



Title IX Sexual Misconduct Policy

Mitchell College (the “College”) is committed to promoting a learning and working environment that is free from sexual misconduct and to addressing such misconduct when it occurs. The prohibition of sexual misconduct applies to everyone at Mitchell College, including all faculty members (including academic administrators), staff members (including non-academic administrators), students, trustees, alumni and all visitors to the Mitchell College campus.

The College is committed to:

1. Educating current and incoming students, faculty, and staff about the implications and consequences of their behavior.
2. Providing proper support and resources to aid those who have been harmed by sexual misconduct.
3. Encouraging College community members to have accountability for their behavior.
4. Providing a timely, fair, and equitable process for investigation and adjudication that includes appropriate disciplinary actions.

Application of this Policy:

This Title IX Sexual Misconduct Policy (“Policy”) is based on the regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972. All students, faculty, staff, and others participating in College programs and activities are subject to this policy. This Policy applies only to sexual misconduct that occurs:

a) on College property; or

b) off College property if: i) the sexual misconduct was in connection with a College or College-recognized program or activity; or ii) the College exercised substantial control over both the context in which the sexual misconduct occurred and the individual who has allegedly committed the sexual misconduct.

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.

This Policy provides information regarding the following:

- I. Title IX Coordinator
- II. Conduct Prohibited by this Policy
- III. Reporting Sexual Misconduct
- IV. Filing a Formal Complaint of Sexual Misconduct
- V. Supportive Measures
- VI. Investigation of Formal Complaints
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The College does not discriminate on the basis of sex in its education programs or activities and is required by Title IX not to discriminate in such a manner. The requirement not to discriminate extends to admission and employment, and inquiries about the application of Title IX may be referred to a Mitchell College Title IX Coordinator, the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both (contact information is provided in Sections I and Appendix A of this Policy).

I. Title IX Coordinator

The Title IX Coordinators are responsible for working with the College community to ensure that the College is compliant with all Title IX requirements, as well as other laws prohibiting discrimination or otherwise designed to assure equitable education and work environments. The Title IX Coordinators are also responsible for ensuring that all relevant individuals are appropriately trained and coordinating the annual review and update of all policies and procedures related to compliance.

All reports of discrimination on the basis of sex in any College program or activity, including any form of sexual misconduct, may be reported to the Title IX Coordinators at any time.

Title IX Coordinator:

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Mitchell College
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Deputy Title IX Coordinator for Employees:

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II. Conduct Prohibited by this Policy

This Policy prohibits the forms of sexual misconduct defined below, occurring:

a) on College property; or

b) off College property if: i) the sexual misconduct was in connection with a College or College-recognized program or activity; or ii) the College exercised substantial control over both the context in which the sexual misconduct occurred and the individual who has allegedly committed the sexual misconduct.

In addition, 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.

Sexual misconduct can occur between individuals who know each other, individuals who do not know each other, individuals who have an established relationship, and individuals who have previously engaged in consensual sexual activity. Sexual misconduct can be committed by persons of any gender identity, and it can occur between people of the same or different sex. *Use of alcohol or other drugs will not excuse behavior that violates this Policy.*

Quid Pro Quo Sexual Harassment: An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.

Except in rare and unusual circumstances involving preexisting relationships, sexual and romantic relationships between College employees and students are inappropriate and are prohibited. It is incumbent upon members of the College community to refrain from abusing, and seeming to abuse, the power with which they are entrusted, because relationships between supervisors and supervisees are fundamentally asymmetric in nature, may be the product of subtle or not-so-subtle coercion, or may lead to favoritism for the subordinate. If a student employee (i.e. TM, RA, Ambassador, student assistant, or work-study student) is assigned to a course and has a preexisting sexual or romantic relationship with one of the enrolled students, he or she must inform the instructor of the course so that alternative arrangements can be made.

Sexual Harassment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to any of the College's education programs or activities.

The following are non-exhaustive lists of examples of conduct that might be deemed to constitute sexual harassment if sufficiently severe, pervasive, and objectively offensive:

- Verbal sexual harassment may include unwelcome conduct such as: sexual flirtation, advances or propositions or requests for sexual activity or dates; asking about someone else's sexual activities, fantasies, preferences, or history; discussing one's own sexual activities, fantasies, preferences, or history; verbal abuse of a sexual nature; suggestive comments; sexually explicit jokes; turning discussions at work or in the academic environment to sexual topics.
- Nonverbal sexual harassment may include unwelcome conduct such as: displaying sexual objects, pictures, or other images; invading a person's personal body space, such as standing closer than appropriate or necessary or hovering; displaying or wearing objects or items of clothing which express sexually offensive content; making sexual gestures with hands or body movements; looking at a person in a sexually suggestive or intimidating manner; or delivering unwanted letters, gifts, or other items of a sexual nature.

Sexual Assault: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:

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

Stalking: A pattern of actions or course of conduct directed at a specific person that would cause a reasonable person to feel fear for their safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition, the following further definitions apply:

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

Stalking can take many forms. Examples include, but are not limited to, two or more instances of the following conduct (that also meet the definition of stalking above): following a person; appearing at a person's home, class or work; continuing to contact a person after receiving requests not to; leaving written messages, objects, or unwanted gifts; vandalizing a person's property; photographing a person; and other threatening, intimidating, or intrusive conduct. Stalking may also involve the use of electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices (often referred to as cyber-stalking). Such conduct may include, but

is not limited to, non-consensual communication, telephone calls, voice messages, emails, texts, letters, notes, gifts, or any other communications that are repeated and undesired.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (Dating violence does not include acts covered under the definition of domestic violence.)

Domestic Violence: Includes felony or misdemeanor crimes of violence, on the basis of sex, committed by: a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Retaliation under this Policy: Retaliation is prohibited by this Policy. Retaliation includes intimidation, threats, coercion, or discrimination against any individual, including through third parties and/or legal counsel, for the purpose of interfering with any right or privilege protected by this Policy, or because the individual made a report or complaint of misconduct or testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or hearing related to this Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sexual misconduct, but arise out of the same facts or circumstances as a report or complaint of sexual misconduct, for the purpose of interfering with any right or privilege protected by this Policy, constitutes retaliation.

Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy, such as seeking services, receiving interim protective measures and accommodations, and/or reporting misconduct. Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic and/or professional career of another individual before, during or after the investigation and resolution of a report of misconduct under this policy or in response to and/or on account of the report of misconduct. This provision only applies to reports made or information provided in good faith, but applies to such reports (reports made in good faith), even if the facts alleged in the report are ultimately determined not to be accurate.

Complaints alleging retaliation may be filed in accordance with the grievance procedures set forth in this Policy.

Sexual Misconduct Prohibited by Law: In addition to violating this Policy, sexual misconduct may also be prohibited by federal and state laws, including but not limited to the Connecticut General Statutes (Connecticut Fair Employment Practices Act, section 46a-60 (a) (8)); Title VII of the Civil Rights Act of 1964 (42 United States Code Section 2000e et seq.); Title IX of the Higher Education Act of 1972 and its associated regulations (34 C.F.R. Part 106) (Title IX); and the Violence Against Women Reauthorization Act, including the Campus SaVE Act.

Consent: For purposes of this Policy, consent is defined as follows:

What is consent?

Consent is the positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent must be an informed, deliberate and voluntary decision to engage in mutually acceptable sexual activity. It is the responsibility of the person who initiates sexual activity to make sure consent is received from any other person(s) involved. Mitchell College recognizes that there are a wide variety of sexual interactions, that there is no single way to communicate consent, and that context matters. At all times, each party is free to choose where, when, and how they participate in sexual activity. Accordingly, when evaluating whether sexual activity was consensual, Mitchell College will consider the entirety of the sexual interaction and the relevant circumstances.

Consent is active, not passive. Individuals should be able to clearly articulate why and how they believed they received consent and what they considered to be indications of consent as they engaged in sexual activity. Consent must be received for each sexual act. It is important to remember:

- Consent to one sexual act does not constitute or imply consent to another act.
- Previous consent does not imply consent to future sexual activity.
- Consent cannot be assumed based on the parties' relationship or sexual history.
- Consent can be withdrawn at any time before or during sexual activity.

What is Not Consent?

Consent may not be inferred from silence, passivity or a lack of objection. The absence of a negative response, such as silence or a failure to resist, does not equal consent. Behaviors and comments that do not indicate affirmative consent include, but are not limited to:

- "I don't know"
- "Maybe"
- A head shake
- Lack of objection
- Not fighting back
- A verbal "no" that may sound indecisive or insincere

Consent Can Never Be Given By:

- Someone who is incapacitated. It is a violation of this Policy to engage in sexual activity with a person who an individual knew or should have known was incapacitated. A person can be incapacitated through the use of drugs, alcohol or any other intoxicating substance, or medications; or when they are unconscious, asleep or otherwise unaware that sexual activity is occurring.
- Someone under the legal age of consent. The legal age of consent in Connecticut is sixteen (16). Furthermore, Connecticut law restricts the sexual involvement of a person under the age of 18 with an individual twenty years of age or older who stands in a position of power, authority, or supervision over such other person by virtue of the individual's professional, legal, occupational or volunteer status and such other person's participation in a program or activity. (For further information on sexual consent under Connecticut Law, see Connecticut General Statutes Section 53a-71.)

- Someone who is mentally disabled or cognitively impaired. It is a violation of this Policy to engage in sexual activity with a person whose mental disability or cognitive impairment renders them incapable of giving consent and the disability/impairment is known or should have been known to the non-disabled sexual partner.

Consent and the Use of Alcohol or Drugs:

The use of alcohol or drugs does not relieve an individual of the obligation to obtain consent before initiating and/or engaging in sexual activity.

III. Reporting Sexual Misconduct

Reporting Sexual Misconduct to the Title IX Coordinators and/or Deputy Title IX Coordinators

Anyone (including any student, faculty member, or staff member) who has experienced sexual misconduct or is aware of someone who may have been the victim of sexual misconduct is encouraged to seek the assistance of a Title IX Coordinator or a Deputy Title IX Coordinator. They will provide information on resources for assistance and options to address concerns. Those options may vary depending on the nature of the situation, whether the individuals involved are students, faculty, or staff members, the wishes of the individuals involved regarding confidentiality, and whether the individuals involved prefer to proceed formally or informally.

Contact information for the Title IX Coordinators and Deputy Title IX Coordinators is provided in Section I above. Reports may be made at any time, including during non-business hours, in person, by mail, by phone, or by electronic mail, using this contact information or by any other means that results in a Title IX Coordinator or Deputy Title IX Coordinator receiving the person's verbal or written report. Any person may make such a report.

"Confidential" Reports Made to a College Employee

There are two groups of College employees to whom a report of sexual misconduct can be made without concern that the identities of the parties involved will be disclosed to others on campus. These groups of employees are:

1. Employees of the Health and Wellness Center.
2. Other individuals with appropriate training who are specifically appointed by the College for the purpose of serving as confidential resources

All other College employees, including faculty and staff, are required to report incidents of sexual misconduct to a Title IX Coordinator or Deputy Title IX Coordinator.

Initial Steps After A Report of Sexual Misconduct

All reports of alleged sexual misconduct will be referred to a Title IX Coordinator. Within five business days of receiving such a report, a Title IX Coordinator (or their designee) will take several initial steps. These will include, but are not limited to:

- *Encouraging the person who has allegedly experienced sexual misconduct (referred to as the “Complainant”) to meet with a Title IX Coordinator to discuss the nature and circumstances of the reported conduct.* If the person who has reported the alleged sexual misconduct is not the person who has experienced the sexual misconduct, then the person who has made the report should have the opportunity to meet with the Title IX Coordinator to discuss the nature and circumstances of the reported conduct.
- *Contacting the Complainant to confidentially discuss their rights and options under this Policy.* This includes the right to report and the right to decline to report the matter to campus police and/or to local law enforcement; the options for reporting to the College, including the process for filing a Formal Complaint; and the availability of supportive measures with or without the filing of a Formal Complaint (as described below).
- *Assessing the reported conduct to determine whether the circumstances warrant any interim measures.* Interim measures may include, but are not limited to, removing the person who allegedly committed sexual misconduct (referred to as the “Respondent”) from the College’s education program or activity on an emergency basis (after the College undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal), or placing a non-student employee Respondent on administrative leaving during the pendency of the grievance process.
- *Assessing whether the behavior alleged gives reasonable cause to believe a violation of this Policy may have occurred and warrants further investigation.* If the Title IX Coordinator determines that the reported conduct would not trigger this Policy, the Coordinator will advise the appropriate parties, and may also refer the reported conduct to the appropriate administrator or department for handling consistent with any other applicable policy.

IV. Filing a Formal Complaint of Sexual Misconduct

When a Complainant alleges in writing that he or she has been the victim of sexual misconduct, and requests that the College investigate the allegation of sexual misconduct, this is considered a “Formal Complaint”. A Formal Complaint may be filed with a Title IX Coordinator in person, by mail, or by email. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in a Mitchell College program or activity.

If, following a report of an alleged violation of this Policy, the Complainant declines to participate in the investigation or resolution process or requests that the process not proceed, the Title IX Coordinator may decide to close the investigation, or choose to continue the process without the Complainant’s participation. If the Title IX Coordinator decides to continue the process without the Complainant’s participation, the Title IX Coordinator will sign the Formal Complaint. If the Complainant requests at any time that the process not move forward, the Title IX Coordinator will weigh that request against the College’s obligation to address any risk of harm to the Complainant or other individuals in the community, and the nature of the incident or conduct at issue.

V. Supportive Measures

Upon receipt of a report or a Formal Complaint, a Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, and inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint. The College will also consider supportive measures, as appropriate and reasonably available, for the Respondent.

Supportive measures are designed to restore or preserve equal access to the Complainant's education program or activity without unreasonably burdening the Respondent, including measures designed to protect the safety of all parties or the Complainant's educational environment, or deter sexual misconduct. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

Supportive measures may include: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The College will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintain such confidentiality would not impair the ability of the College to provide the supportive measures.

VI. Investigation of Formal Complaints

Notice of an Investigation: If a Formal Complaint is filed, the Title IX Coordinator will send a written notice to the Complainant and to the Respondent (each referred to as a "party," and collectively, the "parties"). The notice will include:

- A sufficiently detailed description of the allegations (including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known), the portions of this Policy that are alleged to have been violated, notice of the College's grievance process (including the informal resolution process, as described in Section VII of this Policy), and any interim measures in place about which either party should be made aware.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- An explanation that each party may have a Title IX Advisor of their choice, who may be, but is not required to be, an attorney, and who may inspect and review evidence in accordance with this Policy.
- A statement that if either party requires any kind of accommodation due to disability pursuant to the ADA or Section 504 of the Rehabilitation Act, it is the responsibility of that party to make the Title IX Coordinator aware of the need for an accommodation. The Title IX Coordinator will work with each of the parties and as applicable, the Office of

Disability Services (for students)

and/or the 504 Coordinator (for employees) to ensure that appropriate accommodations are available.

If, in the course of an investigation, additional allegations about the Complainant or Respondent that are not included in the notice are to be investigated, a new notice of the additional allegations will be provided to the parties whose identities are known.

Consolidation of Complaints: The College may consolidate Formal Complaints as to allegations of sexual misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

Information about Title IX Advisors: Each party may have a single advisor present during any investigative proceeding, including any related meeting, interview, or hearing (referred to throughout this policy as a "Title IX Advisor"). Any person may serve as a Title IX Advisor. A Title IX Advisor may be, but need not be, an attorney. Each party must provide the name and contact information of their Title IX Advisor to the Title IX Coordinator within five (5) business days of receiving notice of an investigation. If a party does not identify a Title IX Advisor, the College will offer to provide the party with a Title IX Advisor. Title IX Advisors may communicate with their advisees but may not speak or otherwise communicate on behalf of a party during the investigation phase. Title IX Advisors are subject to the same confidentiality obligations applicable to others in attendance at any stage of the process.

Designation of An Investigator: The Title IX Coordinator shall designate at least one unbiased, qualified investigator (the "Investigator") to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the "Investigative Report"). Either a single or more than one Investigator may be designated, or the investigation may be conducted by the Title IX Coordinator. The Investigator need not be a College employee. The Title IX Coordinator will provide each of the parties with the name of the Investigator. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the investigator, the parties should inform the Title IX Coordinator (in writing) of any potential conflicts of interest with respect to the selected Investigator. (For example, there could be a conflict of interest if a party has a close relationship with the Investigator.) The Title IX Coordinator will consider the nature of the potential conflict and determine whether a change is necessary. The Title IX Coordinator's decision (in appropriate collaboration with the Chair of the Faculty Committee of the Whole in the case of a faculty member's conflict of interest objection) regarding any conflicts regarding the Investigator is final.

Nature of the Investigation: The investigation will include separate interviews with the Complainant (unless that person chooses not to participate in the investigation), the Respondent, and any witnesses whom the Investigator believes will provide necessary and relevant information. The investigation will include the review of documentation and/or other items relevant to the reported conduct. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College, not on the parties.

Identification of Potential Witnesses and Documentation: The parties will have an equal opportunity to provide the Investigator with written notice of the names and contact information

of potential fact and expert witnesses with whom they would like the Investigator to speak, together with a brief

explanation of how the information each such person has is relevant to the reported conduct. The parties may also provide the Investigator with any documentation or other items or questions they would like to be considered or posed to any witness or the other party. The Investigator will exercise discretion in determining what information and questions to consider and which potential witnesses will be interviewed.

Participation in the Investigation: Participation in the process (by providing information to the Investigator(s), responding to questions from the Investigator, responding to information provided by a party or a witness, etc.) is not required, but the investigation will proceed even if a party or witness declines to participate. During the investigation, the parties will have an equal opportunity to participate.

Inspection and Review of Evidence: Prior to completion of the Investigative Report, the Investigator will provide each party and each party's Title IX Advisor with an electronic or hard copy of the evidence considered, for their inspection and review. The parties will have at least ten (10) days to submit written responses, which the Investigator will consider prior to completion of the Investigative Report.

If a Complainant or Respondent provides sensitive records such as medical records as part of an investigation, then the parties must have an equal opportunity to inspect and review information that constitutes evidence directly related to the allegations raised in the Formal Complaint. If some of the information in the medical records is not directly related to the allegations raised in the Formal Complaint, the party disclosing the records is not required to share such information.

Investigation Prohibitions: The Investigator will not gather or consider information related to either party's sexual history with other persons except as relevant to the alleged violation, as determined in the sole discretion of the Investigator. The Investigator cannot access, consider, disclose or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains the party's voluntary, written consent to do so for the grievance process. The College will not restrict the ability of the parties to discuss the allegations under investigation or to gather and present evidence (i.e., no "gag orders").

Coordination with Law Enforcement: The Investigator or designee may contact any law enforcement agency that is conducting its own investigation to inform them that a Mitchell College investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to Mitchell College in its investigation. At the request of law enforcement, the Investigator may delay the investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator will generally resume the investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

Potential for Dismissal:

Mandatory Dismissal: For purposes of this Policy, the College will dismiss allegations of misconduct that do not meet the definition of sexual misconduct or that did not occur in the College's education program or activity within the United States.

Discretionary Dismissal: 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, the Respondent is no longer enrolled in or employed by the College, or the specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College will give the parties written notice of any mandatory or discretionary dismissal and the reasons for the dismissal.

Any party may appeal a dismissal determination using the process set forth in Section XII below.

VII. Informal Resolution of Formal Complaints

At any time, a party may contact the Title IX Coordinator to request an informal resolution of a Formal Complaint. All parties and the Title IX Coordinator must agree to informal resolution for this option to be used, and the Title IX Coordinator must obtain the voluntary, written informed consent of the parties to the informal resolution process. If the Title IX Coordinator determines that informal resolution is appropriate, the Title IX Coordinator will provide the parties with 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, and that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint), and any consequences resulting from participating in the informal resolution process (including the records that will be maintained or could be shared).

The Title IX Coordinator will then work with the parties to attempt to reach a resolution.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint. The allegation will be deemed resolved when the parties expressly agree to an outcome that is acceptable to them and is approved by the Title IX Coordinator in consultation with other appropriate administrators.

Where there are allegations that a College employee sexually harassed a student, informal resolution is prohibited.

The College will not require as a condition of enrollment or continued enrollment, or employment or continued employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of a Formal Complaint of sexual misconduct. The College will not require the parties to participate in an informal resolution process and will not offer an informal process unless a Formal Complaint is filed.

VIII. Procedures Following the Investigation Phase

Investigative Report. After the investigation phase, the Investigator will deliver an Investigative Report to the Title IX Coordinator. The Investigative Report should include a description of the alleged sexual misconduct, and a fair summary of the relevant information presented during the investigation phase, including a section where the Investigator points out relevant consistencies or inconsistencies (if any) between different sources of information. The Investigative Report shall

not include a

recommendation or a determination as to whether a party has violated the Policy or what sanctions may be appropriate (these determinations will be made by the Judicial Board).

Review by the Parties. At least ten (10) business days prior to the hearing on the Formal Complaint, the Title IX Coordinator will provide each party and their Title IX Advisors with a copy (either in electronic format or hardcopy) of the Investigative Report. Each party will have an opportunity to submit written comments to the Title IX Coordinator about the Investigative Report at least five (5) business days prior to the hearing. The time to submit written comments may be extended if the Title IX Coordinator concludes, in the Title IX Coordinator's sole discretion, that additional time is warranted. After reviewing the submissions, if any, from the parties, the Title IX Coordinator may determine that additional investigation is required, in which case the Investigator will supplement the Investigative Report and submit a final Investigative Report to the Title IX Coordinator. Any submissions made by either party, as well as any other documentation deemed relevant by the Investigator, will be attached to the Investigative Report. Within three (3) business days of receiving the final Investigative Report, the Title IX Coordinator will provide each party with a copy of the final Investigative Report.

IX. Hearing

Judicial Board. The Title IX Coordinator will convene a three-member judicial board (the "Judicial Board"). One of the individuals on the Judicial Board will be external (e.g., a former judge or an attorney) and shall serve as Presiding Judicial Board Member, and two of the individuals on the Judicial Board will be members of the College community. The Presiding Judicial Board Member shall have absolute discretion with respect to administering the hearing.

Prior to the hearing, the Judicial Board will be provided with the Investigative Report, as well as any responses to the Investigative Report, all collected evidence that is directly related to the allegations raised in the Formal Complaint, whether obtained from a party or other source as part of the investigation, any transcripts or summaries of party and witness interviews, and any other collected documents and evidence. All members of the Judicial Board shall review this information, ask questions during the hearing as they deem appropriate (subject to the Presiding Judicial Board Member's discretion in administering the hearing), and participate in the deliberations leading to the Presiding Judicial Board Member's adjudication of responsibility.

Notification of Hearing. At least five business days prior to the hearing, the parties and their Title IX Advisors will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely).

In advance of the hearing, parties will be required to identify witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each witness would be asked to provide, such that the Presiding Judicial Board Member can determine their relevance. The Presiding Judicial Board Member has the discretion to exclude from the hearing evidence/witnesses/questions deemed irrelevant.

At the Presiding Judicial Board Member's discretion, pre-hearing meetings may be scheduled with each of the parties and their Title IX Advisors to explain the hearing protocol.

Rights of Parties. The parties shall have the following rights:

- The presumption of innocence (including a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process);
- The opportunity to present evidence and respond to allegations of sexual misconduct;
- The opportunity to present a defense;
- The opportunity to offer witnesses to be interviewed by the Investigator and questioned by the Judicial Board;
- The opportunity to have the party's Title IX Advisor cross-examine the other party and any witnesses.

Standard of Proof. All findings and determinations of responsibility and sanctions will be made using the preponderance of the evidence standard. This standard requires the determination of whether it is *more likely than not* that an alleged fact is true and that a violation of the Policy occurred.

Case Presentation. The Judicial Board must conduct a live hearing. A typical hearing may include brief opening remarks by the Presiding Judicial Board Member, questions posed by the Judicial Board to one or both of the parties, questions posed by the Judicial Board to any relevant witnesses, and cross-examination by either party's Title IX Advisor of the other party and relevant witnesses. Additional elements of the hearing are described below:

- Cross-examination and questioning. At the hearing, each party's Title IX Advisor will have the opportunity to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's Title IX Advisor and never by a party personally. If a party does not have a Title IX Advisor present, the College will provide, without fee or charge to that party, a Title IX Advisor of the College's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

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 Presiding Judicial Board Member must first determine whether the question is relevant and explain to the party's Title IX Advisor asking cross-examination questions any decision to exclude a question as not relevant.

Rape shield protections. Questions and evidence about the Complainant's prior sexual behavior is irrelevant, unless offered to prove that someone other than the Respondent committed the alleged misconduct, or offered to prove consent.

- Refusal of party or witness to be cross-examined or questioned. If a party or witness does not submit to cross-examination at the hearing, the Judicial Board must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Judicial Board may not base the determination of responsibility or non-

responsibility solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

- Option of separate rooms. At the request of either party, the College must provide for the entire hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- Physical vs. virtual presence. 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.
- Recording of hearing. The College will create an audio or audiovisual recording, or transcript, of the hearing.

X. Decision

Following the hearing, the Judicial Board will consider all of the relevant evidence and deliberate regarding responsibility. The Presiding Judicial Board Member shall make a determination, by a preponderance of the evidence, whether the Respondent has violated the Policy. The Presiding Judicial Board Member shall issue a written notification of the determination to the Title IX Coordinator. The written notification will consist of the following:

- A statement of the allegations;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions as to whether the Respondent committed sexual misconduct;
- A statement of, and rationale for, the result as to each allegation, including a determination as to responsibility, any disciplinary sanctions the recipient imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's program or activity will be provided by the College to the Complainant; and
- The College's procedures and permissible bases for the Complainant and Respondent to Appeal.

The Title IX Coordinator will forward to the parties simultaneously (i) the Judicial Board's written determination described above; and (ii) the procedures for either party to appeal.

XI. Sanctions and Remedies

Sanctions. A finding of responsibility for sexual misconduct can result in a wide range of sanctions, depending on the circumstances of a particular case. When the Respondent is a student, examples of sanctions include community service, counseling, probation, suspension from residence hall, suspension from the College for one or more terms and expulsion from the College. When the Respondent is a staff member or a faculty member, examples of sanctions include community service, counseling, probation, reassignment of duties, suspension with pay, suspension without

pay, and

termination of employment at the College. (For faculty members, all sanctions shall be provided as recommendations to the Dean of the College for consideration, in accordance with the College's collective bargaining agreement with the faculty union.) In deciding on an appropriate sanction, the Judicial Board shall consider the following factors:

- The nature and circumstances of the misconduct;
- The impact of the misconduct on the person who experienced sexual misconduct;
- The disciplinary history of the Respondent;
- Any other mitigating or aggravating circumstances in order to reach a fair and appropriate resolution in each case.

Remedies. A finding of responsibility for sexual misconduct can result in a wide range of remedies, depending on the circumstances of a particular case. 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 previously as supportive measures; but remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. Examples of possible remedies include: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

XII. Appeal Process

Either party may appeal a decision by the Title IX Coordinator regarding dismissal of a complaint or the Judicial Board's determination regarding responsibility by sending a written appeal to the Title IX Coordinator, who will transmit the appeal to the appropriate Appeal Officer. If the Respondent is a student or a faculty member, the Appeal Officer is the Dean of the College. If the Respondent is a staff member, the Appeal Officer is the Human Resources Manager. An appeal must be submitted within seven (7) business days of the delivery of notice of the dismissal of the Formal Complaint or of the Judicial Board's determination.

The party submitting the appeal must set forth in detail the grounds for appeal and must identify or attach all materials to be considered in the appeal process. The limited grounds for appeal are as follows: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or that Title IX personnel had a conflict of interest or bias that affected the outcome of the matter. The appeal is not a new review of the underlying matter.

The Title IX Coordinator will provide a copy of the appeal submitted by one party to the other party within twenty-four (24) hours of receipt of the appeal, and the other party may submit any additional materials that they wish to have considered in the appeal process within seven (7) business days of receipt of the appeal.

As soon as possible, but no later than three (3) business days after an appeal is requested, either

party may inform the Title IX Coordinator in writing of any conflicts of interest regarding the assigned

Appeal Officer. If potential bias or conflict of interest is raised by either party, the President will consider the nature of the potential bias or conflict (and, before deciding the matter, shall consult with the Chair of the Faculty Committee of the Whole in the case of any conflict of interest raised by a party who is a faculty member) to assess any conflicts of interest and determine whether a different individual should be assigned the role of Appeal Officer. The Appeal Officer shall not be involved in the appeal until the President has resolved any questions of conflict of interest.

The Appeal Officer has the authority to decide whether to postpone the imposition of some or all of the sanctions while the appeal is pending.

Within fourteen (14) business days after receiving an appeal (including additional materials, if any), the Appeal Officer will issue a written decision regarding the appeal. In deciding the appeal, the Appeal Officer shall consider only the information submitted by the parties and the record of the adjudication by the Judicial Board. The Appeal Officer may affirm the original findings, or may amend the findings. In the case of new and relevant information, the Appeal Officer may recommend that the case be returned to the Judicial Board to assess the weight and effect of the new information and render a determination after considering the new facts. If the appeal is granted based on procedural error(s) that materially affected the outcome of the adjudication, the Appeal Officer may return the case to the Judicial Board for additional review or forward the case for a new adjudication.

The Appeal Officer will provide the result of the appeal to the Title IX Coordinator, who shall communicate the result of the appeal in writing simultaneously to both parties. Appeal decisions are final.

Timeframe for Completing the Investigation and Disciplinary Process

The College will endeavor to complete the investigation and disciplinary Judicial Board process, if any, within sixty (60) days of the delivery of the written notice of investigation to the parties. This period does not include the time for any appeal. Timeframes set forth in this Policy may be extended for good cause. (Written notice will be provided to the Complainant and Respondent of any extension and the reasons for the action.) The College's overarching goal is that the process should be prompt, fair, and impartial.

XIII. Training

The College will provide appropriate training to College officials with responsibilities under this Policy, including the Title IX Coordinators and Deputy Title IX Coordinators, investigators, Judicial Board members, those who hear appeals, and any individuals who facilitate the informal resolution process. Such training will cover what constitutes sexual misconduct subject to the Policy, including sexual harassment as defined by the US Department of Education's Title IX regulations, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes under this Policy, as applicable; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The College will ensure that Judicial Board members receive training on any technology to be used at a hearing and on the relevance and irrelevance of particular types of questions and evidence,

including the irrelevance of questions and evidence about the Complainant's sexual predisposition or prior sexual behavior.

The College will ensure that investigators receive training on issues of relevance in order to create an investigative report that fairly summarizes relevant evidence.

These training materials shall be publicly available on the College's website and will be made available for in-person review upon request.

XIV. Additional Matters

No Conflicts of Interest. To the maximum extent practicable, steps should be taken to ensure an impartial and unbiased process, including participation of persons (including investigators) who: (1) have sufficient qualifications and training to carry out a thorough evaluation of the relevant information; and (2) have no unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation that could affect their ability to be objective reviewers.

In cases where both Title IX Coordinators have a conflict of interest, a Deputy Title IX Coordinator appointed by the President will serve in the Title IX Coordinator's role. In cases where the Appeal Officer has a conflict of interest, the President shall appoint another Appeal Officer. In cases where allegations of sexual misconduct have been brought against a Title IX Coordinator, the Vice President for Academic Affairs, the Human Resources Manager, or the President, then the process outlined in this policy will be adjusted accordingly to avoid any conflicts of interest. Except in cases involving the President, or as otherwise provided in this policy, the President shall resolve any questions of bias or conflict of interest. The President's decision on such questions shall be final.

Duty of Honesty. Any person who knowingly makes a false statement — either explicitly or by omission — in connection with any part of the process will be subject to separate disciplinary action. A false or unfounded report of misconduct determined by Mitchell College to have been made in bad faith is a serious offense. Such offenses will themselves be investigated under the appropriate Mitchell College policy and may lead to disciplinary action, up to and including termination of employment or other affiliation with Mitchell College. A report made in good faith is not considered false merely because a Judicial Board ultimately concludes that the evidence does not support the allegation of violation of the Policy.

Good Faith Participation by the Parties and Witnesses. The investigation is a neutral fact-gathering process. Although participation in the process (providing information to the Investigator, responding to questions from the Investigator, responding to information provided by a party or a witness, etc.) is not required, the Complainant, the Respondent, and all witnesses are expected to participate in good faith in the process set forth in this Policy, and they may be required by Mitchell College to attend meetings related to the process. Any person who knowingly interferes with the reporting, investigation, or resolution of matters under this Policy may be subject to separate and/or additional disciplinary action.

Duties of Promptness and Care. Proceedings concerning sexual misconduct often raise difficult issues for those making the allegations, for those who are the subject of the allegations, and for those responsible for reviewing the allegations. Review of the allegations should therefore be conducted promptly and with care and sensitivity.

Duty of Confidentiality. The College will administer any complaint of sexual misconduct using the process described in this Policy while providing the utmost degree of privacy and confidentiality

possible under the circumstances of each matter and as permitted by law. The College will keep confidential the identity of any individual who has made a report or complaint of sexual misconduct, including any person who has made a report or filed a formal complaint, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by FERPA, required by law, or necessary to carry out a Title IX investigation, hearing, or judicial proceeding arising out of it.

Privileges. This grievance process does not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Objectivity. Throughout the grievance process, all relevant evidence (including both inculpatory and exculpatory) will be evaluated objectively. In addition, credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

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

Record Keeping. The Title IX Coordinators will maintain for a period of seven (7) years records of: each sexual misconduct investigation (including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity); any appeal and the result therefrom; any informal resolution and the result therefrom; and all materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process.

In addition, the College must create, and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment. In each instance, the College must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity. If the College does not provide a Complainant with supportive measures, then the College must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Special Measures. If there is no finding of sexual misconduct, the University should make reasonable and practical efforts as appropriate to restore the reputation of the Respondent. Any such concerns by the Respondent should be directed to a Title IX coordinator for follow up with other administrators as appropriate.

Evaluation. The Title IX Coordinators shall annually evaluate the effectiveness of the Policy with respect to meeting the needs of Complainants and Respondents during the process.

Resources. Additional resources available in for individuals who may have experienced sexual misconduct can be found at Appendix A.

Appendix A Resources

Anyone who has experienced sexual misconduct or is aware of someone who may have been the victim of sexual misconduct is encouraged to report such misconduct and to take advantage of resources available on campus and in the community.

Confidential Resources

Sexual Assault Crisis Center of Eastern CT
(860) 442-0604; 24 hour Hotline: (860) 456-2789 Email— www.saccec.org

The Sexual Assault Crisis Center of Eastern CT provides support, advocacy, and crisis counseling for victims and relays the options available to victims of sexual assault and the campus community.

SACCEC provides educational opportunities to the campus community and is available to be present with the victim from the time of disclosure of sexual assault.

Health and Wellness Services

Yarnall Hall, Second Floor (860) 701-7787

Health Services is open to all currently enrolled College students without charge Monday through Friday during the academic year. All contacts are confidential. Staff members provide crisis and follow-up care for victims of sexual assault and make referrals to local hospitals for the administration of sexual assault evidence collection kits (also known as rape kits). For immediate medical needs during hours when Health and Wellness is closed, students should seek emergency services, i.e., local hospital emergency rooms, Campus Safety, local police, and local rape crisis centers.

Additional On-Campus

Resources Campus Safety

Lower level of Nathan Hale Hall — 860-443-0214 or extension 4590 from any campus phone
Campus Safety assists with the immediate needs of victims; works with the Student Affairs Office in the investigation of incidents; provides timely, campus-wide notification of incidents which pose an ongoing or continuing threat to the community; and assists in the preservation of evidence. While victims are encouraged to report crimes to the police, they may instead elect to seek counseling services and may be assisted by these services or by other campus resources.

Office of Residence Life

Duques Center, 860-701-5045

Office of Campus Life staff members are knowledgeable about campus and local services, work

closelywith Campus Safety and with the Director of Residence Life in the adjudication of incidents of sexual

misconduct, can help sexual assault victims get assistance and provide support to residents impacted by the sexual assault.

Human Resources Office — For Faculty and Staff

Montauk House, 860-701-5161

The Human Resources staff members are knowledgeable about harassment prevention policies and practices. If you believe there is an issue or have encountered an issue of harassment, please contact Human Resources.

National & Statewide Resources

The U.S. Department of Education’s Office for Civil Rights (“OCR”) is responsible for enforcing Title IX, as well as other federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial aid. Inquiries and complaints may also be directed to OCR at:

Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW, Washington DC 20202-
1100 Phone: 800.421.3481
Email: ocr@ed.gov
Website:
www.ed.gov/ocr

CT Coalition Against Domestic Violence (CCADV)
888.774.2900 English hotline
844.831.9200 Spanish hotline www.ctcadv.org

Connecticut Alliance to End Sexual Violence
888.999.5545 English hotline
888.568.8332 Spanish hotline www.connsacs.org

GLBTQ Domestic Violence Project
800.832.1901 hotline www.glbtqdv.org

Stalking Resource Center
(202) 467-8700 office www.ncvc.org/src/

National Suicide Prevention Lifeline
800.273.8255 English hotline
888.628.9454 Spanish hotline www.suicidepreventionlifeline.org

Statewide Legal Services of CT, INC.
800.453.3320 Toll-free <http://slsct.org/volunteer>

National Center for Victims of Crime

202.467.8716 Referral hotline www.victimsofcrime.org/

Guidance on Taking Immediate Action after a Sexual Assault Incident:

If you or someone you know have recently been assaulted:

- Go to a safe place as soon as you can.
- In an emergency, call 911. If it is not an emergency, call the Mitchell College Campus Safety Department at 860-443-0214, or 4590 from a campus phone, or via a blue light phone on campus.
- Seek medical attention. The Mitchell College Health and Wellness Department offers medical and counseling appointments to all students. The Emergency Room at Yale-New Haven Hospital offers services and support for people who have experienced sexual assault. Campus Safety can provide students with an escort and transportation to the hospital.
- Try to preserve all physical evidence.
- If you are the victim of a sexual assault, try not to wash your face or hands, bathe, brush your teeth, drink or eat, douche, or change clothes if you can avoid it. If you do change your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic). It is important to preserve as much evidence as possible should you later decide to press criminal charges.

Guidance on Taking Immediate Action while or after experiencing intimate partner violence and/or stalking:

- Get to a safe place as quickly as you can. If someone is following you, consider going to a police station, or public area.
- In the event that you are experiencing intimate partner violence or stalking, you are encouraged to record all related behaviors, such as harassing telephone calls, electronic contacts (e.g., texts, e-mails, Facebook messages), letters/notes, acts of vandalism, and threats communicated through third parties. Note the following: date, time, and location of incident; description of what happened; and names of any witnesses. If possible, take pictures of evidence (e.g., bodily injuries, damaged items). Recording such information can help document behavior for protection order applications or criminal prosecution. It can also help you remember incidents about which you might later report or testify. Because this information may be introduced as evidence or inadvertently shared with the perpetrator, do not include any information you do not want the offender to see.
- If you were harmed, you are encouraged to receive medical attention as quickly as possible.
- Tell someone you trust about the incident. You may want to develop a safe word to be used in emergency situations to indicate when and how this individual can help you.
- If you obtain external orders of protection (e.g. restraining orders, injunctions, protection

from abuse), please notify Campus Safety or a Title IX Coordinator so that those orders can be observed on campus. If you need assistance with College-related concerns, such as no-contact orders or other protective measures, contact a Title IX Coordinator.

- Treat all threats, direct or indirect, as legitimate and report them to one of the resources above.

- Even if there are no threats, consider reporting the incident(s).

Guidance on taking action after being sexually harassed or exploited:

- Document the harassment:
 - Photograph and keep copies of any documentary evidence of harassment.
 - Keep a journal with detailed information on instances of sexual harassment. Note the dates, conversation, frequency of offensive encounters, etc.
 - Tell other people, including personal friends and co-workers, if possible.
- If the harasser is a Mitchell College student or employee, immediately report the harassment to a Title IX Coordinator or the Deputy Title IX Coordinator for Employees.

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