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Guilford College has a longstanding mission to provide a transformative, practical and excellent liberal arts education that produces critical thinkers in an inclusive, diverse environment, guided by Quaker testimonies of community, equality, integrity, peace and simplicity and emphasizing the creative problem-solving skills, experience, enthusiasm and international perspectives necessary to promote positive change in the world.

Title IX of the Education Amendments of 1972 ("Title IX") prohibits discrimination on the basis of sex in any educational programs or activities that receive federal funding, which includes locations, events, or circumstances, whether on or off campus, over which the College has substantial control and includes any building owned or controlled by a student organization that is officially recognized by the College. While perhaps best known for its application to program equity, such as in athletics, Title IX also applies to sexual harassment (including sexual assault) that prevents students from participating fully and equitably in educational opportunities. Guilford College is committed to upholding the principles of Title IX by responding promptly and thoroughly to all complaints/reports of sex discrimination, harassment or violence.

### **Title IX Coordinator:**

Barbara J. Lawrence, Title IX Coordinator  
Vice President of Diversity, Equity and Inclusion  
King Hall, 108J  
Phone: (336) 316-2432  
Email: [blawrenc@guilford.edu](mailto:blawrenc@guilford.edu)

Ms. Lawrence, the Title IX Coordinator, works with the individuals listed below, and others, to ensure that the College complies with Title IX. Regardless of which College employee or administrator investigates or adjudicates any particular complaint, the Title IX Coordinator maintains oversight of the process. The Title IX Coordinator receives written notice of the complaint, the investigative report and any determination. Where sex discrimination, harassment or violence is found to have occurred, the Title IX Coordinator oversees the College's response. Her responsibilities also include coordinating training, education and prevention efforts; overseeing a centralized reporting process for all sexual harassment and misconduct allegations on campus; tracking and monitoring these allegations; and ensuring prompt and equitable resolution of complaints.

The Title IX coordinator is:

- Responsible for oversight of the investigation and resolution of sexual harassment, sexual assault, sexual exploitation, stalking and relationship violence involving students, staff and faculty;

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- Knowledgeable and trained in College discrimination and harassment policies and procedures and relevant state and federal laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, The Age Discrimination in Employment Act and the American with Disabilities Act;
- Available to assist any individual, including a complainant, a respondent, or a third party, about the courses of action available at the College, both formally and informally, and in the community;
- Available to provide assistance to any College employee regarding how to respond appropriately to a report of sexual harassment, sexual assault, sexual exploitation, stalking, or relationship violence;
- Responsible for monitoring compliance with all procedural requirements, record keeping, and timeframes outlined in this policy;
- Responsible for overseeing training, prevention, and education efforts and regular reviews of climate and culture, surveys, compiling data and generating annual reports; and
- Responsible for conducting and overseeing the grievance process initiated in response to receiving a formal complaint of sexual harassment against a student, faculty or employee/staff of the College.

### Deputy Title IX Coordinators

The Deputy Title IX Coordinators assist the Title IX Coordinator as indicated below and in other ways as directed by the Title IX Coordinator. Any person wishing to bring a concern forward may notify a Deputy Coordinator or the Title IX Coordinator directly.

Alisa T. Quick, Title IX Deputy Coordinator for Employment  
Human Resources Director King Hall, 101  
Phone: (336) 316-2135  
Email: [quickat@guilford.edu](mailto:quickat@guilford.edu)

Deputy Coordinator Alisa T. Quick is responsible for Title IX compliance for matters involving faculty and staff, including training, education, communication, and administration of the grievance procedure for all complaints against faculty and staff, including those complaints filed by students.

Stephanie Flamini, Title IX Deputy Coordinator for Gender Equity in Athletics  
Assistant Athletic Director, Senior Women's Administrator, Head Coach Women's Basketball Ragan Brown, 212  
Phone: (336) 316-2344  
Email: [sflamini@guilford.edu](mailto:sflamini@guilford.edu)  
Deputy Coordinator Stephanie Flamini is the Senior Women's Administrator and is responsible for ensuring equity in the college's athletics program.

Steve Mencarini, Title IX Deputy Coordinator for Student Life  
Dean of Students  
Founders Hall, 201  
Phone: (336) 316-2465  
Email: [mencarinism@guilford.edu](mailto:mencarinism@guilford.edu)  
Deputy Coordinator Steve Mencarini is responsible for matters involving students, including allegations of student misconduct.

Jermaine Thomas, Safety and Security Director of the Guilford College campus and is the Lead Investigator  
Director of Public Safety  
Phone: (336) 316-2907  
Email: [thomasja2@guilford.edu](mailto:thomasja2@guilford.edu)  
Deputy Coordinator Jermaine Thomas is the safety and security of the Guilford College campus and is the lead investigator.

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### **Retaliation**

Reporting incidents of discrimination is integral to Title IX enforcement and would be discouraged if retaliation against those who report it goes unaddressed. Retaliation against a complainant, respondent, or witnesses involved in a complaint under Title IX is prohibited at Guilford College and is a separate violation of policy. No one may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege under this Policy, or because the individual made a report or complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Policy. The College recognizes that retaliation can take many forms, may be committed by or against an individual or a group and that all parties to a complaint, including the complainant or respondent, as well as third parties such as witnesses may be the subject of retaliation by another individual.

### **False Reporting**

The allegations of sexual misconduct may have severe consequences and therefore the College takes very seriously the validity of reported information. An individual who makes the report that is later found to have been intentionally false or made maliciously without regard for the truth may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation. Similarly, a party or witness who is later proven to have intentionally given false information during the course of an investigation or resolution may be subject to disciplinary action.

### **Sexual Discrimination and Misconduct Policy**

#### **I. Purpose and Statement of Intent**

This policy prohibits a broad continuum of behaviors, all of which constitute a form of sexual or gender-based harassment or discrimination, sexual assault, or dating or domestic violence. Prohibited conduct that may violate this policy includes sexual discrimination, sexual harassment, sexual assault, sexual exploitation, domestic and dating violence, stalking, and retaliation. This document may use the term "sexual misconduct" to refer to any or all of those prohibited behaviors.

All forms of sexual discrimination, including sexual harassment, sexual assault, sexual exploitation, domestic and dating violence, stalking as defined in the Violence Against Women Act (VAWA), and retaliation are an affront to human dignity and fundamentally at odds with Guilford College's mission and core values. The College community has a responsibility to maintain an environment free from all forms of sexual discrimination and other sexual misconduct. Guilford College prohibits sexual discrimination and other sexual misconduct in all its forms, including harassment, sexual assault and sexual violence, and it is committed to taking all appropriate steps to eliminate this prohibited conduct, prevent its recurrence, and address its effects.

The College promotes a climate free from sexual discrimination or other sexual misconduct through clear and effective policies, a coordinated education and prevention program, and prompt and equitable procedures for resolution of complaints. The College encourages all members of its community to participate in creating a safe, welcoming, and respectful environment on campus. Ultimately, all members of the community are expected to assume responsibility for their conduct, to report behaviors that may violate this policy, and to take reasonable and prudent actions to prevent acts of sexual discrimination or other sexual misconduct.

The College will respond according to the severity or pervasiveness of the offense and the threat it poses to an individual and the community. Individuals who are found responsible for violating this policy may

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face disciplinary sanctions up to and including suspension or dismissal from the College and/or termination of employment.

As stated above, the College will not tolerate retaliation against any individual who makes a report, participates or chooses not to participate in a grievance process, or assists as a bystander to prevent sexual misconduct. Retaliation destroys the sense of community and trust that is central to a respectful environment. Community members engaging in retaliation will be subject to disciplinary action.

### **II. Scope of Policy**

This policy addresses all forms of sexual misconduct, including sexual discrimination, sexual harassment, sexual exploitation, sexual assault, dating or domestic violence, stalking, and retaliation. It prohibits these behaviors against Guilford community members of any gender, gender identity, gender expression, or sexual orientation. This policy also prohibits failure to provide equal opportunity in admissions or any term or condition of the educational process, as well as hiring, promotion or any term or condition of employment.

This policy applies to all members of the Guilford community, including students, faculty, and staff, as well as consultants, volunteers, vendors, and others engaged in business with the College. Visitors to and guests of Guilford College are both protected by this policy and subject to its prohibitions. Visitors and guests may report violations of this policy to the Title IX Coordinator or otherwise as provided herein. Visitors and guests who are found to have violated this policy may be restricted or permanently forbidden from entering any part of the campus or attending any Guilford sponsored events.

This policy applies from the time a person enrolls at the College or accepts employment or volunteer duties (including academic term breaks and periods between terms and semesters) until the student withdraws or graduates, the employee ceases employment, or the volunteer's services for the College end. This policy pertains to acts of sexual misconduct committed by or against students, employees, and third parties when:

1. The conduct occurs on the campus or other property owned or controlled by the College; or
2. The conduct occurs in the course of College-related business travel or off-campus programs in the United States, such as domestic academic programs, field trips, spring term coursework. (some study abroad programs)

This policy also applies to behavior conducted online, including via e-mail. Postings on blogs, web page entries, social media sites, and other similar online postings can subject an individual or group to allegations of violations of this policy. While the College may not regularly search for this information, the College may take action if and when such information is brought or comes to the attention of the College.

Where the date of the reported sexual misconduct precedes the effective date of this policy, the definitions of sexual misconduct in existence at the time of the alleged incident(s) will be used. However, the procedures set forth in this policy will be used to investigate and resolve all reports made on or after the effective date of this policy, regardless of when the incident(s) occurred.

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### III. Notice of Non-Discrimination and Statement of Compliance with Relevant Laws

As an institution that is grounded in the relentless pursuit of core values that include equality and justice for all, the College adheres to Title IX and to all other federal and state civil rights laws prohibiting discrimination in private institutions of higher education.

Guilford College does not discriminate on the basis of sex/gender, race, color, creed, religion, age, national origin, sexual orientation, gender identity or expression, pregnancy, disability, genetic information, military status, veteran status, or any other protected category under applicable local, state or federal law, ordinance or regulation. The prohibition of discrimination applies to any and all programs or activities that Guilford College operates, including but not limited to admissions; educational programs; scholarships, loans and other financial aid; and athletic and other school-administered programs, services, and activities. The prohibition on discrimination also applies to applicants or employees with respect to employment.

Guilford College complies with Title IX which prohibits sexual discrimination and sexual harassment, including acts of sexual violence.

Inquiries regarding the application of this policy or Title IX, and its implementing regulation, may be referred to:

The College's Title IX Coordinator:

Barbara J. Lawrence, Title IX Coordinator  
Vice President, Office of Diversity, Equity, and Inclusion  
King Hall, 108J  
Telephone: (336) 316-2432 Email: [blawrenc@guilford.edu](mailto:blawrenc@guilford.edu)

Or to:

The Assistant Secretary, U.S. Department of Education, Office for Civil Rights Washington, DC (Metro)  
400 Maryland Avenue, SW Washington, DC 20202-1475  
Telephone: 202-453-6020  
TDD: 800-877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

Guilford College, as an educational community, will promptly and equitably respond to reports of sexual discrimination, sexual harassment, sexual exploitation, sexual assault, domestic and dating violence, stalking, and retaliation in order to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community.

All College proceedings are to be conducted in compliance with the requirements of Title IX, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act); the Family Educational Rights and Privacy Act (FERPA); and all other applicable federal and state laws, regulations, and guidance.

#### IV. Privacy and Confidentiality

The College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct to the extent possible consistent with its compliance responsibilities and duties to the College community. Consequently, the College will make efforts to protect the privacy of all individuals involved in a manner consistent with the need for an investigation and careful assessment of the allegation, and any necessary steps to eliminate the misconduct, prevent its recurrence, and address its effects.

Privacy and confidentiality have distinct meanings under this policy.

**Privacy** means that information related to a report of sexual misconduct will be shared only with those limited College employees who have a need to know in order to investigate, adjudicate and remediate a complaint. Care will be given with respect to the requirements of the Family Education Rights and Privacy Act (FERPA) and applicable federal and state laws.

**Confidentiality** means that, absent extraordinary circumstances, information shared by an individual with designated campus or community professionals will not be revealed to any other person without the express permission of the individual. Those professionals include medical providers, mental health care providers, ordained clergy, and off-campus rape crisis counselors, all of whom have privileged confidentiality recognized by law. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, the conduct involves suspected abuse of a minor under the age of 18, or as otherwise authorized by state and federal law.

Community members wishing to seek confidential assistance may speak with counselors in the Counseling Center, health service providers at Eagle Physicians, local health providers, off-campus rape crisis resources, counseling resources available to employees through the Employee Assistance Network, or members of the clergy, all of whom will maintain confidentiality. More information about confidential resources can be found in Section VIII (B).

**Reporting on Campus:** It is important to understand that any College employee who is not designated as a confidential resource cannot maintain the confidentiality of a report or information concerning an alleged violation of this policy, and all employees are expected to share any report of sexual misconduct with the Title IX Coordinator. More information about how to report to campus authorities can be found in Section IX (B).

**Release of Information:** No information shall be released from proceedings under this policy except as required or permitted by law and by College policy.

Pursuant to and as required by the Clery Act, if a report of misconduct indicates a serious and immediate threat to the campus community, the College will issue a timely notification to the community to protect its health or safety.

Pursuant to and as required by the Clery Act, anonymous statistical information must be shared with Public Safety. Annual Clery reporting to the U.S. Department of Education is required of educational institutions for certain offenses that have been reported at campus locations or certain off-campus locations controlled by the institution. The information contained in the Clery report tracks the number of

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Clery-reportable offenses occurring at such locations and does not include the names or any other identifying information about the persons involved in the incident. The College may also share non-personally identifying information about reports received in aggregate form, including data about outcomes and sanctions.

Only as permitted by the Family Educational Rights and Privacy Act (FERPA) and/or other applicable law and College Policy will Guilford notify the parents or guardians of students regarding any conduct situation, including disciplinary probation, loss of housing, suspension, and dismissal.

### **Definitions:**

#### **Complainant Defined:**

A complainant is defined as an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

#### **Respondent Defined:**

A respondent is defined as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

#### **Formal Complaint Defined:**

A formal complaint is defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment and states:

- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the College.
- A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator, and by any additional method designated by the college.
- The phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process and must comply with requirement for the Title IX personnel to be free from conflicts of bias.

#### **Supportive Measures Defined:**

Supportive measures are defined as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

The college’s selection of supportive measures and remedies are based on what is not clearly unreasonable in light of the known circumstances. The college is required to offer supportive measures and provide remedies to a complainant whenever a respondent is found responsible.

The college will treat complainants equitably by providing remedies any time a respondent is found responsible and treat respondents equitably by not imposing disciplinary sanctions without following the procedure outlined in this policy.

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**Remedies**, which are required to be provided to a complainant when a respondent is found responsible, must be designed to maintain the complainant's equal access to education and may include the same individualized services described in this policy; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

**V. Prohibited Conduct** Guilford prohibits and will not tolerate sexual misconduct in any form. Such violations are subject to any combination of sanctions, including suspension, dismissal, or termination of employment.

The following behaviors fall under the broad definition of sexual misconduct and are prohibited.

- Sexual Discrimination
- Sexual Harassment
- Sexual Assault (Non-Consensual Sexual Penetration)
- Non-Consensual Sexual Contact
- Sexual Exploitation
- Domestic and Dating Violence
- Stalking
- Retaliation

### A. Sexual Discrimination

Unequal treatment based on an individual's sex, sexual orientation, gender identity or gender expression that is sufficiently serious to unreasonably interfere with or limit the individual's opportunity to participate in or benefit from employment with the College, or a College educational program or activity, or that otherwise adversely affects a term or condition of an individual's education, employment or living environment.

### B. Sexual Harassment

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of Guilford College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (quid pro quo); or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or
- Sexual Assault, Dating Violence, Domestic Violence or Stalking, as defined below in this Policy.

Conduct is unwelcome if the individual did not request or invite it and regarded the conduct as undesirable or offensive. Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.

Sexually harassing behaviors differ in type and severity and can range from verbal harassment to unwelcome physical contact. A wide range of behaviors may fall within the general definition of sexual harassment depending on the circumstances.

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A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is hostile must be based on all the circumstances. In determining whether sex discrimination or sexual harassment/violence against a student or employee resulted in a sexually hostile environment, the College will consider the conduct in question from both a subjective and objective perspective. The effects of off-campus sex discrimination or sexual harassment/violence will be considered when evaluating whether a hostile environment exists on campus or in an off-campus education program or activity.

Circumstances to consider may include, but are not limited to:

- The degree to which the conduct affected one or more person's education or employment;
- The type, frequency, and duration of the conduct;
- The nature and severity of the conduct;
- The relationship between the respondent and the complainant;
- Whether the conduct was physically threatening;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct; and/or
- Whether the conduct deserves the protections of academic freedom.

### **Sexual harassment:**

- May be blatant and intentional and involve an overt action, a threat, or a reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents;
- May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context;
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship;
- May be committed by or against an individual or may be a result of the actions of an organization or group;
- May occur in the classroom, in the workplace, in residential settings, over electronic or social media (including the Internet, telephone, and text), or in any other setting.

Examples of conduct that may constitute sexual harassment as defined above may include, but are not limited to, a severe, persistent, and objectively offensive pattern of unwelcome conduct that includes one or more of the following:

- Physical conduct:
  - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements.
  - Unwanted sexual advances.

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- Verbal conduct:
  - Making or using derogatory comments, epithets, slurs, or humor.
  - Verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, notes, or invitations.
  - Offensive comments of a sexual nature, including sexually explicit statements, questions, jokes, or anecdotes.
- Visual conduct:
  - Leering; making sexual gestures; displaying suggestive objects or pictures, cartoons, or posters in a public space or forum.
  - Visual displays of suggestive, erotic, or degrading, sexually oriented images that are not pedagogically appropriate.
- Written conduct: letters, notes or electronic communications, including social media, containing comments, words, or images described above.
- Quid pro quo conduct:
  - Offering employment or academic benefits in exchange for sexual favors.
  - Making submission to or rejection of sexual advances an actual or implied condition of employment, work status, promotion, grades or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose.
  - Making or threatening reprisals after a negative response to sexual advances.
  - First Amendment protections are appropriate for the college and educational institutions where students are learning, and employees are teaching. Students, faculty and others should enjoy free speech and academic freedom protections, even when speech or expression is offensive or controversial.

### **C. Sexual Assault Non-Consensual Sexual Penetration**

Sexual Assault, also known as non-consensual sexual penetration, is penetration or attempted penetration, no matter how slight, of the vagina or anus with any body part (e.g., penis, tongue, finger, hand) or object, or oral penetration (mouth to genital contact) or attempted penetration by a sex organ of another, without the consent of the Complainant.

### **D. Non-Consensual Sexual Contact**

Sexual contact is the touching of the private body parts of another person for the purpose of sexual gratification without the consent of the Complainant, including the intentional contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without that person's consent. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner.

### **E. Sexual Exploitation**

Taking advantage of the sexuality of another person without consent or in a manner that extends the bounds of consensual activity for any non-legitimate purpose. Examples of sexual exploitation include, but are not limited to, the following:

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- a. Observing another individual's nudity or sexual activity or allowing another to observe nudity or sexual activity without the consent of all parties involved in a place where the individual being observed would have a reasonable expectation of privacy;
- b. Recording, streaming, or photographing private sexual activity and/or a person's nudity, or distribution of such without the consent of all parties involved;
- c. Prostituting another individual; and/or
- d. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

### **F. Domestic and Dating Violence**

*Domestic violence* means violence, including sexual or physical abuse or threat of such abuse, committed by:

- a. A current or former spouse or intimate partner of the complainant;
- b. A person with whom the complainant shares a child in common;
- c. A person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner;
- d. Any other person against a complainant who is protected from that person's acts under the domestic or family violence laws of North Carolina, which includes parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents, grandchildren, and in-laws.

*Dating violence* means violence, including sexual or physical abuse or threat of such abuse, committed by a person:

- e. Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
  - f. Where the existence of such a relationship shall be determined based on (1) the length of the relationship;
- (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Domestic and/or dating violence may involve one act or an ongoing pattern of behavior.

The College will not tolerate domestic or dating violence. The College recognizes that sexual harassment, sexual assault, stalking, and retaliation all may be forms of domestic or dating violence when committed by a person who is or has been involved in a sexual, dating, or other social relationship of a romantic or intimate nature with the complainant.

### **G. Stalking**

*Stalking* means engaging in a pattern of behavior or course of conduct directed at a specific person that would cause a reasonable person to:

- a. Fear for the person's safety or the safety of others; or
- b. Suffer substantial emotional distress.

"Course of conduct" means two or more acts.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Examples of stalking may include, but are not limited to:

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- c. Unwelcome/unsolicited communication including in-person communication, telephone calls, voice messages, text messages, e-mail messages, social networking site postings, instant messages, postings, written letters, gifts or other communications;
- d. Following, pursuing, waiting or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a complainant;
- e. Surveillance and other types of observation, whether by physical proximity or electronic means;
- f. Trespassing;
- g. Vandalism;
- h. Non-consensual touching;
- i. Direct physical and/or verbal threats against a complainant or someone close to the complainant;
- j. Gathering of information about a complainant from family, friends, or co-workers and/or classmates;
- k. Manipulative and controlling behaviors such as threats to harm oneself;
- l. Defamation or slander against the victim; or
- m. Using a third party or parties to accomplish any of the above.

### H. Retaliation

Retaliation includes intimidating, threatening, coercing, or in any way discriminating against any person or group for exercising rights under this policy.

Actions are considered retaliatory if they (1) are in response to a good faith disclosure of real or perceived College-related misconduct, participation in an investigation of College-related misconduct, or engaging in bystander intervention of sexual misconduct, and (2) would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy or participating in the complaint processes under this policy.

Retaliation may be present even where there is a finding of "Not Responsible" on the allegations of misconduct prohibited by this policy. Community members engaging in retaliation will be subject to disciplinary action. The College will act to stop retaliation immediately, to provide remedies to victims of retaliation, and to sanction the perpetrators of retaliation as appropriate.

For employees, the Director of Human Resources, the Provost or a department head will handle discipline for retaliation. For students, the Dean of Students has the discretion to address retaliation by taking administrative actions, disciplinary or otherwise, or referring the matter for a formal conduct charge. Notwithstanding the foregoing, and regardless of the manner in which any alleged retaliation is addressed, before any discipline is imposed, the person accused of retaliation will receive notice and an opportunity to be heard, as appropriate under the circumstances.

- The exercise of rights protected under the First Amendment does not constitute retaliation.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX- grievance proceeding does not constitute retaliation. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

In all instances, the Title IX Coordinator will oversee the investigation and adjudication of complaints and the disciplinary action imposed pursuant to this policy.

## VI. Understanding Consent: Force, Coercion, Incapacitation, and Alcohol

### A. Consent

Individuals who choose to engage in sexual activity of any type must first obtain the consent of the other party. Consent must be knowing and voluntary and is demonstrated through mutually understandable words and/or

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actions that clearly indicate a willingness to engage freely in sexual activity.

Additional Guidance about Consent:

- Consent to one form of sexual activity does not, by itself, constitute consent to engage in all forms of sexual activity.
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
- A verbal "no" is a clear demonstration of the lack of consent.
- Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.
- Either party may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicated a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
- Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise free will to choose whether or not to have sexual contact. See Paragraphs (B) and (C) of this Section for further discussion.

An individual who is physically incapacitated from alcohol or other drug consumption (voluntarily or involuntarily) or is asleep, unconscious, unaware, or otherwise physically helpless is considered unable to give consent. See Paragraph (D) of this Section for further discussion.

### **B. Force**

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

### **C. Coercion**

Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. In evaluating coercion, the College will consider the following:

- (1) frequency of the application of pressure;
- (2) intensity of the pressure,
- (3) isolation of the person being pressured;
- (4) duration of the pressure.

Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

#### **D. Incapacitation**

An individual who is incapacitated cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring.

In other words, a person may be considered unable to give valid consent due to incapacitation if the person is not able to understand the who, what, where, when, why, and/or how of a sexual interaction.

In evaluating whether consent was present in cases of alleged incapacitation, the College asks three questions:

- (1) Was complainant incapacitated?
- (2) If so, did the respondent know that the complainant was incapacitated?
- (3) If not, would a sober, reasonable person in the same situation have known that the complainant was incapacitated based on objectively and reasonably apparent indications of impairment?

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of giving consent is in violation of this policy.

#### **Alcohol or Other Drugs**

Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, common warning signs that a person may be incapacitated or approaching incapacitation as a result of alcohol or drug use or consumption may include, but not be limited to, one or more of the following: slurred speech, vomiting, unsteady gait, odor of alcohol, incontinence, combativeness, or emotional volatility.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct, and does not diminish one's responsibility to obtain consent.

### **VII. Prohibited Relationships by Persons in Authority**

The faculty-student relationship is one of trust in the institution and the faculty member, who has the professional responsibility for being a mentor, educator, and evaluator. Faculty-student and employee-student romantic and/or sexual attention, interaction, or relationships, even mutually consenting ones, interfere with a student's unfettered pursuit of learning and the integrity of the academic and workplace environment.

Consensual relationships, defined as a romantic or sexual relationship to which both parties have given their consent) between College employees and students are prohibited. Failure to take notice of this prohibition could subject the person in authority to disciplinary action, up to and including dismissal from employment by the College.

Please refer to the Vice President of Academic Affairs for faculty, and the Human Resources Director for staff, if there are questions about this policy, its application, or its enforcement.

### **VIII. Resources for Complainants and Respondents**

A first step for any complainant or third-party witness may be choosing how to proceed following an incident of sexual misconduct. The College provides two distinct institutional resources:

**Confidential Resources** do not involve notifying the College of the incident unless the complainant requests such action. See Section VIII(B).

**Reporting Resources** notify the College of the incident and begin the Title IX assessment and ultimate resolution of the report. See Section IX (B).

It is also important to note that emergency medical, Guilford Public Safety, and/or local law enforcement assistance are available both on and off-campus. All individuals are encouraged to contact law enforcement and seek medical treatment immediately following an incident when such assistance is desired or necessary under the circumstances.

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The College is committed to treating all members of the community with dignity, care, and respect. Any individual affected by sexual misconduct, whether as a complainant, a respondent, or a third party, will have equal access to support consistent with their needs and available College resources.

The College recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. The College encourages any individual who has questions or concerns to seek the support of campus and community resources. These professionals can provide information about available resources and procedural options and other assistance to either party in the event that a report and/or disciplinary proceedings are pursued. Individuals are encouraged to use all available resources, regardless of when or where the incident occurred.

### **A. Emergency and Community Resources**

The first priority for any individual should be personal safety and well-being. The College encourages all individuals who have experienced sexual misconduct to seek assistance by contacting Guilford Public Safety, calling 911, contacting local law enforcement, and/or visiting a medical facility immediately after an incident when such assistance is desired or necessary under the circumstances.

All individuals are encouraged to make a prompt report to law enforcement and/or to seek immediate medical treatment in response to an incident when such assistance is desired or necessary under the circumstances in order to address immediate safety concerns and to allow for the preservation of evidence and an immediate investigative response. The College will assist in these reporting options by arranging for or providing transportation to the hospital, coordinating with local law enforcement (including assisting with filing a police report and obtaining a protective order), and informing a complainant about the College's resources and complaint processes.

### **24 Hour Support Services:**

- Emergency: 911 (in a true emergency requiring immediate assistance, call 911)
- Guilford Public Safety: 336-316-2909
- Moses Cone Hospital: 336-832-7000
- Wesley Long Hospital: 336-832-1000
- Dean of Students Office by calling Campus Public Safety: 336-316-2909 to connect with Dean of Students
- Administrator on Call 24/7 by calling Campus Public Safety: 336-316-2909 to connect with Administrator on Call

In addition, Guilford College provides support services on campus through the following offices:

Student Health and Counseling Center  
Milner Student Health  
1203 Rachel Carson Court  
336-316-2163  
[counselingcenter@guilford.edu](mailto:counselingcenter@guilford.edu)

### **Off campus support resources:**

Victim Advocates through Family Service of the Piedmont  
315 East Washington Street  
[www.fscares.org](http://www.fscares.org)  
Crisis Line (336) 273-727

Legal Aid of North Carolina – Greensboro Office  
122 North Elm Street  
[www.legalaidnc.org](http://www.legalaidnc.org)  
(336) 272-0148

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- Greensboro Police Department: 336-373-2222 (non-emergency)
- Guilford County Sheriff's Office: 336-641-3694

### **B. Confidential Resources and Support**

For individuals who are seeking confidential consultation, several resources provide confidential support, both on campus and in the local community. The trained professionals designated below can provide counseling, information, and support under legally protected confidentiality. They may, however, submit non-identifying information about the incident for purposes of making a statistical report under the Clery Act.

Students wishing to obtain confidential support or resources on campus are encouraged to contact the College Student Health and Counseling Center. This center is staffed by counseling professionals who are bound by separate laws of confidentiality and will not share the report with other members of the College. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, the conduct involves suspected abuse of a minor under the age of 18, or as otherwise authorized by state and federal law.

#### **Other Confidential Resources:**

##### **National Domestic Violence Hotline (NDV)**

(800) 799-7233 (SAFE)

The National Domestic Violence Hotline can provide advocacy, resources, referral, and legal assistance to victims of dating or domestic violence.

[www.thehotline.org](http://www.thehotline.org)

##### **Rape, Abuse and Incest National Network (RAINN)**

(800) 656-4673

A confidential, anonymous national sexual assault hotline.

[www.rainn.org](http://www.rainn.org)

#### **Descriptions:**

##### **Counseling Center (336-316-2163)**

The Counseling Center is staffed by professional psychotherapists and are available to talk about issues such as relationships, depression, anxiety, substance abuse/addictions, or negative behaviors which are causing you pain (such as cutting, procrastinating, or obsessive-compulsive behaviors). While there is no rigid limit on the number of sessions available to you, the length of your particular counseling will depend on many factors. When you meet with your therapist, you will decide together what makes sense for you, based on your needs and what we are able to offer. Many concerns can be addressed in relatively short-term counseling at the Counseling Center; however, If you would like to pursue longer-term therapy or need specialized treatment, the counselor will assist you in finding a therapist off-campus. The Counseling Center is located in the Milner Student Health and Counseling Center. The hours are 8:30am-5pm Monday-Friday. In the event of an after-hours emergency, please call Public Safety at 336-316-2909. Public Safety is able to contact the staff member on duty when necessary. To make an appointment, please call 336-316-2163 or email Susan Smith at [ssmith@guilford.edu](mailto:ssmith@guilford.edu). The services are free of charge and confidentiality is carefully observed.

##### **Public Safety (336-316-2909)**

The Public Safety office is located in the lower level of the Bauman Telecommunications Center. The department provides 24-hour service that safeguards the College's population, facilities and property. It is staffed by professional personnel. The College encourages the active involvement of all community members in keeping the campus a safe and secure environment for education. Office hours: Monday-Friday, 9am-5pm. The phone number to reach Public Safety is 336-316-2909 or email [security@guilford.edu](mailto:security@guilford.edu). For emergencies call 911.

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### Blue Light Telephones

The blue light telephone network exists for the purposes of the safety and convenience of the Guilford community. Phone locations are marked by a blue light above the phone. In an emergency, callers can press the red button to automatically dial the on-duty public safety officers. Once the button is pushed, the Public Safety officers will be able to communicate with the caller. Callers are asked to stay by the box and talk to officers unless their safety is at risk. The locations of blue lights on campus are:

- Lower South Apartment Parking Lot
- Binford / Hendricks Hall Parking Lot
- Bryan Parking Lot

### Student Health Services

Eagle Physicians (1210 New Garden Road, 336-294-6190) is the sole provider of the College's student health services for traditional students. Their office is located adjacent to campus and easily accessible by way of the sidewalk along New Garden Road. Traditional students may go to Eagle and be seen for many illnesses at no charge. A list of these services may be found on the Student Health webpage.

Eagle will accept many insurance plans (including Guilford's student health insurance through United Healthcare) for treatment of more complicated issues and for medical tests not included in the list of covered services. Some of these services will require an appointment. Students going to be seen at Eagle will need to present their Guilford College ID and a copy of their insurance card at check-in. It is also important that students have means (credit/debit/cash) to pay their co-pay or any charges that may be incurred due to an illness or testing not covered by our agreement with Eagle Physicians.

Traditional students will have ready access to board-certified physicians, as well as extended clinic hours. Eagle Physicians will provide services by appointment (unless serious or acute illness/symptoms) from 8am-5pm

weekdays. Eagle After Hours Care (same location) will see students on a walk in basis from 5:30pm-8:45pm Monday-Friday and 9am-5:45 pm on Saturday and Sundays. More information about Eagle Physicians can be found on the website: <http://www.eaglemds.com>.

The College maintains a Student Health Services office located on campus in the Milner Student Health and Counseling Center. While no medical care is available there, this office maintains required immunization records and a staff member is available to assist students and parents with questions and support.

The on-campus Student Health Services office also maintains immunization compliance for CCE/adult students. Adult students may call 336-316-2163 for questions and assistance related to NC State immunization law requirements and compliance. The College does not offer medical care to CCE students.

After hours, contact your Residential Assistant (RA) or Public Safety for emergency procedures. There are two hospitals with emergency facilities available: Wesley Long Hospital (336-832-1000) and Moses Cone Hospital (336-832-7000). In a true emergency requiring immediate assistance, call 911.

For students living in residence halls, apartments, or houses on campus, Resident Advisors are on duty nightly in Bryan, Milner, the small halls and alternative houses, and the apartments. Duty schedules are posted outside each RA and Community Director's apartment door.

### Off-Campus Emergency 911

In addition to the 24-hour availability of Public Safety Office staff members, there is a Student Affairs staff person on call 24 hours a day. In a crisis, you may contact the Student Affairs staff person on call by calling

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Public Safety at 336-316-2909 to report a problem. The Public Safety officer will contact the on-call Student Affairs professional, as needed.

### **IX. Reporting**

The College encourages all individuals to seek assistance from a medical provider and law enforcement immediately after an incident of sexual misconduct when such assistance is desired or necessary under the circumstances, regardless of whether or not the individual plans to pursue criminal action. This is the best option to ensure preservation of evidence and to begin a timely response by law enforcement and/or the College. Complainants are strongly encouraged to take immediate steps to preserve all evidence that might support a future report to the College, a protective order, or an investigation by law enforcement.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

Making a report means telling a Reporting Resource (someone in authority, see Section IX (B) what happened--in person--by telephone, in writing, or by e-mail. At the time a report is made, a complainant does not have to decide whether or not to request any particular course of action, nor does a complainant need to know how to label what happened. The College provides support to each individual in making these important decisions, and to the extent legally possible, will respect an individual's autonomy in deciding how or whether to proceed. In this process, the College will balance the individual's interests with its obligation to provide a safe and non-discriminatory environment for all members of the College community.

### **Deliberate Indifference Standard**

The college will respond to Title IX sexual harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances. Therefore, the college must:

- Offer supportive measures to the person alleged to be the complainant;
- Ensure the Title IX Coordinator promptly contact the complainant confidentially to discuss the availability of supportive measures;
- Consider the complainant's wishes with respect to supportive measures;
- Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint,
- Explain to the complainant the process for filing a formal complaint;
- Investigate sexual harassment allegations in any formal complaint, which can be filed by a complainant or signed by the Title IX Coordinator;
- Affirm that a complainant's wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.
- Dismiss, for the purposes of Title IX, if the allegations in a formal complaint do not meet the definition of sexual harassment or did not occur in the United States; but may still address the allegations in any manner the school deems appropriate under the College Code of Conduct;

Any individual who reports sexual misconduct can be assured that the College will assess each report and resolve it in a fair and impartial manner, as appropriate under the circumstances. All individuals involved can expect to be treated with dignity and respect. In every report, the College will make an immediate assessment of any risk of harm to the College or to the broader campus community and will address those risks, including taking interim measures to provide for the safety of the individual and the campus community.

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### A. Reporting to Law Enforcement

The College encourages complainants to pursue criminal action for incidents of sexual misconduct that may also be crimes under state criminal statutes. Complainants have the right to notify or decline to notify law enforcement authorities. The College will assist a complainant, at the complainant's request, in contacting local law enforcement; filing a report; or obtaining a protective order. The College will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process. Complainants have the right to participate or decline to participate in any investigation to the extent permitted under state or federal law.

Local law enforcement information:

- Greensboro Police Department: 336-373-2222 (non-emergency)
- Guilford County Sheriff's Office: 336-641-3694
- North Carolina State Police: 919-733-7952 (main line)

The College's policy, definitions, and burden of proof differ from those that apply in criminal law. A complainant may seek resolution through the College's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination regarding whether to prosecute a respondent nor the outcome of any criminal prosecution determines whether sexual misconduct has occurred in violation of this policy. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

### B. Campus Reporting Resources

Guilford community members should report all incidents of sexual misconduct or retaliation directly to the Title IX Coordinator or to any Deputy Title IX Coordinator. See Campus Reporting Resources, below.

The College recognizes that a complainant has multiple avenues available to report a concern. For example, a student may choose to confide in an associate dean, a resident adviser, a faculty member, a director, or a coach. Similarly, an employee may choose to confide in a supervisor or a colleague. Unless designated as a confidential resource (see Section VIII(B)), no Guilford employee may promise confidentiality, and all Guilford employees have a duty to report such information immediately to the Title IX Coordinator or a Deputy Title IX Coordinator.

Guilford has identified certain groups of employees as "Responsible Employees" for purposes of complaints of sexual misconduct. A Responsible Employee is required to report to a Title IX Coordinator all relevant details (obtained directly or indirectly) about an incident of sexual misconduct, including dates, times, locations, and names of parties and witnesses. Information brought to the attention of a Responsible Employee is not confidential. All Responsible Employees are trained on how to identify sexual misconduct and on their duties.

Only the Title IX Coordinator and those designated to act on her behalf has the authority to redress complaints of sexual violence or sexual misconduct. All other Responsible Employees, including but not limited to those listed below, must report complaints of sexual misconduct to the Title IX Coordinator or a Deputy Title IX Coordinator:

- Athletics Director, Associate and Assistant Athletics Directors
- Athletic Team Coaches, Assistant Coaches, and Athletic Trainers
- Sustainability Director and College Farmer
- Faculty and staff accompanying students on off-campus programs or other College-related trips, within and outside the United States
- Undergraduate Faculty Department Chairs, Program Directors, faculty advisers
- Resident Advisors and Community Assistants
- Experiential learning program directors and staff (e.g., Bonner, Intercultural Engagement, Quaker Leadership Scholars, Principled Problem Solving Scholars, etc.)

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- Student Affairs senior staff
- Academic Affairs senior staff

Students and employees should report information about any incident of sexual misconduct to any of the Responsible Employees or to the reporting resources listed below:

### Campus Reporting Resources

Barbara J. Lawrence, Title IX Coordinator  
Vice President of Diversity, Equity and Inclusion  
King Hall, 108J  
Phone: (336) 316-2432  
Email: [blawrenc@guilford.edu](mailto:blawrenc@guilford.edu)

Alisa T. Quick, Title IX Deputy Coordinator for  
Employment Human Resources Director  
King Hall, 101  
Phone: (336) 316-2135  
Email: [quickat@guilford.edu](mailto:quickat@guilford.edu)

Stephanie Flamini, Deputy Coordinator for Gender Equity in Athletics  
Assistant Athletic Director, Senior Woman Administrator, Head Coach Women's Basketball  
Ragan Brown, 212  
Phone: (336) 316-2344  
Email: [sflamini@guilford.edu](mailto:sflamini@guilford.edu)

Steve Mencarini, Deputy Coordinator for Student Life  
Dean of Students  
Founders Hall, 201  
Phone: (336) 316-2465  
Phone: 336-316-2133  
Email: [mencarinism@guilford.edu](mailto:mencarinism@guilford.edu)

Department of Public Safety  
Phone: 336-316-2909  
Available 24 hours a day/7 days a week/365 days a year

### C. Anonymous Reporting

Any individual may make an anonymous report of sexual misconduct. An individual may report the incident without disclosing their name, identifying the respondent, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the College's ability to respond to an anonymous report may be limited.

The Anonymous Sexual Misconduct Reporting Form can be found on the College intranet at:  
[https://guilford.guardianconduct.com/incident-reporting?incident\\_type=Title%20IX%20%2F%20Sexual%20Misconduct](https://guilford.guardianconduct.com/incident-reporting?incident_type=Title%20IX%20%2F%20Sexual%20Misconduct)  
The Guilford Buzz provides a daily link to the form.

The Title IX Coordinator or a Deputy Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies as appropriate and in compliance with all

federal and state legal obligations.

#### **D. Bystanders**

A bystander is a person who (either directly or indirectly) has an opportunity to prevent or respond to a situation that they know to be damaging to another person or the community, and does not do so, either by choice or inability to act. The harmful role of bystanders during acts of disruption, prejudice, or violence toward others and oneself (i.e., overconsumption of substances) is receiving an increasing amount of attention across the nation. This is particularly true in cases of sexual violence but can include situations where students are witnessing a peer consume harmful quantities of substances, abusive relationships, or cruel or bullying behavior toward others.

Students are being asked to recognize that they always have a choice: To “stand up” and call for help, report, or take action when they see situations that could potentially become violent or unsafe for those involved; or to stand by, remain passive, and take no action. The conversations that occur during the student conduct process will include an intention to raise awareness of the issues of the role of bystanders in the well-being and health of our community. For every incident that occurs on our campus, there are multiple levels of responsibility. This includes direct and indirect contributions to the situation.

The College encourages all community members to take reasonable and prudent actions to prevent an act of sexual misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who assist under these circumstances will be supported by the College and protected from retaliation. The College provides mandatory bystander training for all entering students. Anyone interested in additional training should contact Shay Harger at: [hargercs@guilford.edu](mailto:hargercs@guilford.edu) or 336-316-2124.

#### **E. Reporting Considerations**

##### **1. Timeliness of Report, Location of Incident**

Complainants and third-party witnesses are encouraged to report incidents of sexual misconduct as soon as possible in order to maximize the College's ability to respond promptly and effectively. However, there is no time limit on reporting violations of this policy. If the respondent is no longer a student or employee, the College may not be able to take disciplinary action against the respondent, but it will still seek to comply with its Title IX obligation by providing support for a complainant and taking steps to end the harassment, prevent its recurrence, and remedy its effects.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct that occurs in connection with College programs or events may also be covered, as may off-campus conduct that may have a continuing adverse effect on the complainant while on campus or other property owned or controlled by the College or in any College employment or education program or activity. The College will process all Title IX complaints regardless of where the conduct occurred to determine whether the conduct occurred in the context of its educational program or has continuing adverse effects on campus or in an off-campus program or activity.

##### **2. Amnesty for Personal Use of Alcohol or Other Drugs**

The College seeks to remove any barriers to reporting. It is in the best interest of this community that all individuals who have been the subject of sexual misconduct report the behavior to the College, and that witnesses share what they know. To encourage reporting, complainants, third-party witnesses, or respondents will not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. Students may be required to engage in non-disciplinary substance abuse or awareness

measures.

### **3. Statement Against Retaliation**

Retaliation is a violation of College policy and will result in disciplinary action. See Section V(H) above for more information.

### **4. False Reporting**

The College takes the validity of information very seriously, as a charge of sexual misconduct may have severe consequences.

A complainant who makes a report that is later found to have been intentionally false or made maliciously without regard for truth, or anyone proven to have acted in bad faith to intentionally give false information during the course of an investigation may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation and/or hearing decision. An allegation of false reporting cannot be investigated or heard until the underlying allegations have been resolved.

### **5. Protection of Minors and Mandatory Reporting of Suspected Child Abuse**

Any persons employed by the College who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, are required to report the matter immediately to child protective services. The College also requires that the information be immediately shared with the Office of Public Safety so that the College can ensure timely compliance with this law and enhance the protection of children. The College will report all suspected child abuse and neglect, including sexual assault, to law enforcement.

The College will act quickly regarding all suspected child abuse. For the purposes of this reporting obligation, a child is any individual under the age of 18, and the suspected abuse may involve physical, sexual, or other forms of abuse or neglect, regardless of the identity of the suspected perpetrator. The duty to report is triggered by reasonable suspicion or belief. There is no requirement that evidence of abuse be presented, nor is it the responsibility of any employee, student, or volunteer to investigate suspected child abuse on his/her own. The Department of Social Services and/or law enforcement authorities are best positioned to conduct any such investigation and make appropriate determinations.

A report should be made as follows:

- If a child is in immediate danger, call the police (911).
- If there is no immediate danger, call the Guilford College Office of Public Safety (336-316-2909).
- If an employee is unable to reach the Office of Public Safety, he or she may alternatively report the suspected abuse to one of the following:
  - The local Department of Social Services in the city where the child lives or the city where the abuse/neglect is believed to have occurred.
  - If an employee reports to the State or Local Department of Social Services, they must also provide the same information to Public Safety as soon as possible.

## **X. Title IX Assessment, Supportive Measures and Requests Not to Proceed**

Although a report may arrive through many sources, the Title IX Coordinator ensures consistent application of the policy to all individuals to allow the College to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and remedy its effects.

Complainants and respondents can expect the following under these procedures:

- Prompt and equitable resolution of allegations of sexual misconduct;
- Privacy in accordance with the policy and any legal requirements;
- Reasonably available supportive measures as described in section B below;
- Freedom from retaliation for making a good faith report of sexual misconduct or participating in

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- any proceeding under this policy;
- The responsibility to refrain from retaliation directed against any person for making a good faith report of sexual misconduct or participating in any proceeding under this policy;
- The responsibility to provide truthful information in connection with any report, investigation, or resolution of sexual misconduct under the policy;
- The opportunity to articulate concerns or issues about proceedings under the policy;
- Notice of any meeting or proceeding that the party may attend;
- The opportunity to have an advisor;
- Written notice of an investigation, including notice of potential policy violations;
- The opportunity to offer information, present evidence, and identify witnesses during an investigation;
- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equal access to information that will be used during resolution proceedings;
- Written notice of any extension of timeframes; and
- Written notice of the outcome of any disciplinary proceeding,

The initial assessment will include an evaluation of the safety of the individual and of the campus community. During the initial assessment, the College will ensure that the complainant receives a written explanation of available resources and options. At the conclusion of the initial assessment, if the complainant has expressed a desire to proceed with an investigation, the College will begin the process. If the complainant has requested not to proceed with an investigation, the Title IX Coordinator with others as necessary, will determine the appropriate resolution following the guidelines in Paragraph C of this section.

### A. Supportive Measures

#### 1. Overview

Upon receipt of a report of sexual misconduct, the College will impose reasonable and appropriate supportive measures. Supportive measures can be provided to any member of the College community affected by sexual misconduct whether the complainant, respondent, or third party. Supportive measures may be imposed regardless of whether formal disciplinary action is sought by the complainant or the College, and regardless of whether or not the complainant chooses to report to local law enforcement, in order to ensure the preservation of the complainant's educational, work or volunteer experience and the overall safety of the College environment. The imposition of a supportive measure assumes no determination of responsibility and is not a form of discipline.

When implementing supportive measures, the College will seek to minimize the burden on the party seeking the measures. For example, if the parties share the same residence hall, the College will not, as a matter of course, remove the party seeking the protective measure from the class or residence hall while allowing the other party to remain, without carefully considering all options and circumstances. The College will maintain as private any supportive measures provided, to the extent that maintaining such privacy would not impair the ability of the College to provide those measures.

All individuals are encouraged to report concerns about the failure of another individual to abide by the terms of any imposed supportive measure. The College will take immediate action to enforce a previously implemented measure.

The College can impose disciplinary sanctions for failing to abide by a College-imposed measure. For employees or volunteers, the Director of Human Resources, the Provost's office, or a department head will handle alleged violations of supportive measures. For students, the Dean of Students has the discretion to address alleged violations of interim measures by taking administrative actions, disciplinary or otherwise, or referring the matter for a formal conduct charge. In all cases the Title IX Coordinator oversees this process.

## 2. Range of Measures

The College, at its discretion, will implement supportive measures. Supportive measures are intended to be protective and/or remedial for one or both parties, may be temporary or permanent, and may be modified by the College as circumstances change. Potential measures, which may be applied to the complainant and/or the respondent to the extent reasonably available and warranted by the circumstances, include but are not limited to:

- Access to counseling services and assistance in setting up initial appointment, both on and off-campus;
- Imposition of a no-contact directive;
- Rescheduling of exams and assignments;
- Providing alternative course-completion options;
- Change in class schedule, including the ability to transfer course sections or withdraw from a course without penalty;
- Change in work schedule or job assignment;
- Change in student's College-controlled housing;
- Assistance from College support staff in completing housing relocation;
- Limit of an individual's or organization's access to certain College facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Arranging a meeting with law enforcement or College Public Safety;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Working in conjunction with student affairs to impose a behavioral agreement with the respondent;
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

## 3. College-Imposed Interim Administrative Leave of Absence

If at any point following the receipt of a report of prohibited conduct, the Title IX Coordinator, after consultation with the Vice President of Student Affairs and Dean of Students, Director of Public Safety, and/or others, as advisable, determines that the respondent poses an immediate threat to the health and safety of the complainant or any other person(s), including the respondent, the College may immediately and temporarily remove the respondent from any or all of its programs or activities and place the respondent on an administrative leave of absence from the College. Interim administrative leaves of absence will be used for short periods of time pending resolution of a formal complaint and grievance process. The use of an interim administrative leave does not require, and has no bearing on, a determination of responsibility.

During an interim administrative leave of absence, a student respondent may be denied access to College housing, which includes Residence Halls, Theme Houses, and/or the College's campus or programs. As determined appropriate by the Title IX Coordinator (or designee), this restriction includes classes and/or all other College activities or privileges for which the respondent might otherwise be eligible.

At the discretion of the Title IX Coordinator, and with the approval of, and in collaboration with, the appropriate Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the respondent.

Similarly, if at any point in a formal complaint process, an employee respondent who is suspected of violating this policy represents a danger to individuals or disruption to campus operations, the employee may be placed on administrative leave pending the outcome of the complaint and appeals. Such leave will be structured at the

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College's discretion.

### **B. Complainant Autonomy and Request to *Not* Proceed**

In the event that a complainant does not wish to proceed with an investigation or a complaint, the Title IX Coordinator will respect the complainant's wish unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances. If the allegations in a formal complaint do not meet the definition of sexual harassment, or did not occur in the school's education program or activity against a person in the United States, the Final Rule clarifies that the college must dismiss such allegations for purposes of Title IX but may still address the allegations in any manner the college deems appropriate under the school's own code of conduct. The Title IX Coordinator will assess any barriers to proceeding and will reassure the complainant that Title IX prohibits retaliation and that the College will take strong responsive action to protect the complainant.

In determining whether the College can comply with a complainant's request not to proceed, the Title IX Coordinator will consider a range of factors that bear on the safety and welfare of the College community, including but not limited to:

- The severity and impact of the conduct, including whether a weapon was used;
- Whether the complainant is a minor under the age of 18;
- Whether prior reports of sexual misconduct have been made against the respondent;
- Whether the respondent threatened further violence or other violence against the complainant or others;
- Whether the college possesses other means to obtain relevant evidence of the alleged sexual misconduct (security cameras, video recordings, photographs or other evidence); and,
- The extent of prior remedial methods taken with the respondent.

After evaluating the appropriate factors, if the complainant's request not to proceed is allowed, the College will take all reasonable steps to respond to the complaint consistent with the request, but its ability to do so may be limited based on the nature of the request by the complainant. Examples of potential non-disciplinary responses are provided in paragraph B above. Other potential responses include targeted or broad-based educational programming or training; heightened monitoring/security; in cases involving nonstudents, informal resolution as described in Section XII(B) below; and/or indirect action by the Title IX Coordinator, Deputy Title IX Coordinators, or other individuals brought in to handle indirect action with consent of the complainant.

Where the College is unable to take action consistent with the request of the complainant, the Title IX Coordinator will notify the complainant of the College's chosen course of action. To the extent possible, the College will avoid taking action that would reveal the identity of the complainant.

A complainant who initially requests that the College not proceed with an investigation or disciplinary action may later request that an investigation be conducted. Additionally, the Title IX Coordinator, after granting a request not to proceed, may proceed with an investigation or disciplinary action if any new or additional information becomes available.

### **XI. Investigation and Resolution for Complaints Against Students**

The following procedures will be used if the respondent is a student at the time of the report. If the respondent is both a student and an employee:

- The student resolution procedures will apply if the respondent is a full-time student but not a full-time employee;
- The employee resolution procedures will apply if the respondent is a full-time employee but not a full-time student; or
- If there is a question as to the predominant role of the respondent, the Title IX Coordinator will

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determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the conduct).

### **A. Overview of Procedural Options**

Following the Title IX assessment, the College (1) may seek a remedies-based resolution that does not involve disciplinary action against a respondent; or (2) initiate an investigation to determine if a charge should be issued. The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to support a charge against a respondent.

### **B. Remedies-Based Resolution**

Remedies-based resolution is a type of supportive measure that can be utilized to address reported behavior. Remedies-based resolution is a non-disciplinary approach designed to eliminate a reported hostile environment without initiating potential disciplinary action against a respondent. Where the Title IX assessment concludes that remedies-based resolution is appropriate, the College will take immediate and corrective action through the imposition of individual and community remedies designed to maintain the complainant's access to the educational, extracurricular, employment or volunteer activities at the College. Examples of protective, non-disciplinary remedies are provided in Supportive Measures, Section X(B). Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the respondent, mediation, and/or indirect action by the Title IX Coordinator or the College. Depending on the form of remedies-based resolution used, it may be possible to maintain anonymity.

The College will offer mediation or direct confrontation for appropriate cases, but it will not compel a complainant to engage in mediation or to directly confront the respondent. Likewise, a complainant may request remedies-based resolution at any time prior to a hearing, provided that the College determines that the complainant's request is consistent with the College's obligations under Title IX to ensure the safety and welfare of the college community (e.g., pursuant to factors such as those in Section X(C)). Mediation and direct confrontation, even if voluntary, will not be used in cases involving sexual assault or violence and will not be used in cases where an employee is accused of sexual harassment of a student.

Participation in remedies-based resolution is voluntary, and a complainant and respondent can request to end remedies-based resolution at any time. A grievance process will not be initiated unless or until a formal complaint is filed by the complainant. Therefore, the withdrawal from participation in the remedies-based resolution does not automatically initiate an investigation and adjudication process. A complainant must file a formal complaint to initiate the grievance process.

The Title IX Coordinator will maintain records of all reports and conduct resolved by remedies-based resolution. If mediation or direct confrontation is used, it will typically be completed within forty-five (45) business days of the initial report, absent extraordinary circumstances.

### **C. Investigation**

To conduct an investigation, the College will designate an investigator who has specific training and experience investigating allegations of sexual misconduct. Any investigator must be impartial and free of any conflict of interest.

Typically, an investigation will begin twenty-four (24) hours after the respondent is notified of the complaint and the need for investigation.

During a pending investigation and disciplinary proceeding, both the complainant and the respondent may have an Advisor (see paragraph G(3) of this section). The Advisor can be any person: friend, mental health professional, attorney, parent, an individual at the College, etc. The Advisor may be present at any meeting or

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proceeding related to the investigative or disciplinary process in which the complainant or respondent is present. The Advisor may observe but may not speak on behalf of the complainant or respondent, or otherwise, during any interview or hearing. The Advisor will be expected and permitted to ask questions during cross-examination during the hearing.

The investigator will conduct the investigation in a manner appropriate in light of the circumstances of the case. They will coordinate the gathering of information from the complainant, the respondent, and any other individuals who may have information relevant to the determination. The investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. The complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident; they cannot be participating solely to speak about an individual's character.

The investigation is designed to provide a fair and reliable gathering of the facts. It will be thorough, impartial, and fair, and all individuals will be treated with respect. The investigation is a neutral fact-gathering process. The respondent is presumed to be not responsible; this presumption may be overcome only where the Hearing Officers conclude that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the respondent violated the policy. The preponderance of the evidence standard of review means that the evidence must show that the respondent more likely than not engaged in the alleged prohibited conduct in order to be found responsible. As described in Section IV, the investigation will be conducted in a manner that respects individual privacy concerns to the extent permitted by applicable law and College policy.

The College will seek to complete the investigation within thirty (30) calendar days from the start of the investigation, but this time frame may be extended for good cause such as the complexity of the circumstances of each case or unforeseen delays due to the availability of witnesses. At the request of law enforcement, the College may agree to defer its Title IX fact gathering until after the initial stages of a criminal investigation. The College will nevertheless communicate with the complainant and the respondent, regarding Title IX rights, procedural options, and the implementation of necessary interim measures to assure the safety and well-being of all affected individuals. If applicable, the College will promptly resume its Title IX fact gathering as soon as law enforcement permits it to do so.

Information the College gathers during the review or investigation will be used to evaluate the responsibility of the respondent, to provide for the safety of the complainant and the College community, and to take appropriate measures to end any misconduct, prevent its recurrence, and address its effects.

The Title IX Coordinator will retain copies of all reports generated as a result of investigations. The College will keep these records private to the extent permitted by law.

Although all witnesses, the complainant, and the respondent are expected to participate in the investigative process, neither party is required to participate in the investigation under these procedures. If a party chooses not to participate in an investigation, the investigation and potential disciplinary proceedings may still proceed.

In order to protect the integrity of the investigation, none of the parties involved in the investigation should discuss with any witness or potential witness what was shared with investigator while proceedings are pending.

### **During the Grievance Process and when Investigating:**

- The burden of gathering evidence and burden of proof must remain on the college, not on the parties.
- The college will provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exclusionary evidence.

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- The college will not restrict the ability of the parties to discuss the allegations or gather evidence. (e.g., no “gag orders”)
- Parties will have the same opportunity to select an advisor of the party’s choice who may be, but need not be, an attorney.
- The college will send written notice of any investigative interviews, meetings, or hearings.
- The college will send the parties, and their advisors, evidence directly related to the allegations in electronic format or hard copy, with at least 10 days for the parties to respond.
- The college will send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.
- The college will dismiss allegations of conduct that do not meet the definition of sexual harassment or did not occur in one of the college’s education programs or activity against a person in the United States. Such dismissal is only for Title IX purposes and does not preclude the college from addressing the conduct in any manner the college deems appropriate.
- The college may, in its discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the college from gathering sufficient evidence to reach a determination.
- The college will send the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.
- The college may, in its discretion, consolidate formal complaints where the allegations arise out of the same facts.
- This policy protects the privacy of a party’s medical, psychological, and similar treatment records by stating that it can not access or use such records unless the college obtains the party’s voluntary, written consent to do so.

### **1. Review of Investigation Report**

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information. The investigator should delete statements of personal opinion (other than as to credibility).

Before the investigative report is finalized, the complainant and respondent will have a minimum of ten (10) days to review the draft written report. The complainant and respondent may submit in writing any additional comments, request changes, or request further investigation from the investigator.

After giving the parties the opportunity to comment on the report in writing, the investigator will conduct any additional investigation or make changes to the report based on those comments at their discretion. The investigator will submit the report to the designated Title IX coordinator for dissemination to the Hearing Officers. All copies of the investigation report (the original, copies bearing feedback from the parties, and the investigator’s final report) should be identified and maintained in the case file.

## **D. Harassment and Sexual Misconduct Hearing**

### **1. Hearing Officers**

Guilford College uses two Hearing Officers who together determine responsibility and, if warranted, administer

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sanctions and/or discipline against a respondent. Each hearing officer is appointed by the Title IX Coordinator and is specially trained to adjudicate cases of sexual misconduct.

### **2. Role of the Hearing Officers**

The Hearing Officers are selected from a pool of individuals trained to serve. Hearing Officers must be impartial and free of any conflict of interest. A pre-hearing conference is held prior to formally beginning a hearing. The Hearing Officers shall determine the order of the proceedings, the relevancy of witnesses and evidence, and the nature of questioning. The Hearing Officers shall exercise reasonable discretion in adjudicating all matters not expressly covered under this Policy and shall have the authority to make the final determination as to all procedural questions or issues that may arise.

### **3. Determination to Proceed to a Hearing**

Based on the investigation report, the Hearing Officers will determine whether to formally charge the respondent and will notify the parties. A charge will be issued if the complainant's factual allegations are plausible and could constitute a violation of this policy. Absent extenuating circumstances, the decision whether to formally charge the respondent will be made within two (2) calendar days after the Hearing Officers receive the investigation report.

If a formal charge is not approved and the complaint, one or multiple allegations, is dismissed, the Complainant has the right to appeal the dismissal of the complaint.

If a formal charge is approved the formal charge(s) will state the subject matter of the complaint, the name of the complainant, and the approximate date and/or timeframe for the alleged conduct.

The Hearing Officers may deliver notice of the charge by one or more of the following methods:

- In -person or via a designated College administrator;
- Mailed to the local or permanent address of the individual as indicated in official College records; or
- Emailed to the individual's College-issued email account.

Once a formal charge has been issued, the respondent will answer the charge as "Responsible," "No Contest," or "Not Responsible." If the respondent answers "Responsible" or "No Contest," the Hearing Officers will review the charge to determine an appropriate sanction. The respondent must answer the charge before or during the Pre-Hearing Conference, which is held, absent extraordinary circumstances, within seven (7) calendar days after the issuance of the formal charge document.

Upon the issuance of a formal change, the investigation report and related appendices will be made available to the parties for their review.

### **4. Pre-Hearing Conference**

The Hearing Officers will hold separate Pre-Hearing Conferences with the parties and their Advisors to review the hearing process, roles and expected decorum for the proceedings, address evidentiary or other matters before the hearing commences.

At the Pre-Hearing Conference, the parties may submit a written request outlining any additional investigation steps they believe are necessary, including but not limited to:

- Requests for follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses, the complainant or the respondent;
- Requesting a follow-up interview with the investigator to clarify or provide any additional information

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that such party believes is relevant to the investigation or to seek clarification from the investigators on aspects of the investigation report.

- Identifying any new witnesses who should be interviewed (including a description of what topics/issues the witness should be asked to address); and/or
- Explaining any additional evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available.

At the Pre-Hearing Conference, the parties may also request in writing that portions of any witness notes be redacted or changes be made to the investigation report. The Hearing Officers, in consultation with the investigator, will make the final determination on what changes will be made to the investigation report.

The Hearing Officers will determine whether there is sufficient justification for asking a witness to attend in person or whether the witness statement adequately summarizes the information.

Absent extenuating circumstances, the Pre-Hearing Conferences will be held within seven (7) calendar days of issuance of the charge document. If additional investigation is required, the Hearing Officers will set a timeframe in which it is to be completed and reviewed by both parties prior to the hearing.

### 5. Hearing Procedures

A hearing will be held in a timely manner; assuming no extraordinary circumstances, within fourteen (14) calendar days of issuance of the formal charge or completion of any modifications to the investigation report due to additional investigation that occurs as a result of the Pre-Hearing Conference, whichever is later. The Hearing Officers will review the investigation report prior to the hearing.

All hearings will be live. Each party's advisor will be allowed to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the school's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.

At the request of either party, the college must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer must first determine whether the questions is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.

If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party. If a party or witness does not submit to cross-examination at the live hearing, the hearing officer(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer(s) can not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

All hearings are closed to the public. Although both the complainant and respondent may be asked to be present at various times during the hearing, if either party would prefer not to be physically present during the hearing, the party can participate through electronic means or a privacy screen may be erected. Neither party is required to participate in the hearing in order for the hearing to proceed. If either party is not in attendance, the hearing

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may still proceed, findings may still be made, and sanctions may still be imposed.

During the hearing, the hearing officer(s) may question the complainant, the respondent, any witnesses called, and/or the investigator, and examine related information and evidence. The hearing officers shall restrict their questions to matters relevant to the specific case.

The parties cannot verbally pose questions to each other or to witnesses. The complainant and respondent will be able to pose questions directly, orally and in real time during cross-examination through their advisor. The hearing officers will determine whether a question is or is not relevant. The Hearing Officers will not ask questions or permit questions to be asked that are in violation of the College's policy about a complainant's prior sexual behavior that are protected under statutory rape shield, prior evidentiary decisions, or questions that are irrelevant or repetitive.

Additionally, the hearing officers have discretion to change the wording of the question with agreement of the questioning party.

Hearing officers, investigators, and advisors are expected to maintain the privacy of the participants in these proceedings except where disclosure may be authorized or mandated by law or College policy.

After considering all of the relevant information, the hearing officers will deliberate and make findings of fact applying the preponderance of the evidence standard of proof. From those facts, the Hearing Officers will reach conclusions as to whether the respondent is responsible for conduct in violation of this policy. The two (2) officers must agree "responsible" for a finding of responsibility. A deadlock will result in a finding of "not responsible."

At any time during the hearing process, the respondent may choose voluntarily to agree to a finding of responsibility relating to some or all of the charged conduct and proceed to the disciplinary stage of the process.

The hearing officers must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant. The written determination must be sent simultaneously to the parties along with information about how to file an appeal.

### **6. Imposition of Sanction**

If the respondent is found "Responsible" or agrees to a finding of responsibility, the hearing officers, following consultation with the Title IX Coordinator, will impose a sanction designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting the College's educational mission and complying with the College's Title IX obligations.

The complainant and respondent, and other affected parties, as appropriate, will each have the opportunity to present a statement about the impact of the violation and/or requested sanctions. The hearing officers will review these statements only if they find, or the respondent accepts, that the respondent is responsible for one or more violations.

The hearing officers shall determine the appropriate sanction (or combination of sanctions) in accordance with the College point system for student misconduct and discipline. Both hearing officers must be in favor of the imposition of each sanction or combination of sanctions. If they fail to agree, the Title IX Coordinator will make the final determination.

In cases involving Nonconsensual Sexual Penetration there is a mandatory sanction of dismissal if the hearing officers determine responsibility beyond a reasonable doubt. If the hearing officers determine responsibility in cases of sexual assault (nonconsensual sexual penetration) by preponderance of the evidence standard of proof, the hearing officers may, but are not required to, dismiss the respondent.

**a. Sanction Guideline Matrix**

<b>Prohibited Behavior</b>	<b>Range Of Sanctions</b>
Nonconsensual Sexual Penetration; Non Consensual Sexual Contact; Sexual Harassment; Sexual Discrimination; Sexual Exploitation; Stalking; Dating Violence; Domestic Violence; Retaliation	Dismissal; Suspension; Probation (not in good standing); Community Service; Educational/Counseling Consultation; Loss of Privileges (denial of the use of certain College facilities or the right to participate in certain activities or to exercise certain privileges for a designated period of time); On Campus Residential Relocation; Changing Academic Schedule; Fine; Assessment of Points, apology or other remediation to reporting party.

If the respondent is no longer a student at the time of sanctioning, the hearing officers may impose any of the permissible sanctions set forth in Section XII.H that apply to complaints against nonstudents, either in addition to or in lieu of the sanctions set forth above.

In considering the appropriate sanction, the hearing officers may consider the circumstances, including but not limited to the following factors:

- The respondent's prior discipline history;
- How the College has sanctioned similar incidents in the past;
- The nature and violence of the conduct at issue;
- The impact of the conduct on the complainant;
- The impact of the conduct on the community, its members, or its property;
- Whether the respondent has accepted responsibility;
- Whether the respondent is reasonably likely to engage in the conduct in the future;
- The severity of the sanction necessary to ensure that the conduct does not recur; and
- Any other mitigating or aggravating circumstances, including the College's values.

**7. Notice of Outcome**

Within two (2) calendar days of the decision, the Hearing Officers shall provide to the parties a copy of the written report of the Hearing Officers' decision.

If applicable, the hearing officers will inform the respondent of any sanctions, the date by which the requirements must be satisfied, and the consequences of failure to satisfy the requirements. The hearing officers also will inform the complainant of any sanctions that directly relate to the complainant or are required by federal law to be disclosed to the complainant in the case of certain sexual offenses, including sexual assault, domestic/dating violence, and stalking.

The hearing officers will also provide each party with an outcome letter containing their appeal options. The College will also notify those College employees necessary to implement the outcome and/or sanctions.

**8. Additional Remedies**

Upon a finding of responsibility, additional remedies, in addition to the issued sanction, may be available to a complainant. Examples of potential remedies are provided in Section X(B). Other potential remedies include targeted or broad-based educational programming and/or training. The Title IX Coordinator, in consultation with

others as necessary, will determine any appropriate additional remedies.

### **E. Mandatory Transcript Notations**

For each student who has been suspended for, permanently dismissed from, or withdraws from the College while under investigation for an offense involving sexual violence (defined as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent), the College will make or cause to be made a notation on the student's academic transcript.

The College shall remove from a student's academic transcript any notation placed on such transcript due to a student's suspension if the student (1) completed the term of the suspension and any conditions thereof and (2) has been determined by the institution to be eligible to return to the College.

### **F. Appeal**

Either party may appeal the finding of a policy violation/non-violation and/or a sanction within seventy-two (72) hours of receipt of the written hearing report. Appeals must be in writing, specifying in detail the basis for the appeal. The President will appoint an Appeal Panel to review these matters. The Chair of the Appeal Panel will be someone who was not involved in the original hearing. The Appeal Panel will be comprised of three (3) members of the Guilford College community who do not have a conflict of interest in the case and who have received training on Title IX, the College's policy and the Appeal process.

For an appeal to be granted, at least two (2) members of the Appeal Panel must vote to grant appeal. Appeals, if granted, do not constitute a re-hearing of the case and the Appeal Panel will defer to decisions of the hearing officers unless one or more of the reasons for granting the appeal are satisfied. The Appeal Panel will review the entire written hearing record, the written appeal and other documents it deems relevant. Upon completion of this review, the Appeal Panel may grant or reject a request for appeal based on one or more of the following grounds if it reasonably determines the ground(s) could more likely than not impact the underlying decision:

- Newly discovered evidence/information (this does not apply in cases of deliberate omission of information by the appellant);
- Procedural irregularity, defect or error/no procedural defect or error; or
- Extraordinary circumstances/no extraordinary circumstances.
- Title IX personnel had a conflict of interest or bias

If the Appeal Panel decides to grant an appeal, it may decide the case based solely upon the hearing record, the written appeal, and other documents it deems relevant, or it may remand the case to the original hearing officers in cases in which there is new information presented.

The Chair of the Appeal Panel will determine the proper composition of the panel for any appeal and oversee the process. The President will accommodate any conflicts that may arise with members constituting the panel. The Appeals Panel will confer with the Title IX coordinator on matters relating to consistency of sanctions and adherence to the College's policy.

### **G. Additional Considerations for Complaints against Students**

#### **1. Time Frames for Resolution**

Guilford will make every effort to successfully resolve all reports within sixty (60) calendar days from the date that the investigation begins. The sixty (60) day timeframe refers to the investigation process, hearing, and imposing sanctions and/or remedies. It does not include appeals. All time frames expressed in this policy are

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meant to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames, including extension beyond sixty (60) days. Such circumstances may include, but are not limited to, the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, a complainant and respondent can expect that the process will proceed according to these time frames.

- Once the investigation begins, it will be completed within thirty (30) calendar days.
- The Hearing Officers will decide whether to charge the respondent within two (2) calendar days after receiving the investigation report.
- The Pre-Hearing Conference will be held within seven (7) calendar days after formal charge.
- The hearing will be held within fourteen (14) calendar days after the formal charge.
- Notice of outcome will be provided within two (2) calendar days of the hearing decision.
- Either party may appeal the finding of a policy violation/non-violation and/or a sanction within seventy-two (72) hours of receipt of the written hearing report
- If there is a request for appeal, the decision whether to grant or reject the request for appeal will be resolved within five (5) calendar days after the receipt of the request for an appeal.
- If a request for appeal is granted, the appeal will be resolved within ten (10) calendar days from the time the appeal was granted.

If the investigation and resolution exceed this time frame, the College will notify all parties in writing of the reason for the delay and the expected adjustment in time frames. The College will use its best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. All parties involved are entitled to periodic status updates on the progress of the complaint.

### 2. Group Infractions

When members of a student organization, team, or other group of individuals (a "group") act collusively in violation of this policy, they may be charged as a group, as individuals, or in both capacities, and an investigation may proceed against the group and/or against one or more involved individuals, as appropriate given the available information and the circumstances. The determination as to whether to investigate and/or charge those involved as individuals and/or as a group may be made by the Title IX Coordinator or the Hearing Officers, as appropriate under the circumstances.

Leaders or officers, members of a group, and/or the group as a whole may be held collectively and/or individually responsible when violations of this policy by the group or its members take place at a group-sponsored event, have received the consent or encouragement of the group or of the group's leaders or officers, were known or reasonably should have been known to the group's membership or its leaders or officers, or involve five (5) or more members of a particular group.

In any such action, determinations as to responsibility will be made and sanctions may be assigned collectively to those involved, individually in proportion to the involvement of each individual, and/or to the group as a whole. Notwithstanding the foregoing, no determination(s) made and/or sanction(s) issued under this policy to any individual or group shall preclude or prohibit any other administrative action from being taken, disciplinary or otherwise, or any other conduct body from making a determination and/or imposing sanctions consistent with its own policies, procedures, or practices.

### 3. Advisors

If an investigation of prohibited conduct is initiated, the complainant and respondent will be invited to bring

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an Advisor to their interview and/or to the hearing as a source of support. If either a complainant or respondent is in need of an Advisor, a list of individuals trained as advisors is available from the Title IX Coordinator.

Advisors may accompany the complainant and respondent at interviews or hearings. Parties may request a brief recess to consult with their advisors, which will be granted at the discretion of the investigators, Hearing Officers, or Appeal Panel, as applicable.

Any Advisor who does not follow the College's policies, procedures, or practices relating to the advisor's role in the resolution process will be warned once. If the advisor continues to disregard the College's policies, procedures, and/or practices or disrupts or otherwise fails to respect the limits of the role, such advisor will be required to leave the meeting, hearing, or other proceeding at the discretion of the investigator. Hearing Officers, or Appeal Panel, as applicable. When an advisor is removed from a meeting, hearing, or other proceeding, the meeting or proceeding will continue without the advisor's presence. In the case of a hearing, another advisor will be provided by the College.

Parties may choose to share their copy of the investigation report with their advisor. Neither a party nor an advisor may duplicate the investigation report. All advisors are expected to maintain the privacy of any records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College or by the applicable law. The College may restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects all advisors to adjust their schedules to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College will, however, make provisions to allow an advisor who cannot attend in person to attend a meeting by teleconference, video and/or virtual meeting technologies in order to participate virtually and in real time/live.

The College will not recognize or enforce agreements between an advisor and the complainant/respondent that are reached outside of these procedures.

#### **4. Prior Sexual History**

In general, the prior sexual history of either party is not relevant and will not be admitted as evidence during an investigation and/or hearing. However, where there is a current or ongoing relationship between the complainant and the respondent, and the respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties and to evaluate consent. As noted in other sections of this policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the complainant or respondent with other individuals is generally not relevant and will not be permitted unless used to rebut that the respondent is the source of evidence, or cause of marks, bruises, and/or other injuries on or to the complainant or for pattern evidence (see section below).

#### **5. Pattern Evidence**

Where there is evidence of a pattern of sexual misconduct, either prior to or subsequent to the conduct in question, regardless of whether there has been an investigation or finding of responsibility, this information may be deemed relevant and probative to the Hearing Officers' determination of responsibility. The determination of relevance will be based on an assessment of whether (1) the previous incident was substantially similar to the present allegation; and (2) indicates a pattern of behavior and substantial conformity with that pattern by a respondent. Where there is a prior finding of responsibility for a similar act of sexual misconduct, there is a presumption of relevance. The Hearing Officers will make the determination as to whether or not they will consider the pattern evidence and in doing so will carefully review the relevancy and reliability of the alleged similar conduct.

## 6. Medical Records Evidence

Except as otherwise required by law, the College will not release any individual's medical or counseling records for purposes of the investigation, adjudication, or resolution of any allegation or complaint made under this policy absent such individual's written consent. An individual may disclose his or her medical and/or counseling records voluntarily, but the College will not require the release of any medical or counseling records, nor will the College require any individual involved in the processes set forth in this policy to release any such medical and/or counseling records.

## 7. Consolidation of Investigation

The Title IX Coordinator may consolidate multiple reports against a single respondent or group of respondents into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s).

## 8. Records

The Title IX Coordinator will retain for seven (7) years records of any and all communications and decisions based on any Title IX sexual misconduct filed under this policy. All reports, allegations, complaints, grievance process, informal resolution process, appeals process and their outcomes shall be maintained as a part of the record.

Such records will be used in reviewing any further conduct or in developing sanctions and will remain a part of a student's conduct record. In general, the College will maintain records for the duration of the respondent's relationship with the College, and may retain them for up to seven (7) years following the respondent's departure from the College. In allegations involving child abuse, the College may keep the records indefinitely.

If the Hearing Officers do not find the respondent responsible, the student's conduct file or academic record will reflect that finding.

## XII. Investigation and Resolution for Complaints against Faculty, Staff, and Other Non-Students

Because the relationship of students, staff, and faculty to the College differ in nature, the procedures that apply when determining whether disciplinary action is appropriate necessarily differ in some respects. Each of the procedures, however, is guided by the same principles of fundamental fairness, due process and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report.

The procedures set forth below will be applied when the respondent is a member of the faculty, staff, or other non-student at the time of the report. If the Respondent is both a student and an employee:

- The student resolution procedures will apply if the Respondent is a full-time student but not a full-time employee
- The employee resolution procedures will apply if the Respondent is a full-time employee but not a full-time student; or
- If there is a question as to the predominant role of the Respondent, the Title IX Coordinator will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the conduct).

## A. Definitions of Terms and Acronyms

### 1. Co-Chairs

The Title IX Coordinator and Deputy Title IX Coordinator for Employment will serve as co-chairs of the Investigation and Review Officers (IROs). As described fully below, the Co-Chairs, who are specially

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trained to carry out these procedures, receive formal complaints, appoint the investigator(s), review panel, and appeal panel (as needed), communicate with the parties at various stages in complaint proceedings, and determine the sanction when a policy violation is found. The co-chairs serve as advisors to the IROs on procedural matters.

### 2. Advisors

When a formal complaint of sexual harassment, domestic or dating violence, or stalking has been filed, both the complainant and the respondent have the right to select an advisor. Advisors are authorized to be present with either party in College-related proceedings under this policy only after a formal complaint has been filed. The Title IX Coordinator has a list of available advisors. See XI(G)(3).

### 3. Investigation and Review Officers

Investigation and Review Officers (IROs) are a group of College administrators who are specially trained to investigate and review complaints of sexual misconduct against members of the faculty, staff, and other non-students. When a formal complaint of sexual misconduct is filed against a member of the faculty, staff, or other non-student under this policy, the Co-Chairs select the investigator(s), and the Review Panel ("IRP"), and (if needed) an Appeal Panel from the pool of the available IROs. The IROs consist of the following administrators:

- Provost and Dean of Students
- Vice President of Enrollment Management and Marketing
- Vice President of Advancement
- Associate Deans of the College (Academic and Student Affairs)
- Director of Human Resources (Deputy Title IX Coordinator for Employment)
- Chief Technology Officer
- Director of Athletics
- Assistant Director of Athletics (Deputy Title IX Coordinator for Gender Equity in Athletics)
- Director of Friends Center
- Department Chairs and Program Directors
- Associate Dean of Students (Deputy Title IX Coordinator for Student Life)

Other faculty and staff representatives may be appointed to the IRO on an annual basis to be available, as needed, for service in this capacity. They will be full, participating members of any IRO group convened.

## B. Informal Resolution

Where the Title IX assessment concludes that informal resolution is appropriate (see Section X(C), after the filing of a formal complaint the College will offer the parties the option to resolve the complaint through an informal resolution process. Under an informal resolution process, the College:

1. May not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section.
2. May not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed.
3. May facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication at any time prior to reaching a determination regarding responsibility, provided that the recipient:

Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations.

At any time prior to agreeing to a resolution, either party has the right to withdraw from the informal resolution

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process and resume the grievance process with respect to the formal complaint and any consequence resulting from participating in the informal resolution process including the records, that will be maintained or could be shared;

Obtains the parties' voluntary, written consent to the informal resolution process; and

Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

4. The Informal Resolution Facilitator will be selected by the Title IX Coordinator, must be trained in Title IX, impartial and free from conflicts of interests.

Once a matter has been referred for informal resolution and resolved, unless or until either party withdraws their participation in the informal resolution process, the informal resolution facilitator will submit a written summary report of the resolution to the Title IX Coordinator for review.

### C. Formal Complaint

(Note: all time frames referenced in these formal complaint procedures are subject to extension by the appropriate Co-Chair for good reason.)

#### 1. Initiation of Formal Complaint

A formal complaint against a member of the faculty, staff, or other non-student should be initiated through the Title IX Coordinator or Deputy Title IX Coordinator for Employment. A complainant or any other concerned individual wishing to bring a formal complaint may contact the Title IX Coordinator directly, or the complaint may be referred to the Title IX Coordinator or Deputy Coordinator by another resource. A formal complaint should be submitted in writing to the Title IX Coordinator or Deputy Coordinator for Employment.

In cases where a formal complaint has been initiated alleging sexual harassment, domestic or dating violence, or stalking, the Title IX Coordinator or the Deputy Title IX Coordinator for Employment through whom the formal complaint has been initiated should advise the complainant of the right to be supported by an advisor. If the complainant elects to use an advisor, the complainant will advise the Title IX Coordinator or Deputy Title IX Coordinator for Employment of the identity and contact information for the advisor. The Title IX Coordinator or Deputy Coordinator for Employment will provide that information to the Co-Chairs.

#### 2. Submission of Complaint / Notification Initiation of Grievance Process

The Title IX Coordinator will submit the formal complaint to the appropriate IRO if the respondent is a faculty member (Provost or if the respondent is a staff member or other non-employee (Vice President for Finance and Administration), subject to the exceptions set forth in paragraphs C(4) and C(5) below). The Title IX Coordinator should submit a copy of the summary report, if any, outlining prior handling of the complaint through informal channels, to the appropriate IRO, to be included with the record.

The appropriate IRO will then promptly (within two (2) business days after being provided the complaint, if practicable) notify the respondent that a formal complaint has been initiated and make arrangements to meet with the respondent to provide the respondent with a written Notice of Investigation (or Allegations) and outline the grievance process. The Notice of Investigation (Allegation) shall be delivered contemporaneously to the Complainant with an outline of the grievance process.

The Co-Chair will advise both parties of the College's non-retaliation policy, and will inform the parties of their right to choose an advisor, that the respondent has the presumption of non-responsibility, voluntariness of their participation in the grievance process and, if they choose to participate, to be given adequate notice to schedule meetings at a mutually convenient time. If a party does not wish to meet with the investigator, complainant or respondent can submit responses, evidence and/or information to the Investigator(s), if desired, by a written statement regarding the complaint to be included in the record.

#### 3. Preliminary Actions by Co-Chair

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The appropriate Co-Chair will promptly appoint an IRO to serve as the investigator. In some cases, the Co-Chair may appoint a team of two investigators as the Co-Chair deems appropriate. The Co-Chair will then make a preliminary selection of three (3) IROs to serve as the members of the three-person Review Panel. If an IRO is the respondent or the complainant, the process operates as otherwise set forth in this policy, except that an IRO who is the respondent will not be involved in any capacity other than as a party.

### **4. Complaint by or against an IRO Co-Chair**

If one of the Co-Chairs is the respondent or complainant, the President will serve in the role of that Co-Chair and the process will operate as otherwise set forth in this policy. In this situation, any appeal would go to the Chair of the Audit Subcommittee of the Finance Committee of the Board of Trustees ("Audit Subcommittee").

### **5. Complaint against the President and/or a Trustee**

If the respondent is the President or a member of the Board of Trustees, a complaint must be filed directly with the Audit Subcommittee by delivery of a sealed written complaint to the Secretary of the College, Alumni Office labeled "Complaint to the Audit Subcommittee under the Sexual Discrimination and Misconduct Policy." The Secretary of the College will deliver the sealed written complaint intact to the Chair of the Audit Committee and the Audit Committee will handle or direct all further proceedings.

### **6. Involvement of Deputy Title IX Coordinator for Employment in Formal Complaints**

The Deputy Title IX Coordinator for Employment will be available to serve as a resource for the IROs, the investigator(s), and/or the parties to a formal complaint, in order to address issues that arise during the complaint process. In the event that the Deputy Title IX Coordinator for Employment has had a substantive role in informal complaint resolution efforts prior to the initiation of the formal complaint, or acts as a resource beyond the resolution of purely procedural questions during the formal complaint process, the Deputy Title IX Coordinator will be disqualified from serving on any Investigation Review Panel or Appeal Panel in that case thereafter.

## **D. Investigation**

The investigation is conducted solely by the appointed investigator(s), who will interview the parties and other witnesses as necessary. The complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. A party's advisor in cases alleging sexual assault, domestic or dating violence, or stalking may accompany the party during an interview if requested by the party as a support resource, but may not participate in the interview. The investigator(s) will inform the parties and witnesses of the College's prohibition of retaliation against any person involved in a complaint process. In most cases, absent unusual circumstances, the investigation should be completed within thirty (30) business days after the investigator receives the complaint.

The investigation is a neutral fact-gathering process. The respondent is initially presumed to be not responsible; this presumption may be overcome when the Investigation and Review Panel conclude that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the respondent violated the policy.

## **E. Withdrawal of Complaint, Review of Parties' Proposed Resolution**

### **1. Withdrawal of Complaint**

At any time during the formal complaint process, the complainant may request of the Co-Chair to withdraw his/her formal complaint. Before approving a withdrawal of the complaint, the Co-Chair will meet with the complainant and his/her advisor, if desired, to discuss the request. The Co-Chair retains the discretion to reject the request for withdrawal and to proceed with the formal process, with or without the further participation of the complainant, if the Co-Chair believes it prudent and appropriate to do so in the best interest of the College community, based on all relevant information. The Co-Chair will consider factors including but not limited to: the severity and impact of the conduct, including whether a weapon was used; whether the complainant is a minor under the age of 18; whether the respondent has a pattern of similar conduct; whether the respondent threatened further violence or other violence against the victim or others; whether the College possesses other means to obtain relevant evidence of the alleged sexual misconduct (security cameras, video recordings, photographs or other evidence); and the extent of prior remedial methods taken with the respondent. Regardless

of the Co-Chair's decision a complainant is not required to participate in an investigation or hearing.

## **2. Review of Parties' Proposed Resolution**

If, after the initiation of a formal complaint but before the issuance of the investigative report, the respondent acknowledges inappropriate conduct and proposes a resolution/sanction agreeable to the complainant, an IRP will be appointed to review the conduct acknowledged and the proposed resolution/sanction. If the IRP finds the resolution/ sanction reasonable, it will be recommended and sent to the appropriate Co-Chair for implementation. If the IRP finds the proposed resolution/sanction unreasonable given the nature and circumstances of the conduct acknowledged or alleged, it may reject the proposed resolution/sanction and conduct a normal IRP review after issuance of the investigation report.

## **F. Investigation Report; Party Responses; IRP Appointment**

### **1. Investigation Report**

#### **1. Investigation Report**

Upon conclusion of the investigation, the investigator(s) will prepare and submit to the appropriate Co-Chair a written investigation report. The complainant and respondent will each be provided with a version of the report (the College reserves the right to redact witness names and personally identifiable witness statements), not to be copied or distributed, but which the party may share with his/her Advisor in a case alleging sexual assault, domestic or dating violence, or stalking.

#### **2. Party Responses to Investigation Report**

The parties will each have ten (10) business days from the day of their receipt of the investigation report to prepare and submit a written response to the appropriate Co-Chair for the record.

#### **3. IRP Appointment**

The appropriate Co-Chair will then promptly notify the parties of which IROs have been selected to make up the Investigation and Review Panel (IRP) and will designate one of them as IRP Chair. The parties must submit any concerns about the IRP composition to the Co-Chair in writing within one (1) business day of receipt of notice. The Co-Chair may follow-up with the parties and/or IRP members regarding any stated concerns, as needed. The

Co-Chair will notify the parties and IRP members of any change to the composition of the IRP if the Co-Chair concludes that one or more of the designated IRP members should not serve on that panel. Note: see section C(6) above regarding participation of Director of Human Resources/Deputy Title IX Coordinator for Employment when s/he has had any substantive role in efforts to informally resolve the complaint or the formal complaint process.

## **G. IRP Review**

The IRP will review the investigation report and the related record to determine if a violation of policy has occurred. In most cases, absent unusual circumstances, the IRP review should be completed within seven (7) business days of the date the IRP members receive the record from the Co-Chair.

The IRP may decide the case based on a thorough review of the entire record of the case including the investigation report and any written comments provided by either party. If the IRP has any questions, it may meet with the investigator(s) in person and/or may request that the parties separately meet with the IRP in which case, the parties' advisors in a case alleging sexual assault, domestic or dating violence, or stalking, if any, may be present but may not participate. If the IRP finds that any other follow-up is needed with witnesses, the investigator(s) will conduct the follow-up and submit an addendum to the written investigation report, which will be sent to the IRP. In such instances, the parties will be given an opportunity to review the addendum, consistent with the parties' opportunity to review the original investigation report.

Once the IRP has determined that it has sufficient information to make a decision, it will discuss the matter outside the presence of the investigator(s) and the parties. The IRP will then reach a decision on whether this

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policy was violated by a preponderance of the evidence, and (if so) will make a written recommendation of sanctions to the appropriate Co-Chair. The IRP may also make recommendations to the Co-Chair for appropriate follow-up actions (including training, counseling, or other educational opportunities) in the absence of a finding of a violation of this policy.

### H. Co-Chair's Notice to Parties of Final Decision, Sanction, and Remedies

The IRP's decision about whether this policy was violated is binding on the Co-Chair, but subject to appeal by either party. However, the Co-Chair has the discretion to determine the final sanction if the IRP has found a violation of this policy or to impose follow up actions in the absence of such a violation. The potential sanctions include:

- Verbal or written warning;
- Referral to the Employee Assistance Program or other mandatory conditions, which may include training, or some other professional development;
- A no contact directive;
- Modified employment duties;
- Suspension with pay;
- Suspension without pay;
- Nonrenewal or non-reappointment;
- Demotion in rank or pay;
- Loss of rank;
- Denial of salary increase;
- Transfer to another position;
- Relocation of office;
- Dismissal from academic course if respondent is taking a course at the College;
- Termination; and
- Trespassing respondent from the College.

If the respondent is a non-employee, sanctions include:

- Verbal or written warning;
- Trespassing the respondent from the College;
- Dismissal from academic course if respondent is taking a course at the College; or
- Modification or termination of the non-employee's relationship with the College.

Sanctions may be imposed in combination with one another. If the individual found to have violated this policy is a faculty member and the Co-Chair concurs with an IRP sanction recommendation of termination, the case will proceed in accordance with the "for cause" dismissal proceedings set forth in the Faculty Handbook where applicable. In such a case, Provost is ineligible to serve as the President's designee under the "for cause" dismissal process.

Upon a finding of responsibility, additional remedies, in addition to the issued sanction, may be available to a complainant. Examples of potential remedies are provided in Supportive Measures, Section X(B). Other potential remedies include targeted or broad-based educational programming or training. The Title IX Coordinator, in consultation with others as necessary, will determine any appropriate additional remedies.

Within two (2) calendar days of the decision, the Co-Chair will provide simultaneous notification to the parties of the IRP report in the following manner: the first page (which contains the findings on the allegations of a policy violation) will be provided to each party; the second page (which contains the IRP-recommended sanction(s) or follow up actions and the Co-Chair's decision on sanction(s) or follow up actions) will be provided

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solely to the respondent, unless the sanctions or follow up actions are such that they directly involve the complainant (e.g. a "no contact" directive) or where required by federal law to be disclosed to the complainant in the case of certain criminal sexual offenses covered by the Campus Security Act, including sexual assault, domestic or dating violence, and stalking. Additionally, the Co-Chair will provide each party with an outcome letter. The outcome letter will review the prohibition against retaliation and the appeal process.

If, through informal resolution or IRO decision upon a finding of no violation, a respondent has been advised to receive training, counseling, or some other professional development, or to take some other follow up action(s), the IRO will oversee fulfillment of this obligation, though the Co-Chair may delegate coordination of the details to respondent's supervisor. If a respondent has been sanctioned for a violation of this policy, the appropriate Co-Chair will oversee fulfillment of the sanction.

If the respondent is taking courses at the College and part of the sanction mandates suspension or permanent dismissal, or where the respondent withdraws from taking courses while under investigation for a violation of this policy, a transcript notation will be made in the respondent's transcript. This transcript notation will read: "[Suspended or Dismissed] for a violation of Guilford College's set of standards." In cases of withdrawal, the notation will read: "Withdrew while under investigation for a violation of Guilford College's set of standards. This withdrawal as noted does not constitute a finding or admission of responsibility on the part of the student."

### **I. Appeals Process**

Either the complainant or respondent may appeal a finding of a violation or no violation of this policy and/or a sanction/follow up action of which they have been informed. Appeals should be filed with the Title IX Coordinator within three (3) business days of the decision. Appeals must be in writing and conform to the requirements of Section XI(F). An Appeal Officer (comprised of an IRO who was not involved in the original investigation or panel) will be appointed by the Co-Chair. The appeal review will then be conducted as soon as possible. In most cases, absent unusual circumstances, the Appeal Officer's review should be completed within seven (7) business days of the date the panel members receive the record from the Co-Chair.

If the Appeal Officer fully affirms a "no-violation" finding made by the IRP with or without recommended follow up actions, or affirms a finding of a violation and/or the sanction, the Appeal Officer will issue a brief written decision to that effect using part one of the Appeal Panel Report and will submit it to the IRP who issued the original decision, who will then promptly advise the parties of the Appeal Officer's decision, which is final.

If the Appeal Officer affirms a "no-violation" finding made by the IRP, but does not affirm recommended follow up actions (or absence of such actions), the Appeal Officer will explain the facts and analysis supporting its findings and recommendations in part two of the Appeal Report. The IRP issuing the original decision will then review the recommendations regarding any follow up actions and issue the final decision on such measures. The Co-Chair will then promptly advise the parties of the Appeal Officer's decision, which is final. The Co-Chair will advise the respondent and complainant of any decision regarding follow up action(s) and will share part two of the Appeal Report with the respondent and complainant. The Co-Chair's decision on such follow up actions is final.

If the Appeal Officer overturns a "no-violation" finding, the matter is sent back to the appropriate IRP for the original review proceeding, who will then make a decision on the sanction and promptly advise the parties and share the two-part Appeal Report. The first part (which contains the basis for the overturning of the "no-violation" finding) will be provided to both parties; the second part (which contains the IRP's decision on sanction) will be provided only to the respondent, unless some part of the sanction directly involves the complainant or unless required by federal law to be disclosed to the complainant in the case of certain criminal sexual offenses covered by the Campus Security Act, including sexual assault, domestic or dating violence, and stalking. The IRP's decision on sanction is appealable by respondent and complainant (if complainant was made aware of the sanction because it directly involved the complainant or required to be disclosed to the complainant in cases of certain sexual offenses) within three (3) business days of receipt of the sanction decision. Such an appeal must be in writing, filed with the IRP who issued the decision, and must specify in detail the basis for the appeal.

If the Appeal Officer concurs with a violation finding but finds a sanction is without reasonable basis, the Appeal

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Officer should first consult the appropriate IRP to review the sanction. If no consensus decision can be reached, both the Appeal Officer and the appropriate Co-Chair will submit their separate recommendations in writing to the President, who will make the final determination by accepting one of the two recommendations and signing off on that recommended sanction. Thereafter, the Co-Chair will promptly advise the respondent of the President's decision on the sanction(s) and will also advise the complainant when the sanction involves the complainant or when required by federal law in the case of certain criminal sexual offenses covered by the Campus Security Act, including sexual assault, domestic or dating violence, and stalking. The President's decision on the sanction(s) is final.

If the Appeal Officer overturns a violation finding, the matter is sent back to the appropriate IRP for the original review proceeding, who will then remove the sanction(s) issued, decide any appropriate follow up action(s), and promptly share the two-part Appeal decision with the parties. The first part (which contains the basis for the overturning of the violation finding) will be provided to both parties; the second part (which contains the IRP's removal of sanction and decision on any follow up actions) will be provided only to the respondent, unless some part of the sanction directly involves the complainant or unless required by federal law to be disclosed to the Complainant in the case of certain criminal sexual offenses covered by the Campus Security Act, including sexual assault, domestic or dating violence, and stalking.

### **J. Privacy and Recordkeeping**

The facts about individual cases and their dispositions are to remain private to the extent possible. In order to protect the integrity of the investigation, anyone involved in the investigation should not discuss what they shared with the investigator(s) to any witness or potential witness during the pendency of the proceedings. Additionally, in order to protect the privacy of all involved, no one involved in a complaint process, besides the complainant and respondent, should discuss any information regarding the case except with those who have a legitimate need to know. Any member of the campus community who violates the privacy provisions of these procedures, and/or the privacy directives of the administrators handling complaints, will be subject to discipline.

The Title IX Coordinator will maintain the official written records of formal and informal complaints and resolutions under these procedures in accordance with applicable College record retention schedules.

## **XII. Policy Review**

The College, through a working group that will include the Title IX Coordinator, the College attorney, members of the Student Advisory Group, and the Provost and Dean of Students, will review and update this policy, as appropriate, by October 31 of each year. The College will evaluate, among other things, any changes in legal requirements and existing College resources. The President will certify to the Board of Trustees that this policy has been reviewed and updated, as appropriate, in accordance with all applicable federal and state laws.

End of Policy