.)
- **Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- **Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle.
- **Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

#### Clery Act Sex Definitions

##### The following sex offenses fall within the definition of "sexual assault" under the Clery Act:

- **Rape:** The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

#### Violence Against Women Reauthorization Act (VAWA) Crimes

- **Dating Violence:** Violence 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 relationship shall be determined based on the reporting party'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. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse and does not include acts covered under the definition of domestic violence.
- **Domestic Violence:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the

<sup>7</sup> Recognized student organizations at the College do not have noncampus housing facilities.

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 the jurisdiction in which the crime of violence occurred; 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 the jurisdiction in which the crime of violence occurred.

- **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Course of conduct is defined as 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 another person or interferes with a person's property. A reasonable person is defined as a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress is defined as significant mental suffering or anguish that may, but does not necessarily require medication or other professional treatment or counseling.)

*The definition of the Massachusetts crime of "stalking" is different than the federal definition. The above definition reflects the **federal definition** reportable under the Clery Act.*

*"Stalking" under Massachusetts law requires that the suspect engage in a pattern of conduct or series of acts in at least **3 incidents** directed at a specific person that would cause a reasonable person to suffer substantial emotional distress **and involves a threat with intent to** cause imminent fear of death or serious bodily harm.*

*"Stalking" under the federal definition and as reflected in the statistics below requires that the suspect engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Under this federal 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. A threat is **not** required under the federal definition.*

### **Arrests and Referrals for Discipline for Violations of Liquor, Drug and Weapons Laws**

- **Liquor Law Violations:** The violation of state or local laws or ordinances prohibiting: the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness. This definition includes the manufacture, sale, transporting, furnishing, possessing, etc., of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; underage possession, using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned.
- **Drug Abuse Violations:** The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, benzedrine).
- **Weapons: Carrying, Possessing, etc.** The violation of laws or ordinances that related to weapon offenses, regulatory in nature, prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

### **Hate Crimes**

Under the Clery Act, a hate crime is a criminal offense that manifests evidence of that the victim was intentionally selected because of the perpetrator's bias against the victim. "Bias" is a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation, ethnicity, national origin, or gender identity. For Clery purposes, hate crimes include any Clery Act felony (murder or non-negligent manslaughter, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, or arson) together with any of the following crimes to the extent they manifest evidence of bias as defined above:

- **Larceny-theft:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Constructive possession is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.
- **Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
- **Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or conduct, but without displaying a weapon or subjecting the victim to actual physical attack.



- **Destruction, damage or vandalism of property:** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of the property.

**Collected Statistics**

CATEGORY	VENUE	2015	2016	2017
Murder & Non-Negligent Manslaughter	On Campus	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Negligent Manslaughter	On Campus	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Sexual Assault (Sex Offenses)				
Rape	On Campus*	3	6	2
	In dormitories or other residential facilities	2	6	1
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Fondling	On Campus*	1	3	5
	In dormitories or other residential facilities	1	3	5
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Incest	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Statutory Rape	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Domestic Violence				
Domestic Violence	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Dating Violence				
Dating Violence	On Campus*	1	2	4
	In dormitories or other residential facilities	1	2	2
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Robbery				
Robbery	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Aggravated Assault				
Aggravated Assault	On Campus*	0	0	1
	In dormitories or other residential facilities	0	0	1
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Burglary				
Burglary	On Campus*	9	5	3
	In dormitories or other residential facilities	1	1	2
	In or on a non campus building or property	1	4	0
	On public property	0	0	0

Stalking	On Campus*	0	0	2
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Arson	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Motor Vehicle Theft	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Arrest for:				
Liquor Law Violations	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	3
Drug Related Violations	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Weapons Possession	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Judicial Referrals for:				
Liquor Law Violations	On Campus*	446	325	488
	In dormitories or other residential facilities	421	311	475
	In or on a non campus building or property	6	8	2
	On public property	19	6	9
Drug Related Violations	On Campus*	7	17	17
	In dormitories or other residential facilities	7	17	17
	In or on a non campus building or property	0	0	0
	On public property	0	0	0
Weapons Possession	On Campus*	0	0	0
	In dormitories or other residential facilities	0	0	0
	In or on a non campus building or property	0	0	0
	On public property	0	0	0

\*This category includes all on-campus incidents, including those listed in the category below, "In dormitories or other residential facilities." Therefore, the two categories are not cumulative, but possibly duplicative. The College of the Holy Cross accepts third party reporting for sex offenses which occurred on or off campus and may result in duplicated reports.

**Hate Crimes:** There were no reported hate crimes for 2015 and 2016. There was one reported hate crime for 2017. This crime is categorized as intimidation and the protected category was sexual orientation. The incident occurred on campus but not in a residence hall. Neither the victim nor the perpetrator were current students or employees of the College. A hate or bias-related crime is not a separate, distinct crime, but is the commission of a criminal offense which was motivated by the offender's bias.

**Unfounded:** There were no Clery Reportable Crimes that were deemed “Unfounded” for 2015, 2016 and 2017

# The Campus

## Academic Buildings

- 1 O'Keefe Hall  
*(Open House, Dance Studio, Career Art Gallery, Public Safety)*
- 2 Fenwick Hall  
*(Admissions, Broad Center Hall)*
- 3 Smith Hall  
*(Registrar, Class Dates, Center for Religion, Ethics and Culture)*
- 4 Dinand Library
- 5 Integrated Science Complex
- 6 Beaven Hall
- 7 Smith Laboratories
- 8 O'Neil Hall
- 9 Swords Hall
- 10 Haberclo Hall
- 11 Millard Art Center
- 12 Stem Hall

## Residence Halls

- 13 Malloy Hall
- 14 Clark Hall
- 15 Henschman Hall
- 16 Leahy Hall
- 17 Holy Hall
- 18 Loyola Hall
- 19 Williams Hall
- 20 Alumni Hall
- 21 Carlin Hall
- 22 Wheeler Hall
- 23 Page Hall

## Parking, Access Roads

- 41 College Square
- 42 Linden Lane  
*(Admissions, Gate 2)*
- 43 Admissions Parking
- 44 Gate 7  
*(Hogan Campus Center, Hart Recreation Center)*

## Athletic Facilities

- 24 Hart Recreation Center
- 25 Smith Wellness Center
- 26 Basketball Areas (1,600 seats)
- 27 Swimming Pool (500 seats)
- 28 Ice Hockey Arena (1,000 seats)
- 29 Rowing Tanks
- 30 Johnson Smith Soccer Stadium (1,000 seats)
- 31 Holy Cross Field  
*(Lacrosse/Football practice; 1,000 seats)*
- 32 Artificial Turf Field and Track
- 33 Fieldhouse
- 34 Tennis Courts
- 35 Fitton Baseball Field (1,000 seats)
- 36 Fitton Football Stadium (15,000 seats)
- 37 Softball Field

## Other Facilities

- 34 Hogan Campus Center
- 35 Campi Hall  
*(Visit Community)*
- 36 St. Joseph Memorial Chapel  
*(Mary Chapel, McGarry Chapel)*
- 37 Greenhouse
- 38 Campion House  
*(Chaplain's Office)*
- 39 Kimball Hall  
*(Student Dining, Soter Theater)*
- 40 Maintenance Building

- 45 Visitors' Parking  
*(Hogan Campus Center)*
- 46 Students' Parking
- 47 Parking Garage



Holy Cross