

TOCCOA FALLS COLLEGE

TITLE IX
SEXUAL MISCONDUCT
POLICY

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I. INTRODUCTION

Toccoa Falls College (“TFC” or “the College”) is committed to maintaining a Christ-centered community, free of discrimination, including sexual harassment, sexual violence, dating and domestic violence, and Sexual Misconduct in all of its forms. TFC will not tolerate Sexual Misconduct by or against its students, faculty, or staff. In addition, visitors, volunteers, vendors, consultants, third parties, or any person that provides services to TFC are required to comply with the provisions of this policy. All community members must comply with this policy, whether on campus or off campus, when engaged in activities sponsored by TFC or otherwise related to TFC or its business. Such activities include, but are not limited to: classes, seminars, meetings, and study abroad programs.

The purposes of this Policy include:

- Prohibiting all forms of Sexual Misconduct. Sexual Misconduct is defined in **Section V** below.
- Pursuing an education and work environment that is free from Sexual Misconduct.
- Encouraging reports and complaints when Sexual Misconduct has occurred.
- Providing options for addressing and resolving complaints of Sexual Misconduct.

This policy applies to the following forms of sex discrimination, which are referred to collectively as “Sexual Misconduct”: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation. Persons who believe that they have experienced Sexual Misconduct or have witnessed Sexual Misconduct of another community member are encouraged to bring the conduct to the attention of appropriate individuals so that the College can take prompt corrective action. All complaints will be taken seriously.

TFC prohibits actual or threatened retaliation or reprisal against anyone who acts in good faith to report Sexual Misconduct, including third parties (e.g., vendors). TFC will strive to protect the privacy of all individuals involved in complaints of Sexual Misconduct to the extent feasible consistent with the College’s legal obligations. If it is determined through a complaint resolution process pursuant to this Policy that Sexual Misconduct has occurred, effective corrective action will be taken to stop the Sexual Misconduct, attempt to ensure that it does not recur, and appropriately care of those who may have been harmed.

In case of a conflict between this policy and another College policy, this policy will govern.

II. NOTICE OF NON-DISCRIMINATION

In accordance with applicable federal and state 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 Americans with Disabilities Act and ADA Amendments, TFC does not unlawfully discriminate on the basis of sex, race, color, national origin, age, disability, marital status, genetic information, veteran status, or any other protected status under federal, state or local law applicable to TFC, in its education programs and activities, in employment policies and practices, and all other areas of TFC. As a faith-based institution, TFC is exempted from certain laws and regulations concerning discrimination. TFC maintains the right, with regard to its community covenant, admissions, enrollment, employment, and other matters, to uphold and apply its religious beliefs related to, among other issues, marriage, sex (gender), gender identity, sexual orientation, and sexual activity.

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” TFC is required by Title IX and its regulations not to engage in sex discrimination in its education program or activity, including admissions and employment. Sex discrimination is conduct based upon an individual’s sex that excludes an individual from participation in, denies the individual the benefits of, or treats the individual differently in an education program or activity. Sexual harassment is a form of sex discrimination. In accordance with Title IX and its regulations, this Policy addresses TFC’s prohibition of the following forms of sex discrimination: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation.

TFC will not tolerate Sexual Misconduct in any form. TFC will promptly and equitably respond to all reports of Sexual Misconduct and will take prompt corrective action against any Sexual Misconduct by or against its community members in order to take steps to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community. All TFC community members are directed to implement and abide by the procedures outlined in this Policy.

Inquiries or complaints about Title IX, sex discrimination, sexual harassment, or other forms of Sexual Misconduct may be directed to TFC's Title IX Coordinator:

Abigail Davis, Ph.D.
Vice President for Student Affairs
Title IX Coordinator
Toccoa Falls College
107 Kincaid Dr. • MSC 779
Toccoa Falls, GA 30598
706-886-7299 X5326

Inquiries or complaints may also be directed to the U.S. Department of Education's Office for Civil Rights:

The Office of Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: (800) 421-3481
Facsimile: (202) 453-6012 TDD# (800) 877-8339
Email: OCR@ed.gov
Website: www.ed.gov/ocr

III. SCOPE OF POLICY

This Policy applies to all TFC community members, including students, employees, faculty, administrators, staff, applicants for admission or employment, and third parties, such as trustees, volunteers, vendors, independent contractors, visitors, and any individuals or entities regularly or temporarily employed, studying, living, visiting, conducting business, interacting with a member or members of our community, or having any official capacity with TFC or on TFC property. All TFC community members are required to follow TFC policies and local, state, and federal law.

This Policy applies to Sexual Misconduct committed by or against a TFC community member that occurs on campus or College property or in the context of off-campus activities sponsored or sanctioned by TFC or which otherwise relate to TFC or its business. Such activities include, but are not limited to, professional meetings, classes, practicums, seminars, study abroad trips/programs, study tours, mission trips, distance education, and all other activities involving or related to TFC. This Policy also applies to conduct committed by or against a TFC community member that occurs off campus and outside the context of a TFC-sponsored event or program, but that TFC determines may (1) have continuing adverse effects on campus, College property, or in a TFC program or activity; (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a TFC

program or activity; or (3) create a hostile environment for a community member on campus, College property, or in a TFC program or activity.

This Policy applies to Sexual Misconduct within the scope of Title IX, as well as Sexual Misconduct committed by or against a TFC community member that does not fall within the scope of Title IX. More information about what Sexual Misconduct falls within the scope of Title IX is provided in **Section VI Prohibited Conduct** of the Policy below, and more information about the process applicable to various types of Sexual Misconduct is also provided in **Section XII**. General Provisions for the Complaint Resolution Process below.

This Policy applies to Sexual Misconduct committed against any person, regardless of the sexual orientation or gender identity of any of the parties. Although TFC maintains its right to uphold and apply its religious beliefs with regard to sexual orientation and gender identity, the College has no tolerance for any form of Sexual Misconduct committed against any individual, regardless of the individual's sexual orientation or gender identity. Individuals are strongly encouraged to report all incidents of Sexual Misconduct, including Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation, even when the individual has a concern that they have engaged in conduct that may violate provisions of the College's Student Handbook relating to sexual behaviors. See **Section XI.D. Amnesty** below for more information.

IV. RESPONSIBILITIES OF TITLE IX COORDINATOR AND TITLE IX TEAM

The Title IX Coordinator is the designated representative of the College with primary responsibility for coordinating TFC Title IX compliance efforts, including the College's efforts to eliminate any Sexual Misconduct, prevent its recurrence, and address its effects. The Title IX Coordinator oversees and monitors the College's overall compliance with Title IX-related policies and developments; the implementation and oversight of complaint resolution processes, including review, investigation, and adjudication of reports of Sexual Misconduct; the provision of educational materials and training for the campus community; and monitoring all other aspects of the College's Title IX compliance. These responsibilities include, but are not limited to:

- Ensuring College policies and procedures and relevant state and federal laws are followed;
- Informing any individual impacted by an allegation of Sexual Misconduct, including a complainant, a respondent, or another individual, about the procedural options and processes used by the College, and about resources available at the College and in the community;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Training and assisting any TFC employees regarding how to respond appropriately to a report of sex discrimination or Sexual Misconduct;

- Ensuring that appropriate training, prevention and education efforts, and periodic reviews of the College’s climate and culture take place;
- Coordinating the College’s efforts to identify and address any patterns or systemic problems revealed by reports and complaints;
- Evaluating allegations of bias or conflict of interest relating to these procedures;
- Determining whether grounds for appeal under this Policy have been properly stated;
- Assisting in answering questions related to this Policy;
- Recordkeeping of all incidents of Sexual Misconduct reported to the Title IX Coordinator.

The College’s Title IX Team includes a Title IX Deputy Coordinator and other appointed staff and faculty designees. These team members have a shared responsibility for consulting with, and supporting, the Title IX Coordinator and may serve as the Title IX Coordinator’s designee. When this Policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by the Title IX Coordinator, the Title IX Deputy Coordinator, or the Title IX Coordinator’s designee. Members of the team may also be called upon to investigate or adjudicate formal complaints of Sexual Misconduct, decide appeals, and/or facilitate informal resolutions to formal complaints. The College reserves the right to outsource actions under this Policy to third parties, including actions of the Title IX Coordinator, investigator, Title IX Hearing Officer(s)/Adjudicator(s), and appeal officers.

V. DEFINITIONS

Complainant

An individual who is alleged to be the victim of conduct that could violate this Policy.

Formal Complaint

A document filed by a complainant or signed by the Title IX Coordinator alleging a violation of this Policy and requesting that the College investigate the allegation of the Policy violation. A formal complaint begins the complaint resolution process as set forth in **Section XII** below.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

Report

An account of Sexual Misconduct that has allegedly occurred that has been provided to the College by the complainant, a third party, or an anonymous source.

Sexual Misconduct

As used in this Policy, Sexual Misconduct involves the following forms of sex discrimination and other misconduct: Dating Violence, Domestic Violence, Sexual Assault (including nonconsensual sexual contact and nonconsensual sexual penetration), Sexual Exploitation, Title IX Sexual Harassment, Non-Title IX Sexual Harassment, and Stalking.¹

Title IX Coordinator

The designated staff member of the College with primary responsibility for coordinating Title IX compliance efforts, and who generally oversees the complaint resolution process, documents the findings and decisions, and maintains official records. For more information regarding the Title IX Coordinator's role, see Section IV above.

VI. PROHIBITED CONDUCT

TFC prohibits the following forms of Sexual Misconduct: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as each term is defined below. Aiding others in acts of Sexual Misconduct also violates this Policy.

A. TITLE IX SEXUAL HARASSMENT

As used in this Policy, Title IX Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following definitions, when the conduct occurs (1) in the College's education program or activity and (2) against a person in the United States.

1. Title IX Quid Pro Quo Harassment

Title IX Quid Pro Quo Harassment occurs when an employee of the College, including a student employee, conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

2. Title IX Hostile Environment Harassment

Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex 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.

¹ Some instances of Dating Violence, Domestic Violence, and Stalking may not be sexual in nature. For purposes of this Policy, the term "Sexual Misconduct" encompasses all instances of Dating Violence, Domestic Violence, and Stalking (as those terms are defined in this Policy), regardless of whether there is a sexual component to the behavior.

Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute Title IX Hostile Environment Harassment:

- Unwelcome sexual flirtations, attention, advances, or propositions;
- Requests for sexual favors;
- Punishing or threatening to punish a refusal to comply with a sexual-based request;
- Offering a benefit (such as a grade, promotion, or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature;
- Verbal abuse of a sexual nature or obscene language or slurs;
- Jokes and comments of a sexual nature;
- Verbal commentary about an individual's body, sexual innuendo, or suggestive commentary about a person's clothing and appearance or references to body parts;
- Displaying derogatory or sexually suggestive pictures or other objects in an office, in a residence hall, or on a computer monitor;
- Visual conduct such as leering or making gestures;
- Unwelcome kissing;
- Unwelcome touching of a sexual nature such as patting, pinching, or brushing against another's body;
- Gossip about sexual relations;
- Cyber or electronic harassment of a sexual nature.

The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the victim's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protection of academic freedom

3. Sexual Assault, Domestic Violence, Dating Violence, and Stalking

Sexual Assault Domestic Violence, Dating Violence, and Stalking as those terms are defined below (when such conduct occurs (1) in the College's education program or activity and (2) against a person in the United States).

a. Unwelcome Conduct

For the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below) definitions, unwelcome conduct is conduct that the individual did not request or invite and regarded as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident, including various objective and subjective factors.

b. On the Basis of Sex

For the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below) definitions, conduct is on the basis of sex when it is sexual in nature or is referencing or aimed at a particular sex.

c. Reasonable Person

For the purposes of the Title IX Hostile Environment Harassment and Non-Title IX Sexual Harassment (see below) definitions, a “reasonable person” means a reasonable person in the shoes of the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

d. Education Program or Activity

At a minimum, the College’s education program or activity includes all of the operations of the College, including (1) locations on campus or otherwise owned or controlled by the College, such as residence halls and learning spaces and (2) locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the alleged Sexual Misconduct occurred, such as TFC athletic events and other TFC-sponsored off-campus activities. Whether alleged conduct occurred in the College’s education program or activity is a fact-specific analysis.

B. NON-TITLE IX SEXUAL HARASSMENT

While Title IX requires that the alleged conduct meet a certain threshold before it is considered Title IX Sexual Harassment, the College also prohibits unwelcome conduct on the basis of sex (1) that may not rise to the level of Title IX Sexual Harassment (as defined above), (2) that did not occur in the College’s education program or activity, but may nevertheless cause or threaten to cause an unacceptable disruption at the College or interfere with an individual’s right to a non-discriminatory educational or work environment, or (3) that did not occur against a person in the United States.

As used in this Policy, Non-Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following definitions:

1. Non-Title IX Quid Pro Quo Harassment

Non-Title IX Quid Pro Quo Harassment occurs when an employee of the College, including a student-employee, conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

2. Non-Title IX Hostile Environment Harassment

Non-Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment.

Examples of Non-Title IX Hostile Environment Harassment may include the same type of conduct listed above for Title IX Hostile Environment Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; (2) does not occur in the College's education program or activity; or (3) does not occur against a person in the United States.

The terms "on the basis of sex," "reasonable person," and "unwelcome conduct" have the same meanings provided above under the definition of Title IX Sexual Harassment.

Conduct cannot constitute both Title IX Sexual Harassment and Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of Title IX Sexual Harassment, then that conduct will not be separately analyzed as Non-Title IX Sexual Harassment.

C. SEXUAL ASSAULT

Any actual or attempted sexual contact, including contact with an object, with another person without that person's consent. Sexual Assault includes:

1. **Nonconsensual Sexual Contact:**

Intentional contact, however slight and with any object or part of one's body, of another's private areas (clothed or unclothed) or of one's private areas with the part of another's body (clothed or unclothed), without consent. Private areas include inner thighs, buttocks, breasts, genitals, and groin area.

2. **Nonconsensual Sexual Penetration:**

Sexual penetration, however slight and with any object, without consent. Penetration can be oral (when penetration is with a private area), anal, or vaginal.

See the **Statement on Consent** below in section VII. below for more information.

Sexual Assault also includes but is not limited to an offense that meets any of the following definitions:

Rape: The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

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 his/her age or because of his/her temporary or permanent mental or physical incapacity.

Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent. In Georgia, the age of consent is 16.

Sexual Assault can also be a crime under Georgia law. For more information on Georgia criminal law definitions, see **Appendix C**.

While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Sexual Assault that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

D. SEXUAL EXPLOITATION

Taking non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:

- Intentional and repeated invasion of sexual privacy without consent (e.g., walking into the other person's room or private space without consent);
- Prostituting another person;
- Non-consensual taking of photographs/images, video recording, and/or audio recording of a sexual or other private activity;
- Non-consensual distribution of photographs/images, video recording, audio recording, or live-streaming of a sexual activity;
- Allowing third parties to observe sexual activities or view another's intimate body parts, in a place where that person would have a reasonable expectation of privacy, without consent;
- Engaging in non-consensual voyeurism;
- Inducing or coercing another to expose his or her intimate body parts in non-consensual circumstances;
- Intentional removal or attempted removal of clothing that exposes an individual's bra, underwear, or intimate body part, or that is otherwise sexual in nature, without consent;
- Exposing one's intimate body parts in non-consensual circumstances;
- Ejaculating on another person without consent;
- Distributing or displaying pornography to another in non-consensual or non-consensual or unwelcomed circumstances;
- Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person without that person's knowledge and consent.

Conduct cannot constitute both (1) Sexual Exploitation and (2) Title IX Sexual Harassment or Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of quid pro quo or hostile environment harassment pursuant to either the Title IX Sexual Harassment or Non-Title IX Sexual Harassment definition, then that conduct will not separately be analyzed as Sexual Exploitation.

E. 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 shall be determined based on a consideration of the following factors: length of the relationship; 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, such as physical harm, bodily injury, criminal assault, or Sexual Assault, or the threat of such abuse. For purposes of this Dating Violence definition, consent will not be a defense to a complaint of physical abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

Dating Violence may also be a crime under Georgia law. For more information on Georgia criminal law definitions, see **Appendix C**.

While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Dating Violence that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

F. DOMESTIC VIOLENCE

A felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under the Georgia family or Domestic Violence laws (or if the crime occurred outside of Georgia, the jurisdiction in which the crime occurred).

Georgia family/domestic violence laws apply to any felony or commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass. For purposes of this Domestic Violence definition, consent will not be a defense to a complaint of physical abuse.

Domestic Violence may also be a crime under Georgia law. For more information on Georgia criminal law definitions, see **Appendix C**.

While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Domestic Violence that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

G. STALKING

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his or other people's safety, or to suffer substantial emotional distress.

1. Course of Conduct

Two or more acts, including but not limited to, acts which the stalker directly, indirectly, or through others, 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.

2. Substantial Emotional Distress

Significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

3. Reasonable Person

A reasonable person under similar circumstances and with similar identities to the victim.

Stalking behavior includes, but is not limited to, a person who:

- Follows, monitors, or pursues another, whether in person or through any available technological or other means;
- Repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
- Makes or causes the telephone of another repeatedly or continuously to ring;
- Repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, messages, packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies; or
- Broadcasts or publishes (electronically or otherwise) the picture, name, address or telephone number of a person protected by a restraining order knowing the person is likely to be harassed or intimidated by others;
- Following or lying in wait for the victim at places such as home, school, work, or recreational facilities;
- Making direct or indirect threats to harm the victim, or the victim's children, relatives, friends, or pets;
- Damaging or threatening to damage the victim's property
- Repeatedly posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth, that would cause a person to feel threatened or intimidated. For purposes of this definition, not all communication about a person will be considered to be directed at that person.

Stalking may also be a crime under Georgia law. For more information on Georgia criminal law definitions, see **Appendix C**.

While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Stalking that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

H. RETALIATION AND INTERFERENCE WITH PROCESS

Any act of intimidation, threat, coercion, discrimination, or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy, or because the individual has 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. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered Retaliation/Interference of Process and violate this Policy.

While the College does not prohibit the parties from discussing the allegations in a formal complaint, acts that could constitute Retaliation and Interference with Process may include, but are not limited to:

- Acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy;
- Acts or comments that are intended to influence whether someone participates in the complaint resolution process, including the live hearing;
- Acts or comments intended to embarrass the individual;
- Adverse changes in employment status or opportunities;
- Adverse academic action;
- Adverse changes to academic, educational, and extracurricular opportunities.

Retaliation and Interference with Process may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation and Interference with Process may be present against a person even when the person's allegations of Sexual Misconduct are unsubstantiated.

The College is committed to protecting the rights of the complainant, the respondent, and anyone else involved in the complaint process. Any conduct constituting Retaliation or Interference with Process is a violation of this Policy, which is subject to disciplinary action up to and including termination of employment or expulsion. Concerned individuals should report acts of retaliation to the Title IX Coordinator. For more information, see **Section XVI** below.

VII. STATEMENT ON CONSENT

Toccoa Falls College promotes the belief that sex is reserved for marriage. Although TFC maintains its right to uphold and apply its religious beliefs with regard to sexual behavior, the College has no tolerance for any form of Sexual Misconduct committed against any individual. Individuals are strongly encouraged to report all incidents of Sexual Misconduct, even when the individual has a concern that they have engaged in conduct that may violate provisions of the College's Student Handbook relating to sexual behaviors. See **Section XI Amnesty** below for more information.

A. CONSENT

At Toccoa Falls College, consent is defined as words or overt actions by a person in advance clearly communicating a freely given, present agreement to participate in a particular sexual contact or activity. Words or overt actions clearly communicate consent when a reasonable person in the circumstances would believe those words or actions indicate a willingness to participate in a mutually agreed-upon sexual contact or activity. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent. It is the responsibility of the person initiating the specific sexual contact or activity to obtain consent for that activity. For consent to be valid there must be a clear expression in words or actions that the other individual consented to that specific sexual contact or activity.

The definition of consent is subject to the following:

- A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue and, if that happens, the other person must stop immediately.
- A minor below the age of consent according to state law (age 16 in Georgia) cannot consent to sexual activity. Sexual contact by an adult with a person below the age of consent is a crime as well as a violation of this Policy, even if the minor appeared to have wanted to engage in the act.
- Consent to some physical contact (such as kissing or fondling), by itself, cannot be presumed to be consent for other sexual activity (such as intercourse).
- The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

- Silence or the absence of resistance alone is not consent. Consent is active, not passive.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.
- A current or previous sexual relationship or encounter, by themselves, are not sufficient to constitute consent to future sexual acts. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- An existing sexual, romantic, or marital relationship does not, by itself, constitute consent.
- Prior sexual activity with other individuals does not imply consent.
- Consent cannot be procured, expressly or implicitly, by use of force, intimidation, threats, or coercion, as that term is defined below.
- An individual known to be, or who should be known to be, incapacitated, as defined by this Policy, cannot consent to sexual activity initiated by another individual.
- Use of alcohol or other drugs will never function to excuse behavior that violates this Policy.
- Explicit consent to protected sexual contact does not constitute consent to unprotected sexual contact.

B. INCAPACITATION

Incapacitation is defined as the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. It may be permanent or temporary. Someone who is asleep, unconscious, or involuntarily physically restrained is incapacitated. Someone can also be incapacitated by alcohol or other substances. With respect to incapacitation due to the ingestion of alcohol or other drugs, incapacitation requires more than being under the influence of alcohol or other drugs; a person is not incapacitated just because they have been drinking or using other drugs. Where alcohol or other substances are involved, incapacitation is determined based on the facts and circumstances of the particular situation, looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent; and whether such condition was known or reasonably should have been known to the accused or a reasonable, sober person in the accused's position. Intoxication of the respondent is not an excuse for failure to obtain consent or failure to know of the complainant's inability to consent.

C. COERCION

Coercion is defined as the application of an unreasonable amount of pressure or emotional/psychological manipulation that would induce an individual to do something against their will. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone used to obtain consent from another. Coercion involves (1) the use of physical force, (2) threats of severely damaging consequences or (3) pressure that would cause a reasonable person to fear severely damaging consequences.

VIII. CONSENSUAL RELATIONSHIP POLICY

Dating or romantic relationships between TFC employees and students enrolled in any TFC program are prohibited.

The integrity and trust of the employee-student relationship is central to the mission of Toccoa Falls College. Dating and other romantic relationships of any length between an employee and a student, even if the employee is not directly in any supervisory or teaching role, involve a power differential, and therefore raise serious questions about fairness, imbalanced evaluation practices, conflicts of interest, or favoritism. These concerns have a negative impact on the community for other students as well as the student directly involved.

Exceptions to this policy may be granted for relationships established before the employee was hired or before the student enrolled in classes for the first time. If this exception applies, employees should notify their supervisor and students should notify the Title IX Coordinator.

IX. STATEMENT ON CONFIDENTIALITY

TFC encourages individuals who believe they have experienced Sexual Misconduct to talk to someone about what happened. Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality when allegations are reported to them, depending on their roles at the College. In making a decision about whom to contact for support and information, it is important to understand that most TFC employees are not confidential resources, and are therefore obligated to report to the College any information they receive about Sexual Misconduct. Individuals who have experienced Sexual Misconduct are encouraged to consider the information in the following sections in choosing whom to contact for information and support, and are encouraged to ask about a person's ability to maintain confidentiality before offering any information about alleged incidents.

A. CONFIDENTIAL COMMUNICATIONS AND RESOURCES

TFC recognizes that some individuals may wish to keep their concerns confidential. Confidential communications are those communications which cannot be disclosed to another person, without the reporter's consent, except under very limited circumstances such as allegations involving the

physical or sexual abuse of a child (under the age of 18) or vulnerable adult or an imminent threat to the life of any person.

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus counselors, campus health service providers, a Sexual Assault victim advocate, off-campus rape crisis counselors, Domestic Violence resources, state assistance agencies, and members of the clergy who will maintain confidentiality. Confidential employees at Toccoa Falls College include:

- A. Amy Marshall, LCSW, Director of the Counseling Services, 706-886-6831 x 5349, amarshall@tfc.edu
- B. Jessica Middlebrooks, LPC, Counselor, 706-886-6831 x 5304, jmiddlebrooks@tfc.edu
- C. Jordan Brown, Director of Spiritual Formation, 706-886-6831 x 5291, jjbrown@tfc.edu
- D. Rick Flateau, MS, ATC, Athletic Trainer, rflateau@tfc.edu

A person who speaks to a confidential resource should understand that, if the person does not report the concern to a non-confidential person at the College, such as one of the College officials designated in **Section XI.A.1 Reports to the College** below, TFC will be unable to provide certain supportive/interim measures that would require involvement from the College (such as issuing a no contact order), conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource may later decide to file a formal complaint with the College or report the incident to local law enforcement.

B. NON-CONFIDENTIAL COMMUNICATIONS

Non-confidential communications are those communications with any TFC employee who is not a confidential resource as identified above. Only confidential resources can promise confidentiality. All other TFC employees who become aware of incidents or allegations of Sexual Misconduct have a responsibility to report the matter to the Title IX Coordinator. TFC employees who are not confidential resources will strive to remind an individual of their reporting obligations before the individual has disclosed a situation that requires reporting to the Title IX Coordinator.

Although most TFC employees cannot promise confidentiality, the College is committed to protecting the privacy of individuals involved in a report of Sexual Misconduct. Allegations of policy violations will be considered private and will only be shared with other TFC employees on a need-to-know basis, as permitted by law. The College will keep confidential the identity of any individual who has made a report or filed a formal complaint alleging a violation of this Policy, as well as any complainant, respondent, and witness, except as permitted by law or to carry out the complaint resolution process pursuant to this Policy. The allegations will not be shared with law enforcement without the consent of the individual who has alleged the Sexual Misconduct, unless the allegations relate to physical abuse, sexual abuse, or neglect of a child

under the age of 18 (see **Section XI.A.4 Mandatory Reporting of Child Abuse** below for more information) or unless compelled to do so pursuant to a subpoena or court order.

The College will strive to protect the privacy of all individuals involved in a report of Sexual Misconduct to the extent possible consistent with the College's legal obligations. However, the College may be required to share information with individuals or organizations outside the College under reporting or other obligations under federal and state law, such as reporting of Clery Act crime statistics and mandatory reporting of child abuse and neglect. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, the College may be subject to a subpoena or court order requiring the College to disclose information to law enforcement and/or the parties to a lawsuit. In such cases, personally identifying information will not be reported to the extent allowed by law, and, if reported, affected students will be notified consistent with the College's responsibilities under the Family Educational Rights and Privacy Act, as allowed by law.

C. REQUESTS FOR CONFIDENTIALITY OR NON-ACTION

When the College receives a report of Sexual Misconduct, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the College does not require an individual to begin or participate in a complaint resolution process or to report to local law enforcement. However, based on the information gathered, the College may determine that it has a responsibility to move forward with a complaint resolution process (even without the participation of the complainant).

In a situation in which the complainant requests that their name or other identifiable information not be shared with the respondent, or that no action be taken against the respondent, the College will evaluate the request considering the following factors:

- The seriousness of the alleged misconduct;
- The respective ages and roles of the complainant and respondent;
- Whether there have been other complaints or reports of harassment or misconduct against the respondent;
- Whether the respondent has a history of arrests or records from a prior school indicating a history of Sexual Misconduct;
- Whether the alleged Sexual Misconduct was committed by multiple individuals;
- Whether a weapon was involved;
- Whether the College possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g., security footage, eyewitness, physical evidence);
- Whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol, at a given location or by a particular group); and
- The extent of any threat to the College community.

The College will take all reasonable steps to respond to the report consistent with the request for confidentiality or request not to pursue an investigation made by the complainant; however, the scope of the response by the College may be impacted or limited based on the nature of the complainant's request. TFC will likely be unable to conduct an investigation into the particular incident or to pursue disciplinary action against the respondent and also maintain confidentiality.

The College will strive to accommodate the complainant's request for confidentiality or non-action in most cases, to the extent possible consistent with the College's legal obligations. In some cases, in order to provide a safe, non-discriminatory environment for all students and employees, keeping the anonymity of the complainant or otherwise honoring the request for non-action may not be possible. In cases where this is requested but the College determines it cannot honor the request, all efforts to place them on notice will be made. The presence of one or more of the factors above could lead the College to move forward with a complaint resolution process (even without the participation of the complainant). In this instance, the Title IX Coordinator will inform the complainant of the chosen course of action, and may, at the complainant's request, communicate to the respondent that the complainant asked the College not to investigate and that the College determined it needed to do so. A complainant can choose not to participate in any complaint resolution process.

D. STATISTICAL REPORTING AND TIMELY WARNING — THE CLERY ACT

The College is obligated to provide the TFC community with general information regarding incidents of sexual violence and other crimes occurring on campus. However, publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. As required by federal law, the College includes statistics about certain offenses in its annual security reports and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. To ensure that a complainant's personally identifying information will not be included in publicly available recordkeeping, the Title IX Coordinator and/or Director of Campus Safety will describe the alleged incidents by removing the complainant's and respondent's names and any other identifiers that would enable the public to identify the complainant or respondent in the context of the incident report.

In addition, the Clery Act requires the College to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any identifying information about the complainant.

In completing recordkeeping and issuing timely warnings, the College will protect a complainant's confidentiality to the extent possible even if the complainant does not specifically request confidentiality.

X. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

The College will seek to support any person adversely impacted by Sexual Misconduct. Both the College and the community provide a variety of resources to assist and support individuals who have experienced Sexual Misconduct or are affected by allegations of Sexual Misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the College or to law enforcement. Contact information for on- and off-campus resources (including confidential resources) that can provide an immediate response in a crisis situation, including assisting with obtaining needed resources and explaining reporting options, is listed in the **Support Resources** section in **Appendix A** of this Policy and on the College's website. Emergency numbers and information about health care options are also included.

Support services that may be available include, but are not limited to, connecting the individual with appropriate on-campus and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and/or working arrangements; assistance in filing a criminal complaint; and providing information about restraining orders and other available protections and services. Additional information about ongoing assistance is in **Section XII.F Supportive/Interim Measures** below. To receive information about obtaining support services, individuals should contact the Title IX Coordinator or a confidential resource. The College will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the College and in the community. In addition, a complete description of and contact information for TFC and community resources, both confidential and non-confidential, and additional information regarding what individuals can do if they experience Sexual Misconduct is provided in the Support Resources section at the end of this Policy and on the College's website. Individuals who believe they have been subjected to any form of Sexual Misconduct are encouraged to seek support from these resources.

Individuals who believe they have been subjected to Sexual Misconduct are encouraged to preserve any form of evidence, including, but not limited to: text messages, chat/video messages through social media, email, clothing, recorded comments, or other video.

XI. REPORTING SEXUAL MISCONDUCT, AMNESTY, AND GOOD FAITH OBLIGATIONS

If you have personally experienced any form of Sexual Misconduct, tell someone as soon as possible. Immediate notification, ideally within the first 24 hours after any Sexual Misconduct occurs, helps assure the preservation of evidence. Preserving evidence may be necessary for the proof of criminal Sexual Misconduct or to obtain a protection order. In an emergency, call 911 (if on campus, dial 9 for an outside line) or call the Office of Campus Security at 706-886-6831 x5299. In order to initiate TFC's response and resolution process under this policy, you or another person must notify the Title IX Coordinator. Additional information regarding reporting to the College is below.

A. ON-CAMPUS REPORTING

1. Reports to the College

The College urges anyone who experiences or becomes aware of an incident involving Sexual Misconduct, or who believes the Code of Student Conduct or a College policy has been violated, to report the incident to the College by contacting any one of the following:

- Abigail Davis, Vice President for Student Affairs and Title IX Coordinator, 107 Kincaid Drive, MSC 779, 706-886-6831 ext. 5326, abdavis@tfc.edu
- Katie Thorne, Director for Housing and Residence Life, Parkerson Student Center, Office A-7, 706-886-6831 ext. 5224, kthorne@tfc.edu
- Wynn Coggin, Resident Director and Title IX Investigator, Forrest Hall, First floor, 706-886-6831 ext. 5422, wcoggin@tfc.edu
- Mary Kaye Ritchey, Director of Human Resources and Title IX Deputy Coordinator, Business and Administration Office, 706-886-6831 ext. 5238, mritchey@tfc.edu
- Campus Safety: 706-886-6831 ext. 5299, security@tfc.edu

Reports can be made by telephone, mail, email, in person, and online on the TFC website (visit my.tfc.edu and fill out the Incident Report Form). Reports may be made at any time, including non-business hours, by phone, email, mail, or the College's website. As discussed below, individuals also have the option to file an anonymous report using the College's online reporting form. Reports to the College should include as much information as possible, including the names of the complainant, respondent, and other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the College to respond appropriately.

Upon receiving a report of Sexual Misconduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and to explain the process of filing a formal complaint. In addition, when a student or employee reports to the College that they have been a victim of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, whether the offense occurred on or off

campus, the College will provide the student or employee with a written explanation of the student's or employee's rights and options, along with the procedures victims should follow. If an individual has made a report to a TFC employee who is not a confidential resource and has not yet heard from the Title IX Coordinator, please report directly to the Title IX Coordinator. The individuals listed above – the Title IX Coordinator, Director for Housing and Residence Life, Director of Human Resources and Title IX Deputy Coordinator, – along with the President and the Vice President for Academic Affairs, are considered officials with authority to institute corrective measures on behalf of the College.

2. Anonymous Reports

The College will accept anonymous reports of Sexual Misconduct. Reports may be filed anonymously using the College's online reporting form found on MyTFC without requesting further action from the College. The individual making the report is encouraged to provide as much detailed information as possible to allow the College to investigate the report and respond as appropriate. The College will likely be limited in its ability to investigate an anonymous report unless sufficient information is furnished to enable the College to conduct a meaningful investigation.

3. Employee (and Student Employee) Reporting Obligations

In order to enable the College to respond effectively and to stop instances of Sexual Misconduct, all College employees who are not confidential resources, who obtain or receive information regarding a possible violation of this Policy must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to the Title IX Coordinator. Such report should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names of the complainant, respondent, and others involved in the incident, as well as relevant facts, including the date, time, and location of any incident.

Employees who receive such reports of Sexual Misconduct should not attempt to “investigate” the allegation or require the complainant/reporting individual to provide all of the details surrounding the alleged misconduct. To the extent the complainant/reporting individual provides details, that information should be provided to the Title IX Coordinator. Upon receiving a report of alleged or possible Sexual Misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken, consistent with the complaint resolution process and this Policy. Failure of a TFC employee to report Sexual Misconduct to the Title IX Coordinator may result in disciplinary action as described in the Faculty Handbook, Section 4.15 and the Employee Handbook, page 14.

TFC employees who are not confidential resources and who receive a report of Sexual Misconduct should bring the report directly to the Title IX Coordinator and should not share information about the report with any other individual. If the employee is uncertain whether the

information should be reported to the Title IX Coordinator, the employee should seek guidance from the Title IX Coordinator before providing the Title IX Coordinator with any identifiable information regarding the report.

4. Mandatory Reporting of Child Abuse

Any TFC employee becoming aware of the abuse (physical or sexual), neglect, or abandonment of a child under the age of 18 must report it immediately to Campus Safety and the Title IX Coordinator. In addition, if an individual is a mandatory reporter under Georgia law, such individual must also immediately report the abuse or neglect to the Department of Health and Welfare or police/sheriff's department, as required by law. The statewide child abuse reporting hotline can be reached at 1-855-GACHILD / 1-855-422-4453. Under Georgia law, mandatory reporters include: physicians licensed to practice medicine, physician assistants, interns, or residents; hospital or medical personnel; dentists; licensed psychologists and persons participating in internships to obtain such licensing; podiatrists; registered or licensed professional nurses or nurse's aides; professional counselors, social workers, or marriage and family therapists; school teachers; school administrators; school counselors, visiting teachers, school social workers, or certified school psychologists; child welfare agency personnel; child counseling personnel; child service organization personnel; law enforcement personnel; and reproductive health care facility or pregnancy resource center personnel and volunteers. O.C.G.A. § 19-7-5.

B. REPORTS TO LAW ENFORCEMENT

Some types of Sexual Misconduct prohibited by this Policy are also crimes under Georgia law. Individuals who believe they may have been subjected to criminal Sexual Misconduct are strongly encouraged to notify local law enforcement authorities or Campus Safety. If the individual requests, campus authorities will assist in notifying law enforcement authorities. Individuals also have the option to decline to notify such authorities. Individuals may file a criminal complaint and a formal complaint under this Policy simultaneously. Reporting to law enforcement is not necessary for the College to proceed with a complaint resolution process. Individuals who would like to report Sexual Misconduct to law enforcement should contact the following:

- 911 (for emergencies)
- Toccoa Falls Police, 92 N Alexander Street, Toccoa GA 30577, 706-886-8451
- Stephens County Sheriff, 70 N Alexander Street #205, Toccoa GA 30577, 706-886-2525

See **Appendix C** for relevant Georgia criminal law definitions.

C. PROTECTIVE ORDERS AND COLLEGE NO CONTACT ORDERS

Individuals who have experienced Sexual Misconduct and who would like to avoid contact with another individual have several options available to them, including seeking a protective order from a civil court, a criminal no contact order from a criminal court, or requesting a no contact order from the College.

1. Civil Protective Order

Protective orders are legal orders issued by a state court which forbid someone from making contact with another. A protective order is issued by a state civil court. Any victim of Domestic Violence can obtain a protective order by going to the Clerk of Court and asking for the form for protective orders. It is not required that the person who committed the assault be arrested in order to obtain a protective order. The College does not issue protective orders, but one can be obtained through making an application to the Stephens County Clerk of Court.

Applications for a protective order can be obtained from:

Stephens County Courthouse
70 N Alexander Street #202
Toccoa, GA 30577
706-886-3598

See **Appendix B** for more information on obtaining a protective order.

2. No Contact Order

A no contact order is a College-issued order that prohibits one or both parties from communication or contact with another. No contact orders may be mutual or one-sided. Generally, no contact orders issued prior to the conclusion of the complaint resolution process will be mutual and will serve as notice to both parties that they must not have verbal, written, electronic, or third party communication with one another. To request a no contact order from the College, individuals should contact the Title IX Coordinator:

Abigail Davis, Ph.D.
Vice President for Student Affairs
Title IX Coordinator
Toccoa Falls College
107 Kincaid Dr. • MSC 779
Toccoa Falls, GA 30598
706-886-7299 X5326
Email: abdavis@tfc.edu

The College is responsible for honoring requests for information about available options for protective orders and no contact orders and has a responsibility to comply with and enforce such orders. To request additional information about available options for protective orders and no contact orders, contact the Title IX Coordinator. A protective order can be enforced by contacting local law enforcement. A College no contact order may be enforced by contacting Campus Safety or the Title IX Coordinator. The College will fully cooperate with any protective order issued by a criminal, civil, or tribal court.

D. AMNESTY FOR VIOLATIONS OF OTHER COLLEGE POLICIES

The College strongly encourages reporting of Sexual Misconduct by complainants and other individuals. The integrity of the process is dependent upon the honesty of all involved in the complaint resolution process. The College recognizes that sometimes an individual may be reluctant to report an instance of Sexual Misconduct or participate in the process out of concern that their own conduct relating to the incident (e.g., use of alcohol or drugs or engaging in sexual contact outside of marriage) involves a violation of the TFC community covenant or other College policy. The College's overriding concern is for the safety of its students and employees. Therefore, to encourage reporting, an individual who reports a violation of this Policy in good faith or who participates in a complaint resolution process under this Policy will not be disciplined by the College for any violation of College policies in which they might have engaged in connection with the reported incident, except in the limited circumstances outlined in this section.

The College may still pursue disciplinary action for alleged violations of College policies in instances involving allegations of Sexual Misconduct or the distribution of illegal drugs, where any individual is harmed by the conduct constituting a violation of other College policies, where the individual engaging in a violation of another College policy holds a leadership role on campus, including a leadership role over students or employees, or where an employee is engaging in a violation of another College policy with a student.

Outside of those limited circumstances, the College will not discipline an individual who makes a good faith report or participates in the complaint resolution process for any violation of College policies in which they might have engaged in connection with the reported incident. When amnesty is provided, the College may still impose educational or programming requirements or other prevention measures to assist in avoiding further violations.

E. EMERGENCY REMOVAL

TFC reserves the right to remove a student respondent from the College's education program or activity on an emergency basis. Prior to removing the student respondent on an emergency basis, the College will undertake an individualized safety and risk analysis and will determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal. If a student respondent is removed on an

emergency basis, the College will provide the student respondent with notice and an opportunity to challenge the decision immediately following the removal.

F. ADMINISTRATIVE LEAVE

The College reserves the right to place a non-student employee respondent on administrative leave during the pendency of the complaint resolution process.

G. OBLIGATION TO ACT IN GOOD FAITH

Reports and formal complaints of alleged Sexual Misconduct should be made only in good faith. Reports and formal complaints that are not made in good faith may be considered retaliation under this Policy and/or may violate other College policies, including but not limited to, those contained in the staff, faculty, and student handbooks. An allegation that a person has violated the obligation to act in good faith will be handled through the procedures identified below in **Section XVI Complaints of Related Misconduct**.

XII. GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS

When the College receives a formal complaint of an alleged violation of this Policy, the College will promptly and equitably respond to the formal complaint in accordance with the provisions and procedures set forth below. The College will provide a fair and impartial complaint resolution process. A fair process is one that treats the parties equitably, provides the complainant an opportunity to file a formal complaint alleging a violation of this Policy and an opportunity to present evidence of the allegations prior to a decision on responsibility, provides respondent notice of the allegations and an opportunity to respond to and present evidence related to those allegations prior to a decision on responsibility, and provides both parties an opportunity to challenge the credibility of the other party and any witnesses prior to a decision on responsibility. In cases involving allegations of Sexual Misconduct that is not Title IX Sexual Harassment, the ability to challenge credibility is accomplished through the parties' ability to suggest questions to be asked of the other party and witnesses during the investigation, through the Written Response Statements in response to the investigation report, and through the Written Rebuttal Statements in response to the other party's Written Response Statement as discussed in **Section XIII Procedures for Sexual Misconduct Complaint Resolution** below.

Each complaint resolution process will require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties. The College will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The College will not 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 acting in the professional's or paraprofessional capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a complaint resolution process.

This Policy provides different procedures depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information at the end of the investigation phase, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

If a formal complaint includes both an allegation of Title IX Sexual Harassment and an allegation of Sexual Misconduct that does not meet the definition of Title IX Sexual Harassment, the College reserves the right to process the allegations in the same complaint resolution process or to separate the allegations into separate complaint resolution processes. If it is determined that a formal complaint does not include an allegation of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the College reserves the right to respond in a manner other than described in this Policy, including referring the matter to Student Conduct.

A. TRAINED OFFICIALS

Each complaint resolution process will be conducted by individuals, including the Title IX Coordinator, investigators, Title IX Hearing Panel members/adjudicators, appeal officers and any person who facilitates an informal resolution process, who do not have a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent. In addition, those individuals will receive annual training on the definition of Title IX Sexual Harassment; the scope of the College's education program or activity; how to conduct an investigation and complaint resolution process, including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at interest, conflicts of interest, and bias; issues related to sexual harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking; and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability. Investigators will receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence. Title IX Hearing Panel members will receive training on any technology to be used at a live hearing and issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. The training is free of bias such as sex stereotypes or generalizations, promotes impartial investigations and adjudications, and includes the following topics, as applicable: relevant evidence and how it should be used; proper

techniques for questioning witnesses; basic rules for conducting proceedings; avoiding actual or perceived conflicts of interest; and the College's policies and procedures.

B. EQUAL RIGHTS OF THE COMPLAINANT AND RESPONDENT

- To be treated with respect by College officials
- To take advantage of campus support resources (such as the Counseling Center, the Wellness Center, and Office of Spiritual Formation)
- The right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The College will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See **Section XII.D Right to an Advisor** below for additional information and requirements regarding the conduct of advisors
- To receive amnesty for violations of other College policy as applicable under the **XI.D. Amnesty** section above
- To be free from retaliation
- Privacy to the extent possible based on applicable law and College policy
- Information regarding all applicable policies and procedures
- Written explanation of available resources
- 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
- Equitable procedures that provide both parties with a prompt and impartial complaint resolution process conducted by officials who receive annual training on conduct prohibited by this Policy
- To refuse to have an allegation resolved through the informal resolution procedures
- To full participation in any complaint resolution process whether the complainant or Title IX Coordinator signed the formal complaint
- Notice of the allegations and defenses and an opportunity to respond
- Written notice of the date, time, location, participants, and purpose for all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate
- Timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present
- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal complaint resolution process
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sexual Misconduct

- The right to timely and equal access to information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process, as set forth in **Section XIII.F.2 Access to Information** below
- The right to appeal the decision and/or the dismissal of a formal complaint in certain circumstances, as discussed in **Section XIV Appeals** below
- For the complainant, the right to report the incident to law enforcement at any time or to decline to do so
- Periodic updates, and updates upon request, of the status of the investigation and adjudication
- To be informed in writing of the outcome/resolution of the complaint, sanctions, and the rationale for the outcome

C. ADDITIONAL RIGHTS IN CASES INVOLVING ALLEGATIONS OF TITLE IX SEXUAL HARASSMENT

In cases involving allegations of Title IX Sexual Harassment, the following additional rights will be afforded to the complainant and the respondent:

- The parties will be provided an equal opportunity to inspect, review, and respond in writing to a copy of any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, as set forth in **Section XIII.F.2 Access to Information** below.
- The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, as set forth in **Section XIII.F.3.a Live Hearing** below.

D. RIGHT TO AN ADVISOR

The complainant and the respondent in a complaint resolution process have the right to be accompanied to meetings by an advisor of their choice, who may be, but is not required to be, an attorney. Generally, the advisor selected by the complainant or respondent should be free of conflicts of interest in the complaint resolution process and, if a member of the TFC community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the College's complaint resolution process.

The guidelines and requirements for advisors are:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to interviews or other meetings or proceedings throughout the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend interviews and meeting, which may occur in-person. As a general matter, the College will not delay its process to accommodate the schedules of advisors.

- Advisors may confer with their advisee, but, with the exception of live hearings for cases involving allegations of Title IX Sexual Harassment (discussed below), the advisor may not participate directly in the complaint resolution process.
- The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution process.
- The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to the College.
- The advisor may not communicate directly with the investigator(s), Title IX Hearing Panel/adjudicators, appeal officer(s), the Title IX Coordinator, or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.
- In complaint resolution processes involving allegations of Title IX Sexual Harassment:
 - At the live hearing, advisors will be permitted to ask the parties and any witnesses all relevant questions and follow-up questions. Additional information about an advisor's role at the live hearing is included in **Section XIII.F.3.a Live Hearing** below.
 - Advisors will receive a copy of all directly related evidence and the investigation report, as set forth in **Section XIII.F.2 Access to Information** below.
 - Advisors may have access to information as is described further below in **Section XIII.F.2 Access to Information** below.
 - Individuals involved in the process other than a complainant or respondent, such as witnesses, generally will not be allowed to have an advisor present absent special circumstances as allowed by law.
 - If a party selects an attorney as an advisor, the advisor's participation in the complaint process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
 - Parties must notify the Title IX Coordinator who they have selected as their advisor. Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The College reserves the right to dismiss an advisor.
 - The College will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor and will indicate whether the other party's advisor is an attorney.

E. REQUESTS FOR REASONABLE ACCOMMODATION

Individuals who need a reasonable accommodation should contact the Title IX Coordinator. The College will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. Accommodations the College may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the complaint resolution process
- Providing an interpreter for individuals who are limited English-language proficient.

F. SUPPORTIVE/INTERIM MEASURES

After receiving a report of alleged Sexual Misconduct, the Title IX Coordinator will consider whether supportive/interim actions, accommodations, or protective measures are reasonably necessary or appropriate to protect the parties and the broader TFC community. Such supportive/interim measures will be available without fee or charge to the complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available. Such measures will be designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or to deter sexual harassment.

The College will provide written notification to affected individuals about options for, available assistance in, and how to request changes to academic, living, transportation and working situations, or protective measures. The College will comply with a student's reasonable request for a living and/or academic situation change following an alleged incident of Sexual Misconduct. The College will make such accommodations and provide such protective measures, with or without formal complaint, even when an individual asks to keep a reported violation of this Policy confidential or requests that the College not investigate the matter, and regardless of whether an individual chooses to report to law enforcement.

Examples of possible supportive/interim measures include, without limitation:

- Establishing a no contact order prohibiting the parties involved from communicating with each other;
- Modifications to on-campus residency, dining, or transportation arrangements;
- Modifications to parking permissions;
- Assistance in providing alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Modifications to academic schedule;
- Modifications to work schedules;
- Recommendations to employment reassignments;
- Providing academic accommodations or providing assistance with academic issues;

- Providing security escorts;
- Providing a temporary cell phone;
- Access to counseling and medical services;
- Making information about protective orders available and providing assistance with respect to obtaining and enforcing such orders; and
- Assistance in identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services, legal assistance, visa and immigration assistance, and student financial aid.

The College determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including, but not limited to, the specific need expressed by the individual, the age of the individuals involved, the severity or pervasiveness of the allegations, any continuing effects on the individual, whether the parties share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the complainant. The Title IX Coordinator will be responsible for determining what measures will be put in place. To request an accommodation or interim measure, individuals should contact the Title IX Coordinator.

The College will maintain as confidential any accommodations or protective measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodations or protective measures. The College will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The College will inform the individual before sharing personally identifying information that the College believes is necessary to provide an accommodation or protective measure. The College will tell the individual which information will be shared, with whom it will be shared, and why it will be shared.

Additional services are available on campus and/or in the community, as described in the Support Resources section at the end of this Policy, and on the TFC website.

Any concern about a violation of a supportive interim measure should be reported to the Title IX Coordinator promptly. Complaints of a violation of a supportive/interim measure will be handled as discussed in **Section XVI Complaints of Related Misconduct** below.

G. NON-PARTICIPATION AND SILENCE

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If, at any time during the complaint resolution process, a party decides not to participate, the College may still proceed with the complaint resolution process and make a determination based upon the information available. If at any time the complainant declines to participate in the process, the College's ability to meaningfully investigate and adjudicate a complaint may be limited. In such cases, the College will proceed with the complaint resolution process, if possible to do so without the complainant's participation, and will make a determination based upon the information available. A complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the respondent's denials or defenses undisputed. Similarly, a respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed. Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during additional phases of the process.

In cases involving allegations of Title IX Sexual Harassment, the Title IX Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions. However, the Title IX Hearing Officer(s) may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

H. OBLIGATION TO BE TRUTHFUL

All parties and witnesses have an obligation to be truthful in the complaint resolution process. Engaging in dishonesty may be considered retaliation or interference with process under this Policy and/or a violation of other College policies, including but not limited to those contained in the Faculty Handbook, the Employee Handbook, and the Student Handbook. Individuals who knowingly and intentionally file a false report or who provide false information may be subject to disciplinary action. An allegation that a person has violated the obligation to be truthful will be handled through the procedures identified in **Section XVI Complaints of Related Misconduct** below.

I. CONFLICTS OF INTEREST

If a complainant or respondent has any concern that any individual acting for the College under this Policy has a conflict of interest or bias, for or against complainants or respondents generally or against the individual complainant or respondent, such concern should be reported in writing to the Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the person's involvement in the process. The Title IX Coordinator will review the concerns and take appropriate steps to ensure

that no conflicts of interest or bias exist on the part of anyone investigating or adjudicating a complaint under this Policy.

If either party has any concern that the Title IX Coordinator has a conflict of interest or bias, such concern should be reporting in writing to Mary Kaye Ritchey (Director of Human Resources and Deputy Title IX Coordinator) or Dr. Bob Myers (President). If the Title IX Coordinator has a conflict of interest or bias with respect to a formal complaint, the Deputy Title IX Coordinator or the President shall appoint another person to oversee adherence to the Sexual Misconduct Policy with respect to the particular formal complaint at issue.

The parties should be mindful that the College has a small and close-knit campus community. That a party simply knows an individual acting for the College under this Policy or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the College encourages the parties to bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

J. TIME FRAMES FOR RESOLUTION

Complainants are encouraged to begin the complaint resolution process as soon as possible following an alleged Sexual Misconduct incident. There is no time limit on reporting violations; however, the longer someone waits to report an offense, the more difficult it becomes to obtain information and evidence regarding the incidents, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the College. If a complaint is brought forward more than four (4) calendar years after an alleged incident, the College, in its discretion, may decline to process a complaint under these procedures, but reserves the right to take other administrative action as appropriate depending on the specific circumstances of the complaint, and will provide reasonably appropriate supportive/interim measures, assist the complainant in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. If the respondent is still a member of the TFC community as a student or employee, the complaint generally will be processed under these procedures.

The College is committed to the prompt and equitable resolution of allegations of Sexual Misconduct. Different procedures apply to cases involving allegations of Title IX Sexual Harassment than to other cases of alleged Sexual Misconduct. The time frames for each phase of the different procedure are as follows:

1. Cases Involving Allegations of Title IX Sexual Harassment

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of Title IX Sexual Harassment are set forth in **Section XIII Procedures for Sexual Misconduct Complaint Resolution** below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: forty-five (45) calendar days
- Review of directly related evidence and investigator consideration of evidence response statements: seventeen (17) calendar days
- Review of investigation report and written response: five (5) calendar days
- Live hearing and determination: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

2. Cases Involving Other Allegations of Sexual Misconduct

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of any other form of Sexual Misconduct are set forth in **Section XIII Procedures for Sexual Misconduct Complaint Resolution** below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: forty-five (45) calendar days
- Review of investigation report and written response/rebuttal, if applicable: ten (10) calendar days
- Adjudication: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

In any Sexual Misconduct complaint resolution process, the process may include additional days between these phases as the College transitions from one phase to another. The parties will be notified when each listed phase begins and when it ends. If any transition period will last longer than five (5) calendar days, the parties will be notified of the delay and the reason for it.

Circumstances may arise that require the extension of time frames based on the complexity of the allegations, the number of witnesses involved, the availability of the parties involved, the availability of witnesses, the addition of new parties or new allegations to an amended notice of allegations, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, the need for language assistance or accommodation of disabilities, or other unforeseen circumstance.

In cases where an incident has also been reported to law enforcement, the College will not delay its investigation and resolution processes in order to wait for the conclusion of a criminal investigation or proceeding. The College will, however, comply with valid requests by law

enforcement for cooperation in a criminal investigation. As such, the College may need to temporarily delay an investigation under this Policy while law enforcement is in the process of gathering evidence. This process typically takes seven (7) to ten (10) calendar days. Once law enforcement has completed its gathering of evidence, the College will promptly resume and complete its investigation and resolution procedures.

To the extent additional time is needed during any of the phases of the process discussed above or further below, the College will notify all parties of the delay and the reasons for it. When a time frame for a specific phase of the process, as set forth below, is less than five (5) calendar days, the College may, in its discretion, use business days to calculate the time frame deadline. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

K. PRESUMPTION OF NON-RESPONSIBILITY

The presumption is that the respondent is not responsible for a policy violation. The respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the complaint resolution process. The respondent will be deemed responsible for a policy violation only if the appointed Title IX Hearing Panel/Adjudicators conclude that there is sufficient evidence (by a “preponderance of the evidence”) to support a finding that the respondent more likely than not engaged in Sexual Misconduct.

L. APPLICATION OF POLICY

When the College receives a formal complaint of a violation of this Policy, the College will generally apply the Sexual Misconduct definitions from the policy that was in effect at the time of the alleged misconduct. The complaint resolution procedures applicable to the formal complaint will be those in effect at the time that the report or formal complaint is made. For cases involving allegations of Title IX Sexual Harassment, the College will apply the definitions from the policy that is in effect at the time the formal complaint is made to determine what procedures apply and the definitions from the policy that was in effect at the time the alleged misconduct occurred to determine whether a policy violation occurred.

M. RESERVATION OF FLEXIBILITY

The procedures set forth in this Policy reflect the College’s desire to respond to formal complaints in good faith and in compliance with legal requirements. The College recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. The College reserves the right to modify the procedures or to take other administrative action as appropriate under the circumstances.

In instances where a formal complaint is made against an individual who is not a student or employee of the College and in instances when the conduct alleged, if true, would not meet the definition of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the College reserves discretion to use a process or procedures other than those outlined below, as appropriate under the circumstances.

XIII. PROCEDURES FOR SEXUAL MISCONDUCT COMPLAINT RESOLUTION

A. INITIAL MEETING BETWEEN COMPLAINANT AND TITLE IX COORDINATOR

In most cases, the first step of the complaint resolution process is a preliminary meeting between the complainant and the Title IX Coordinator. The purpose of the preliminary meeting is to allow the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the report or formal complaint; it is not intended to be an investigation interview.

As part of the initial meeting with the complainant, the Title IX Coordinator will:

- Assess the nature and circumstances of the allegation;
- Address immediate needs of the complainant and the campus;
- Notify the complainant of the right to contact law enforcement and seek medical treatment;
- Notify the complainant of the importance of preservation of evidence;
- Provide the complainant with information about on- and off-campus resources;
- Notify the complainant of available supportive/interim measures with or without filing a formal complaint;
- Provide the complainant with an explanation of the procedural options, including how to file a formal complaint (if the complainant has not already done so) and the complaint resolution process;
- Advise the complainant of the right to have an advisor of choice, as applicable under this Policy;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- Explain the College's policy prohibiting retaliation.

All reports and formal complaints of Sexual Misconduct will be reviewed by the Title IX Coordinator to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks in consultation with the members of the Title IX Team.

If the Title IX Coordinator determines that the report or formal complaint, even if substantiated, would not be a violation of this Policy, they may dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the

complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the complainant.

B. FORMAL COMPLAINT AND NOTICE OF ALLEGATIONS

The complaint resolution process under this Policy typically begins with the filing of a formal complaint. Generally, the complainant files a formal complaint with the Title IX Coordinator. However, in some cases, the College may move forward with a complaint resolution process even if the complainant chooses not to make or move forward with a complaint. Generally, the Title IX Coordinator will make a determination of whether the College will move forward with a complaint resolution process even when the complainant has not filed a complaint. If the College decides that it has an obligation to move forward with a complaint resolution process, the Title IX Coordinator will sign the formal complaint, and the College will notify the complainant before proceeding. See **Section IX Requests for Confidentiality or Non-Action** above for more information. The Title IX Coordinator signing the formal complaint does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the respondent. Formal complaints of Sexual Misconduct should be made to the Vice President of Student Affairs/Title IX Coordinator:

Abigail Davis, Ph.D.
Vice President for Student Affairs
Title IX Coordinator
Toccoa Falls College
107 Kincaid Dr. • MSC 779
Toccoa Falls, GA 30598
706-886-7299 X5326
abdavis@tfc.edu

When the Title IX Coordinator has received a formal complaint, the Title IX Coordinator will assess the formal complaint to determine if it states any allegations of Sexual Misconduct. If the formal complaint alleges Sexual Misconduct, the Title IX Coordinator will provide a written notice of allegations to the parties who are known.. Notice will be sent via the student's email, letter in campus mailbox, and/or be hand delivered. The written notice will include:

- Notice of the College's complaint resolution process, including the informal resolution process;
- Notice of the allegations, including the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the complaint resolution process;

- Notice that the parties have the right to an advisor of choice, as applicable under this Policy, who may be, but is not required to be, an attorney;
- Notice that the parties have the right to inspect and review evidence, as applicable under this Policy; and
- Notice of policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process, including in **Sections XI.G Obligation to Act in Good Faith** and **XII.H Obligation to be Truthful** above.

If the College decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the notice will be updated to provide notice of the additional allegations to the parties whose identities are known.

In addition, upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply in the complaint resolution process.

When the Title IX Coordinator has received a formal complaint of Sexual Misconduct, the Title IX Coordinator will also meet with the respondent and will:

- Notify the respondent of the complaint and alleged policy violations;
- Provide the respondent an explanation of the complaint resolution process, including the informal resolution process;
- Notify the respondent of the importance of preservation of evidence;
- Notify the respondent of any supportive/interim measures that have been put in place that directly relate to the respondent (i.e., no contact orders);
- Notify the respondent of available supportive/interim measures;
- Provide the respondent with information about on- and off-campus resources;
- Advise the respondent of the right to have an advisor of choice, as applicable under this Policy; and
- Explain the College's policy prohibiting retaliation.

This stage of initial review of the formal complaint by the Title IX Coordinator and initial notice of the allegations to the parties generally will take no more than ten (10) calendar days. In some cases, more time may be required.

C. INVESTIGATION OF OTHER COLLEGE POLICY VIOLATIONS

If a formal complaint of Sexual Misconduct also implicates alleged violations of other College policies, the Title IX Coordinator, in coordination with other appropriate school officials, will evaluate the allegations to determine whether the investigation of the alleged Sexual Misconduct and the other alleged policy violations may be appropriately investigated together without unduly delaying the resolution of the Sexual Misconduct formal complaint. Where the Title IX

Coordinator, in coordination with other appropriate school officials, determines that a single investigation is appropriate, the determination of responsibility for each of the alleged policy violation will be evaluated under the applicable policy. The adjudication may be conducted in accordance with this Policy or the adjudication of the other policy violation may be conducted separately from the adjudication of the alleged Sexual Misconduct.

Note that individuals who make a good faith report of Sexual Misconduct, and individuals who participate in a Sexual Misconduct complaint resolution process, will not be disciplined by the College for any violation of College policies in which they might have engaged in connection with the reported incident, except in the limited circumstances discussed in the **XI.D Amnesty** section above.

D. CONSOLIDATION OF FORMAL COMPLAINTS

The College reserves the right to consolidate formal complaints into one complaint resolution process as to allegations of Sexual Misconduct against more than one respondent, 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.

E. INFORMAL RESOLUTION PROCESS

Following a formal complaint, at any time prior to reaching a determination regarding responsibility, the College may facilitate an informal resolution process. In cases involving allegations of Sexual Assault or more serious Sexual Misconduct, informal resolution may not be appropriate. In addition, in cases involving allegations that an employee engaged in Title IX Sexual Harassment against a student, informal resolution is not appropriate.

If the complainant, the respondent, and the College all agree to pursue an informal resolution, the Title IX Coordinator will attempt to facilitate a resolution that is agreeable to all parties. The Title IX Coordinator will not be an advocate for either the complainant or the respondent in the informal resolution process, but, rather, will aid in the resolution of the formal complaint in a non-adversarial manner. Under the informal process, the College will only conduct such fact-gathering as is useful to resolve the formal complaint and as is necessary to protect the interests of the parties, the College, and the TFC community.

The College will not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process and request a formal complaint resolution process at any time prior to reaching an agreed-upon resolution. In addition, the College also always has the discretion to discontinue the informal process and move forward with a formal complaint resolution process. If at any point during the informal resolution process prior to reaching an agreed-upon resolution, the complainant or respondent or the College wishes to cease the

informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will be invoked.

Prior to engaging in an informal resolution process, the College will provide the parties with a written notice disclosing: the allegations, the requirements of the informal resolution process, including the circumstances under which the informal resolution process precludes the parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. In addition, the College will obtain the parties' voluntary written consent to the informal resolution process.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the College to stop, remedy, and prevent policy violations. Informal resolution may involve the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the College. Examples of potential remedies are provided in **Section XII.F Supportive/Interim Measures** of this Policy. The proposed resolution may also include other institutional responses, requirements, or sanctions imposed on the respondent.

The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the College terminates the process. A successful informal resolution results in a binding agreement between the parties. If the parties to the formal complaint and the College agree in writing to the terms and conditions of a proposed resolution within five (5) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the formal complaint and the College do not agree in writing to the terms and conditions of the proposed resolution within five (5) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the formal complaint will be referred to the formal resolution process.

Appeals are not allowed in cases where the parties have agreed to a voluntary informal resolution of the matter.

The informal resolution process generally will take no more than fifteen (15) calendar days. In some cases, more time may be required.

F. FORMAL RESOLUTION PROCESS

If the formal complaint is not processed or resolved through the informal resolution process discussed above, the formal complaint will be processed according to the formal resolution process outlined below.

1. Investigation

The Title IX Coordinator will designate one or more investigators to conduct a prompt and equitable investigation. The parties will receive written notice of the investigator(s) appointed. If any party has a concern that the investigator(s) has a conflict of interest or bias, the party should report the concern in writing as indicated in **Section XII.I Conflicts of Interest** above.

The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include audio-recorded interviews with the complainant, the respondent, and any witnesses. The complainant and respondent will have the opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, other evidence they believe should be reviewed by the investigator(s), and questions they believe the investigator(s) should ask the other party or witnesses, including questions challenging credibility. The investigator(s), in consultation with the Title IX Coordinator, has (have) discretion to assess the relevancy of any proposed witnesses, evidence, and questions, and to determine which interviews to conduct, including the discretion to conduct interviews of individuals not identified by the parties. The investigator(s) may also decline to ask a question or questions suggested by the parties. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The complainant and respondent will be given equal opportunity to present witnesses they believe should be interviewed, and other inculpatory and exculpatory evidence, as part of the investigation. In cases involving allegations of Title IX Sexual Harassment, any witness that a party wishes to call at a hearing must be suggested as part of the investigation process, prior to the issuing of the investigation report, unless extraordinary circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator.

The parties will be informed of a close of evidence date before the end of the investigation phase. The parties must submit any and all information and evidence they would like considered as part of the investigation by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator(s), in consultation with the Title IX Coordinator, determine(s) otherwise. In cases involving allegations of Title IX Sexual Harassment, all evidence a party wishes to offer or refer to at the hearing must have been provided as part of the investigation process, prior to the close of evidence, unless extraordinary circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator.

At the conclusion of the investigation, the investigator(s) generally will compile an investigation report that fairly summarizes the relevant evidence. The investigation report may consist of any information, documents, data, or other evidence that will be provided to the Title IX Hearing Panel/Adjudicators. At the investigator's discretion, such information may include, as applicable: the formal complaint; the notice of allegations; any other evidence obtained during the investigation; and the investigator's report of the investigation. The investigation report will be forwarded to the Title IX Coordinator. The Title IX Coordinator will review the investigation

report and has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report.

The College will strive to complete the investigation within (i) forty-five (45) calendar days from the date the investigator is appointed or (ii) if, after the date the investigator is appointed, the parties receive an amended notice of allegations that includes new allegations or new parties, forty-five (45) calendar days from the date of the amended notice of allegations. This time frame may be extended depending on the circumstances of each case. In cases involving allegations of Title IX Sexual Harassment, the College will strive to complete the initial investigation in this 45-day time frame, but the final investigation report will not be completed until after the review of directly related evidence. See **Section XIII.F.2 Access to Information** below for more information.

2. Access to Information

The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

a. Cases Involving Allegations of Title IX Sexual Harassment

i. Review of Directly Related Evidence

For formal complaints involving allegations of Title IX Sexual Harassment, the parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source. The Title IX Coordinator will send such evidence to each party and each party's advisor in electronic format or hard copy. The parties will have a ten (10) calendar day period to review the evidence and prepare a written response to the evidence (the "Evidence Response Statement"). Each party's Evidence Response Statement may not exceed 2,500 words in length. The Evidence Response Statement must be submitted to the Title IX Coordinator within the ten (10) calendar day period described above. The Evidence Response Statement may be used as an opportunity to clarify information contained in the directly related evidence, to present the party's viewpoint about whether the evidence directly related to the allegations is relevant and therefore whether it should be included in the investigation report, and to identify evidence previously provided to the investigator that was not included in the directly related evidence which the party believes is directly related and relevant. While the parties may be assisted by their advisors in preparation of the Evidence Response Statement, the Evidence Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others

on the party's behalf. The parties may not address statements to one another in the Evidence Response Statement.

The parties and parties' advisors may use the evidence reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence with any other individual. Prior to being provided the evidence obtained as part of the investigation that is directly related to the allegations, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the parties' Evidence Response Statements and may remove or redact any portions of the parties' Evidence Response Statements that exceed the word limit of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent or information subject to a legal privilege without a waiver).

The investigator will consider the parties' Evidence Response Statements prior to completion of the investigation report.

All the evidence made available for the parties' review will be available during the hearing.

ii. Review of Investigation Report

For complaints involving allegations of Title IX Sexual Harassment, the Title IX Coordinator will send the investigation report to each party and each party's advisor in electronic format or hard copy at least ten (10) days prior to the live hearing. The parties will have a five (5) calendar day period to review the investigation report and prepare a written response to the report (the "Written Response Statement"). Each party's Written Response Statement may not exceed 2,500 words in length. The Written Response Statement must be submitted to the Title IX Coordinator within the five (5) calendar day period as described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report, identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included, or raise other concerns regarding the evidence. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address statements to one another in the Written Response Statement.

The parties and parties' advisors may use the investigation report only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the investigation report with any other individual. Prior to being provided the investigation report, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the parties' Written Response Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' Written Response Statements that exceed the word limits of the statements as set forth above, or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

b. Cases Involving Allegations of Other Forms of Sexual Misconduct

For formal complaints involving allegations of other forms of Sexual Misconduct, the investigation report will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a five (5) calendar day period for the complainant and respondent to have access to review the investigation report and prepare a response to the investigation report, as discussed below.

Both parties will have the opportunity to provide a written response to the investigation report (the "Written Response Statement"). To do so, the party must submit a Written Response Statement, which may not exceed 4,500 words in length, to the Title IX Coordinator. The Written Response Statement must be submitted by the conclusion of the 5-day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report, identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included, identify questions a party believes the other party has not yet answered or evidence the other party has not explained, raise other concerns regarding the evidence, and to challenge the credibility of the other party and witnesses. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address statements to one other in the Written Response Statement.

The parties will have an opportunity to review the Written Response Statement submitted by the other party, and, if desired, may submit a rebuttal statement ("Written Rebuttal Statement") not to exceed 2,500 words. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Response Statement and submit a Written Rebuttal Statement. The Written Rebuttal Statement may only be used to respond to arguments made in the other party's Written Response Statement and to challenge the credibility of the other party and any witnesses. While the parties may be assisted by their advisors in preparation of the Written Rebuttal Statement, the Written Rebuttal Statement must be submitted by the party, must be the party's own statement, and may not be

used to submit the statements of others on the party's behalf. The parties may not address statements to one another in the Written Rebuttal Statement.

The parties will have an opportunity to review the Written Rebuttal Statement submitted by the other party. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Rebuttal Statement. While the parties have the opportunity to review the rebuttal statement of the other party, no further responses are permitted by either party.

The parties and parties' advisors may use the investigation report and written statements of the other party reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the report and written statements with any other individual. Prior to being provided the report and written statements, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the Written Response Statement and Written Rebuttal Statement. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

3. Adjudication

Upon completion of the investigation, the Title IX Coordinator will compile the adjudication file which will be shared with the Title IX Hearing Panel/Adjudicators. The parties will be given access to any information that is included in the adjudication file to the extent that it includes additional information that the parties did not review as part of the access to information step discussed above in **Section XIII.F.2 Access to Information**.

a. Cases Involving Allegations of Title IX Sexual Harassment

Upon completion of the investigation in cases involving allegations of Title IX Sexual Harassment, the matter will be submitted to a Title IX Hearing Officer(s) to hold a live hearing and to make a determination regarding responsibility and, if appropriate, sanctions.

The Title IX Hearing Officer(s) will conduct a prompt and equitable live hearing and adjudication.

i. Appointment of the Title IX Hearing Panel

The Title IX Coordinator will designate an adjudicator to serve as the Title IX Hearing Officer. Generally, the Title IX Hearing Officer will be the sole decision-maker in the matter, but the Title IX Coordinator has discretion to appoint additional adjudicators. The College reserves the right to appoint any trained individuals who are without conflict or bias to act as Title IX Hearing Officer(s). The Title IX Hearing Officer(s) will not be the Title IX Coordinator or the investigator from the same matter. If any party has a concern that a member of the Title IX Hearing Officer(s) has a conflict of interest or bias, the party should report the concern in writing as indicated in **Section XII.I Conflicts of Interest** above.

ii. Live Hearing

At the live hearing, each party's advisor will be permitted to ask the parties and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questions will be conducted directly, orally, and in real time by the party's advisor and will never be conducted by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a question at the hearing, the Title IX Hearing Officer(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant in the formal complaint, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

All evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available at the hearing.

The hearing will generally be held by video-conference with the parties, witnesses, and Title IX Hearing Officer(s) located in separate locations and technology enabling the Title IX Hearing Officer(s) and parties to simultaneously see and hear the party or the witness answering questions. The College reserves the right to determine that a hearing will instead be conducted with all participants, including the parties, witnesses, and the Title IX Hearing Officer(s) physically present in the same location. In the event that the live hearing is held with the participants in the same location, at the request of either party, the College will provide for the parties to be located in separate rooms with technology enabling the Title IX Hearing Officer(s) and parties to simultaneously see and hear the party or witness answering questions.

The College will create an audio or audiovisual recording, or transcript, of any live hearing and, upon request, will make it available to the parties for inspection and review.

Please contact the Title IX Coordinator for additional information about live hearings.

iii. Decision-Making Process

The presumption is that the respondent is not responsible for a policy violation. The respondent will be deemed responsible for a policy violation only if the Title IX Hearing Officer(s) concludes that there is sufficient evidence (by a “preponderance of the evidence,”) to support a finding that the respondent engaged in Sexual Misconduct. If the Title IX Hearing Officer(s) determines that the respondent is responsible for a policy violation, the Title IX Hearing Officer(s) will then determine what sanctions and remedies are warranted.

The Title IX Hearing Officer(s) will 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. However, the Title IX Hearing Officer(s) may consider a party’s or witness’s refusal to answer one or more questions at the live hearing when determining how much weight to give the party’s or witness’s statements.

Lie detector test results will not be considered credible by the Title IX Hearing Officer(s) in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the College or a court of law will generally be given little weight, if any, by the Title IX Hearing Officer(s) in the decision-making process.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct – for example, inappropriate remarks that do not rise to the level of a violation of this Policy – the College may, in its discretion, require the respondent to receive appropriate education and/or training. The College may also recommend counseling or other support services for the respondent.

b. Cases Involving Allegations of Other Sexual Misconduct

Upon completion of the investigation in matters involving allegations of Sexual Misconduct that are not Title IX Sexual Harassment, the Title IX Coordinator will designate appropriate adjudicator(s) to complete a prompt and equitable adjudication. Typically, a single adjudicator will be appointed, but the Title IX Coordinator has discretion to appoint additional adjudicators. The College reserves the right to appoint any trained adjudicator(s) who are free from conflict of interest or bias. If any party has a concern that the adjudicator(s) has a conflict of interest or bias, the party should report the concern in writing as indicated in **Section XII.I Conflicts of Interest** above.

Adjudicator(s) will review the adjudication file. The Adjudicator(s) may, in his or her discretion, request additional information from the investigator(s) or another appropriate individual, or request additional investigation by the investigator(s). If such information is shared with the Adjudicator(s), the parties will be notified and provided access to that information.

Lie detector test results will not be considered credible by the Adjudicator(s) in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the College or a court of law will generally be given little weight, if any, by the Adjudicator(s) in the decision-making process.

The presumption is that the respondent is not responsible for a Policy violation. The respondent will be deemed responsible for a policy violation only if the adjudicators conclude that there is sufficient evidence, by a “preponderance of the evidence,” to support a finding that the respondent engaged in Sexual Misconduct.

If the Adjudicator(s) determine that the respondent is responsible for a policy violation, they will then determine what sanctions and remedies are warranted. As part of that determination of sanctions/remedies, the Title IX Coordinator may, in his or her discretion, provide the Adjudicator(s) with information regarding previous violations of this Policy or other College policies by the respondent, if any. If such information is shared with the Adjudicator(s), the parties will be notified and provided access to that information.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct – for example, inappropriate remarks that do not rise to the level of a violation of this Policy – the College may, in its discretion, require the respondent to receive appropriate education and/or training. The College may also recommend counseling or other support services for the respondent.

4. Sanctions and Remedies

If there is a finding of responsibility for a Policy violation, the Title IX Hearing Officer(s)/Adjudicator(s) will impose sanctions and/or remedies as necessary to end the misconduct, prevent its recurrence, and address its effects. The College reserves the right to take whatever measures it deems necessary in response to an allegation of Sexual Misconduct in order to protect the rights and personal safety of the complainant, students, faculty, staff, and other College community members. The purposes of imposing sanctions are twofold: one, to protect the College community from behavior which is detrimental to the community and/or the educational mission of the College; and two, to assist students in identifying acceptable parameters and consequences of future behavior. These measures may be both remedial (designed to address a complainant’s safety and well-being and continued access to educational or workplace opportunities) or sanctions (involving action against a respondent). Not all forms of Sexual Misconduct will be deemed to be equally serious offenses, and the College reserves the right to impose different sanctions, ranging from verbal warning to expulsion or termination. The sanction(s) imposed is/are intended to correspond with the severity or frequency of violations, as well as the student’s willingness to recommit him/herself to behaviors that fall within the Code of Student Conduct of the College and are consistent with the mission and values of the College.

Implementation of the conduct sanction(s), condition(s) and/or restriction(s) will not begin until either the time for an appeal has expired or until the appeal process is exhausted.

Factors that may affect the sanctions include but are not limited to:

- The nature, severity of, and circumstances surrounding the violation;
- An individual’s conduct history;

- The need for sanctions/responsive actions to bring an end to the actions that were in violation of the Code;
- The need for sanctions/responsive actions to prevent the future recurrence of the actions that were in violation of the Code;
- The need to remedy the effects of the actions that were in violation of the Code on the victim and/or the community.

a. Sanctions

Individuals who are found responsible under this Policy may face sanctions as appropriate for students, employees, visitors, or others, including, but not limited to the following sanctions. Each of these sanctions and other sanctions may be imposed alone or in combination for a respondent found responsible for Sexual Misconduct:

- Probation;
 - Probation is a period of time during which a student's conduct will be observed and reviewed. The student must demonstrate the ability to comply with College policies, rules, and/or standards and any other requirements stipulated for the probationary period. Further instances of misconduct under the Code of Conduct during this period may result in additional sanctions, conditions and/or restrictions.
- Warnings;
 - An official reprimand that makes the misconduct a matter of record in the student's educational record. Any further misconduct could result in further conduct action.
- Loss of privileges;
- Community service hours;
- Required assessment;
- Fines;
- Restitution;
- Behavioral contracts;
- Campus housing suspension, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at College events;
- Conditions upon presence on campus or College events;
- Temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses;
- No trespass or no contact orders;
- Removal or non-renewal of scholarships or honors;
- Suspension from the College, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or

- education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at College events;
- Suspension is a specific period of time in which a student is not allowed to participate in class or College-related activities. The status of suspension will be shown on the student's academic record, including the transcript. Suspension is noted on the student's transcript by the phrase "Administrative Withdrawal."
 - Deferred suspension from the College;
 - Deferred suspension is a period of time where a suspension may be deferred for a period of observation and review, but in no case will the deferred suspension be less than the remainder of the semester. Further instances of misconduct under the Code of Student Conduct during this period may result in additional sanctions, conditions and/or restrictions.
 - Expulsion from the College;
 - Expulsion occurs when the student is permanently withdrawn and separated from the College. The status of expulsion will be shown permanently on the student's academic record, including the transcript or student organization's registration. Conduct expulsion is noted on the student's transcript by the phrase "Administrative Withdrawal." An administrative hold will be placed on the student record by the Director of Housing and Residence Life to prevent future registration.
 - Withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions;
 - Temporary or permanent revocation of degree;
 - Revocation of admission to the College;
 - Loss of salary or benefit such as sabbatical, research, or travel funding;
 - Suspension of promotion and salary increases, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at College events;
 - Suspension or withdrawal of faculty privileges, ranging from 2 weeks to 5 years, with reinstatement requirements that could include behavioral contracts, required assessment or education, demonstrated rehabilitation, and conditions upon the individual's presence on campus or at College events;
 - Transfer or change of job or responsibilities;
 - Reassignment or removal from an elected or appointed position;
 - Formal censure;
 - Revocation of tenure;
 - Demotion; and/or
 - Termination of employment.

b. Conditions

Sanctions may also include conditions. A condition is usually an educational or personal element that is to occur in conjunction with the other assigned sanctions. Some examples of conditions include, but are not limited to:

- Personal and/or academic counseling;
- Accountability, Mentoring, or Discipleship with a designated TFC employee;
- Discretionary educational conditions and/or programs of educational service to the College and/or community;
- Residence hall relocation and/or contract review/cancellation of residence hall contract and/or use of dining facilities;
- Restitution or compensation for loss, damage, or injury, which may take the form of appropriate service and/or monetary or material replacement;
- Monetary assessment owed to the College;
- Completion of an alcohol or drug education program;

c. Restrictions

A restriction is an additional component of a conduct sanction. A restriction is usually an educational component that is to occur in conjunction with the sanction and will usually be time specific. Some examples of restrictions include, but are not limited to:

- Prohibited access to College facilities, services, programs, and/or prohibited direct or indirect contact with members of the College community;
- Loss of privileges on a temporary or permanent basis;
- Denial of participation in extracurricular activities;
- Revocation of parking privileges;
- Denial of eligibility for holding office in registered student organizations;
- Withdrawal of College funding (Student Government Association, departmental, Student Fees, etc.)

d. Sanctions for Student Organizations

When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, or staff/faculty committee) has committed or promoted behavior involving Sexual Misconduct, the organization may be sanctioned. If the allegation involves a student organization, the Title IX Hearing Officer(s)/Adjudicator(s) may request information from a College staff member whose professional capacity involves the advising of the organization. This staff member may provide information relevant to potential sanctions, conditions, and restrictions.

Sanctions to the organization may include, but are not limited to, loss of College privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of College facilities), educational requirements for organization members, required additional oversight of organization activities, temporary loss of funding and/or loss of

recognition by the College, and permanent loss of organization recognition, in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

Student organizations may also be subject to suspension of their organization's registration. Suspension is a specific period of time in which a student organization's registration and privileges are suspended. Notification of suspension of an organization will indicate the date on which the suspension begins and the earliest date the application for re-registration will be considered. The College may deny an organization's request for re-registration if the organization's misconduct during a period of suspension would have warranted additional conduct action. If the organization has failed to satisfy any sanctions, conditions, and/or restrictions that have been imposed prior to application for re-registration, the College may deny re-registration to the organization. On denial of an organization's application for re-registration, the College will set a date when another application for re-registration may be made.

e. Remedies for the Complainant

Remedies for the complainant are designed to restore or preserve equal access to the College's education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. Remedies, accommodations, and protective measures for the complainant include implementing or extending all or some of the following actions, without limitation:

- Establishing a no contact order prohibiting the parties involved from communicating with each other;
- Modifications to on-campus residency, dining, or transportation arrangements;
- Modifications to parking permissions;
- Assistance in providing alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Modifications to academic schedule;
- Modifications to work schedules;
- Recommendations to employment reassignments;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Providing a temporary cell phone;
- Access to counseling and medical services;
- Making information about protective orders available and providing assistance with respect to obtaining and enforcing such orders; and
- Assistance in identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services, legal assistance, visa and immigration assistance, and student financial aid.

Remedies designed to address the TFC community include increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred or is likely to reoccur and targeted or broad-based educational programming or training for relevant persons or groups.

The Title IX Coordinator is responsible for effective implementation of any remedies. Any concern about a violation of an imposed sanction should be reported to the Title IX Coordinator.

5. Notice of Determination

The complainant and respondent will simultaneously receive a written notice of the determination of the formal complaint.

The written notice will include the allegations potentially constituting Sexual Misconduct, 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 the parties and witnesses, site visits, methods used to gather other evidence, and hearings held), findings of fact supporting the determination, conclusions regarding the application of the College's policy to the facts, the determination regarding responsibility as to each allegation, any imposition of sanctions, whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant, and the rationales for the determination and sanctions (including how the evidence was weighed, how the information supports the result, and the standard of evidence applied). The written notice will also include information about the procedures and permissible bases for appeal, as set forth below, and when the result becomes final. In addition, the written notice will include any other steps the College has taken to eliminate the conduct and prevent its recurrence.

In cases involving allegations of Title IX Sexual Harassment, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the live hearing concluded. In cases involving allegations of other forms of Sexual Misconduct, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the Adjudicator(s) receive the adjudication file. In some cases, more time may be required. The determination of the Title IX Hearing Officer(s)/Adjudicator(s) may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final and the sanctions, if any, will be effective.

6. Dismissal of Formal Complaint Prior to Adjudication

If the allegations in a formal complaint are initially included in the notice of allegations as allegations of Title IX Sexual Harassment, but facts are gathered during the course of the complaint resolution process that indicate that the alleged conduct does not meet the definition of Title IX Sexual Harassment under this Policy, the College will dismiss the formal complaint as to those allegations. Even if a formal complaint or any allegations of Title IX Sexual Harassment

are dismissed, the College reserves the right to move forward with a complaint resolution process using the other Sexual Misconduct definitions and the other procedures in this Policy or other College policies, as applicable.

In cases involving allegations of any Sexual Misconduct, the College may, at its discretion, dismiss the case prior to adjudication in certain circumstances. Circumstances that may lead to dismissal prior to adjudication include, but are not limited to: the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by the College, or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the College dismisses a formal complaint, the College will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. A dismissal of a formal complaint may be appealed as provided below.

XIV. APPEALS

Either the complainant or the respondent may appeal a decision to dismiss a formal complaint or any allegations therein, as discussed above in the section Dismissal of Formal Complaint Prior to Adjudication. The parties may also appeal the Title IX Hearing Officer(s)/adjudicator(s)' decision regarding responsibility.

A. GROUNDS FOR APPEAL

Grounds for appeal are as follows:

- A procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or Title IX Hearing Officer(s)/adjudicator(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter;
- The sanction or other response by the College is substantially disproportionate to the findings.

B. PROCEDURES FOR APPEAL

- A party may request an appeal by submitting a typed letter of appeal, not to exceed 2,000 words, challenging the outcome of the complaint resolution process to the Title IX Coordinator within two (2) days of the date on the decision letter. The written appeal letter must explain which of the grounds above the party is invoking for the appeal. While the parties may be assisted by their advisors in preparation of the

- appeal, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal.
- The Title IX Coordinator will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Title IX Coordinator may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).
 - If the Title IX Coordinator determines that the appeal states a permissible ground for appeal the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to the Title IX Coordinator within two (2) days of receiving notice of the appeal. While the party may be assisted by their advisor in preparation of the responsive appeal statement, the responsive appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.
 - The Title IX Coordinator will review any responsive appeal statement and may remove or redact any portions of the statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).
 - The Title IX Coordinator generally will compile an appeal file, which may consist of any information, documents, or other evidence that is provided to the Appeal Officer. Such information may include, the written appeal statement, the responsive appeal statement, the notice of determination, the adjudication file in its entirety or in part, any previously undiscovered evidence (if discovery of new evidence is a ground for the appeal), and any other information determined to be necessary for the Appeal Officer's decision, at the Title IX Coordinator's discretion.
 - The appeal file will be made available for review by the complainant and the respondent. The Title IX Coordinator will provide a two (2) day period for the complainant and respondent to have access to review the appeal file.
 - The parties and parties' advisors may use the appeal file reviewed at this step and any additional information reviewed during the consideration of the appeal (see below), only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the appeal file or additional information with any other individual. Prior to being provided access to the appeal

file or any additional information, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

C. CONSIDERATION OF APPEAL

The Title IX Coordinator will appoint an Appeal Officer. The College reserves the right to appoint any trained individual who is free of conflict of interest or bias to act as Appeal Officer. The Appeal Officer will not be the Title IX Hearing Officer/Adjudicator, the investigator, or the Title IX Coordinator on the same matter. The parties will receive written notice of the Appeal Officer appointed. If any party has a concern that the Appeal Officer has a conflict of interest or bias, the party should report the concern in writing as indicated in **Section XII.I Conflicts of Interest** above.

The Appeal Officer will not rehear the case, but will review the appeal file and consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The Appeal Officer may, in his or her discretion, seek additional information from the Title IX Coordinator, investigator, or another appropriate individual. If the Appeal Officer receives any additional information, the parties shall have an opportunity to review the additional information.

If the Appeal Officer determines there is sufficient evidence to conclude that it is more likely than not that one of the above grounds for appeal is satisfied, the matter will generally be remanded for further investigation and/or deliberations by the Title IX Hearing Officer(s)/Adjudicator(s), and/or an additional live hearing, as determined by the Appeal Officer. When the matter is remanded, the Appeal Officer, in consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the original Title IX Hearing Officer(s)/Adjudicator(s) or whether new Title IX Hearing Officer(s)/Adjudicator(s) should review the matter. The Appeal Board may not change Title IX Hearing Officer(s)/Adjudicator(s)' determination of whether the respondent was responsible or not responsible for a Policy violation. Only the Title IX Hearing Officer(s)/Adjudicator(s) reviewing the matter on remand from an appeal may change the determination of the original Title IX Hearing Officer(s)/Adjudicator(s) of whether the respondent was responsible or not responsible for a Policy violation. If the reasons for remand relate to the investigation or warrant additional investigation, the Appeal Officer, in consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the previous investigator or whether a new investigator should be appointed. Upon remand, the investigator and Title IX Hearing Officer(s)/Adjudicator(s) shall utilize the same process as required for all complaint processes under this Policy. If the matter is remanded, the determination made on remand will be appealable under the procedures discussed in this section.

If the Appeal Officer grants an appeal finding the imposed sanction falls outside the parameters of institutional norms, the Appeal Officer has the discretion to modify the sanctions determination or to remand the matter to the Title IX Hearing Officer(s)/Adjudicators for a new

sanctions determination. If the Appeal Officer modifies the sanctions determination, the Appeal Officer's sanction decision will be subject to an appeal pursuant to this section.

If the Appeal Officer determines there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the Appeal Officer will dismiss the appeal. This dismissal decision is final and is not appealable. If the Appeal Officer dismisses the appeal, the sanctions will be effective on the date the Appeal Officer's decision is provided to the parties.

The Appeal Officer will simultaneously issue a written decision to the parties describing the result of the appeal and the Appeal Officer's rationale for the result. The College will strive to complete the appeal within twenty (20) calendar days following the Appeal Officer's receipt of the appeal file from the Title IX Coordinator; however, in some cases, more time may be required.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty, staff or student grievance policies or processes.

XV. RECORDKEEPING RELATED TO SEXUAL MISCONDUCT

The Title IX Coordinator, in coordination with the Office of Human Resources and the Director of Housing and Residence Life as appropriate, is responsible for maintaining records relating to Sexual Misconduct reports and formal complaints. The Title IX Coordinator will maintain records of all incidents reported and all formal complaints made under this Policy, as well as their outcomes in order to track patterns and systemic concerns.

When a formal complaint is pending, each official having a role in the complaint resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the formal complaint will be provided to the Title IX Coordinator, who will maintain such records in accordance with the College's record retention requirements and applicable law. Records related to Sexual Misconduct reports and formal complaints will be treated as confidential and shared only on a need-to-know basis, as required by law, or to conduct a complaint resolution process.

XVI. COMPLAINTS OF RELATED MISCONDUCT

Any complaint relating to retaliation or interference with process in violation of this Policy, violations of supportive/interim measures, violation of the obligation to act in good faith, violation of the obligation to be truthful, violations of sanctions, violations of the Consensual Relationship Policy, or violations of a non-disclosure agreement should be reported promptly to the Title IX Coordinator. The College will provide a prompt and equitable process for the resolution of such complaints. The College will take appropriate action against any individual who retaliates against another person or interferes with a process in violation of this Policy or

who violates supportive/interim measures, the obligation to act in good faith, the obligation to be truthful, sanctions, the Consensual Relationship Policy, or a non-disclosure agreement.

When the College receives a complaint of retaliation or interference with process or of violations of supportive/interim measures, the obligation to act in good faith, the obligation to be truthful, sanctions, the Consensual Relationship Policy, or a non-disclosure agreement, the Title IX Coordinator may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. At the Title IX Coordinator's discretion, options for resolution include, but are not limited to, informal discussions and resolution facilitated by the Title IX Coordinator, investigation and/or determination by the Title IX Coordinator, or assignment of a designated individual to investigate the complaint and/or determine the appropriate response. This process will be separate and distinct from the Complaint Procedures outlined above for addressing Sexual Misconduct complaints. The Title IX Coordinator will document the complaint received, the process used, and the outcome. The College will notify the parties of the outcome of the complaint. In instances where the outcome of the process results in a suspension longer than one semester, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights as set forth in this Policy.

XVII. ALTERNATIVE PROCEDURES

Nothing in this Policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR). The OCR office for institutions located in Georgia is:

U.S. Department of Education
Office for Civil Rights
61 Forsyth St. S.W., Suite 19T10
Atlanta, GA 30303-8927

Tel: 404-974-9406
Fax: 404-974-9471
TDD: 800-877-8339
Email: OCR.Atlanta@ed.gov

APPENDIX A – SUPPORT RESOURCES

Toccoa Falls College has a variety of resources to assist students involved in conduct processes or experiencing concerns related to other student conduct. Resources include, but are not limited to assistance in reporting criminal behavior to Campus Security, Stephens County Sheriff's Office, counseling services, medical assistance, academic support referrals, and other support services.

What to do if you experience sexual violence:

- Get to a safe place.
- Call 911 if in immediate danger, if you are injured, or if the community is in possible danger.
- Consider securing immediate professional support on- or off-campus to assist you in the crisis.
- Seek medical attention, regardless of whether you choose to report or not.
- It is very important to preserve evidence. Take steps to preserve evidence, which may be necessary to the proof of criminal sexual violence or in obtaining a protective order. You may not know right now whether you will contact the police. But in case you later decide to, the evidence available immediately after the assault is crucial. To preserve evidence, follow these recommendations:
 - Prior to seeking medical attention, do not shower, bathe, wash your hands, brush your teeth, use the toilet or clean up in any way. Bring another set of clothes to the hospital since clothes will be collected as part of the evidence. If you have changed clothes, bring your soiled clothing with you for evidence collection. Physical evidence can be collected up to 120 hours after an assault.
- Report to the police, if you so choose.
- Talk to a counselor. Even after the immediate crisis has passed, contact confidential on-campus and/or off-campus resources – for emotional support, information, and/or advocacy.
- Report the conduct to the Title IX Coordinator, if you choose to do so, so that the College may take appropriate action. Note that the Title IX Coordinator is not a confidential resource. The Title IX Coordinator can arrange for interim actions and accommodations, including no contact orders. The College also can assist in any needed advocacy for community members who wish to obtain a protective order from local authorities. Alternatively, you can contact the Court Clerk located at the Stephens County Courthouse to obtain a civil protective order.

Emergency Contacts

24-Hour Emergency – Local law enforcement – 911

24-Hour Emergency – Campus Safety - 706-886-6831 ext. 5299

On-Campus Places to Report Sexual Misconduct

Title IX Coordinator

Abigail Davis, Ph.D.

Toccoa Falls College

107 Kincaid Dr. • MSC 779

Toccoa Falls, GA 30598

706-886-7299 X5326

abdavis@tfc.edu

Katie Thorne

Director for Housing and Residence Life

Parkerson Student Center, Office A-7

706-886-6831, ext. 5224

kthorne@tfc.edu

Mary Kaye Ritchey

Director of Human Resources

Title IX Deputy Coordinator

Business and Administration Office

706-886-6831, ext. 5238

mritchey@tfc.edu

TFC Campus Safety

706-886-6831, ext. 5299

security@tfc.edu

On-Campus Confidential Resources and Support

TFC Student Wellness Center

Fant Hall – Basement Level

<https://tfc.edu/campus-life/student-wellness-center/student-counseling-services/>

Amy Marshall, LCSW, Director of Counseling Services

706-886-6831, ext. 5349

amarshall@tfc.edu

Jordan Brown

Director of Spiritual Formation

706-886-6831, ext. 5291

jjbrown@tfc.edu

Off-Campus Confidential Resources and Support

FAITH/Fight Abuse in the Home

768 Hwy 123

Toccoa, GA 30577

706-886-2290

www.faith-inc.org

stopabuse@faith-inc.org

Rape Response

PO Box 2883

Gainesville, GA 30503

770-503-7273

Court Contact Information for Harassment Restraining Orders and Orders for Protection

Stephens County Courthouse

70 N. Alexander Street Suite 202

Toccoa, GA 30577

706-886-2828

Forms Available Online: <https://www.gsccca.org/file/family-violence-forms>

Healthcare

Stephens County Hospital

163 Hospital Road

Toccoa, GA 30577

706-282-4200

Victim Services and Legal Information and Assistance

RAINN (Rape, Abuse & Incest National Network)

www.rainn.org

800-656-HOPE (4673)

Circle of Hope Domestic Violence Center

592 N Main Street

Cornelia, GA 30531

706-776-3406

United States Department of Education, Office for Civil Rights (OCR)
400 Maryland Ave., SW
Washington, D.C. 20202-1100
Customer Service Hotline: 800-421-3481
TDD: 877-521-2172
www.ed.gov/ocr
ocr@ed.gov

Visa and Immigration Assistance

USCIS (US Citizenship and Immigration Services)
2150 Parklake Drive NE
Atlanta, GA 30345
(appointment only)

Student Financial Aid

706-886-7299, ext. 5435
855-717-1552 (text)
finaid@tfc.edu
Schedule a Meeting: <https://calendly.com/tfc-financial-aid/>

Prevention and Education

TFC values environments that are filled with growth, development, accountability, and safety. Students can be reassured that an intentional and proactive effort is given to keep safe and secure buildings.

Educational efforts are geared towards eliminating all forms of misconduct that include Domestic Violence, Dating Violence, Sexual Assault, Stalking and other forms of Sexual Misconduct. Educating the campus community through varied methods will include, but are not limited to: New Student Orientation, residence hall programming, student organizations, campus email communication, faculty/staff training. Assistance is given from the Stephens County Sheriff's Office and other partners. Additional information regarding the nature of these programs can be received from the Title IX Coordinator, Housing and Residence Life, Vice President for Student Affairs, Human Resources, and/or Stephens County Sheriff's Office.

Policies and educational outreach are reviewed annually to ensure prevention and awareness are as effective as possible.

Being an Effective Bystander

Proactive intervention will serve the College in identifying students who may have the potential to either hurt themselves or others. If a student, faculty or staff member is a witness to a comment or action that is made which could lead to a violent act, either against themselves or the campus community, or to Sexual Misconduct, a report should be made at once to the Division of Student Affairs. The bystander should contact the Vice President for Student Affairs within 24 hours and submit a confidential report of what they witnessed.

To be an effective bystander, consider engaging in one or more of the following ways:

- Be proactive and speak up for those who cannot speak for themselves.
- Assist those with seeking help to address the situation that occurred.
- Remember details related to the scene (gender, clothing, location, number of people involved, comments made, names and description of others in the area, sound of voice tones, etc.).
- Take seriously and advance the information provided to you as it deals with a misconduct issue, specifically if it relates to an area of Sexual Misconduct, Stalking, Dating Violence, Domestic Violence, and/or Sexual Assault.
- Learn more about being an effective bystander.

Reducing Risk and Warning Signs of Abuse

Reducing risk in romantic relationships or platonic friendships helps students and employees stay more safe and healthy. Listed below are a few options to reduce the risk that can compromise personal safety.

- Be wary of meeting unknown people with whom you have communicated with online in a physical location.
- Inform friends of where you are going.
- Awareness of how to express yourself in clear and understandable terms.
- Awareness of campus/community resources that can help.
- Avoid substances that can impair your judgment while also being in an unknown/unfamiliar location.
- Avoid locations that appear questionable or untrustworthy.
- Be aware of exit locations and opportunities to flee a situation.
- Visit with licensed counseling staff or others on campus or in the community to discuss challenges or concerns in relationships.
- Attend a personal safety course offered on campus or in the local community to learn basic self-defense tactics/strategies.

Warning signs can surface or evolve that can lead to non-healthy relationships. Listed below are examples of warning signs that may be characteristic of abuse (2014, Center for Relationships Abuse Awareness):

- Public criticism, humiliation from your partner in private or public
- Nervousness around your partner
- Being scared to disagree with your partner
- Receiving pressure from partner for sexual activity
- Lack of effective communication
- Direct or indirect messages from your partner that indicate you are the one who should change to make things better
- Violent or threatening behavior in public or private
- Dismissal of demeaning comments with excuses of “being tired” or “joking”

APPENDIX B – PROTECTIVE ORDERS

Individuals who would like to avoid contact with another individual have several available options, including seeking a protective order from a civil court, or requesting a no contact order from the College.

Civil Protective Orders

Protective orders are legal orders issued by a magistrate or judge to protect the health and safety of an abused person and his/her family or household members. An individual may seek a protective order to prohibit harassment of or violence against an individual or individuals. They may also be used to evict a person from a residence, help someone return to living at a residence, or to assist in the recovery of personal property.

In Georgia, there are three types of protective orders:

1. **Family Violence Protective Order:** Victims of family violence can petition for a protective order against a spouse, family member, or household member that has committed an act of violence against the petitioner.
2. **Stalking Protective Order:** Victims of Stalking can petition for a protective order against someone who has followed, surveilled, or threatened the safety of the petitioner without their consent.
3. **Employer Protective Order:** Victims of workplace violence can petition for a protective order against an employer that has threatened or committed an act of violence against the petitioner.
- 4.

A Georgia resident may file an application for a protective order with the Superior Court located in the county in which they are seeking the order. The below information pertains to Stephens County.

What You Will Need

- Proof of identity (driver's license)
- Information about the respondent (full name, date of birth, home address, contact information)
- Required forms (available at <https://www.gsccca.org/file/family-violence-forms>)
- Evidence that is specific and clearly documented
- Explanation of why you are seeking protection
- Name and contact information of any witnesses who can appear in person during a hearing

Steps to File

- File a petition in the office of the Clerk of Court for Stephens County, 70 N Alexander St. Suite 202, Toccoa, GA 30577
- Note: Individuals, their attorneys, or a community service agency may file.
- The petition will be assigned to a Superior Court Judge. The judge may grant a temporary order, but then must schedule a hearing.
- There will be an initial hearing, which could happen as early as the day the petition is filed. The respondent will not be informed that this initial hearing is taking place, and does not attend the initial hearing. The purpose of the initial hearing is for the judge to review the case and decide whether an *ex parte* protective order should be granted until the full hearing. If so, the judge will have the Stephens County Sheriff's Department serve the *ex parte* protective order upon the respondent.
- The full hearing will occur within 30 days of the filing of the petition. During this hearing, the judge will hear the case and any witness testimony, review the evidence, and make a decision. The respondent will be notified of this hearing, and usually does attend the full hearing.
- After the hearing, the judge may grant a temporary order. If a temporary protective order is issued, the respondent will be served with it, and it will be filed with the Court, the Stephens County Sheriff's Department, and the Family Violence Protective Order Registry.
- Temporary protective orders can last up to a year. If you wish for the order to be extended or to become permanent, you must petition the Court.

For more information, visit:

Stephens County – Protective Orders

<https://stephenscountyga.gov/restraining-and-protective-orders/#:~:text=Circle%20of%20Hope%20offers%20shelter,800%2D334%2D2836>).

Georgia Commission on Family Violence – Get a Protective Order

<https://georgia.gov/get-protective-order>

College No Contact Orders

A no contact order is a College-issued order that prohibits one or both parties from communication or contact with another. No contact orders may be mutual or one-sided.

Generally, no contact orders issued prior to the conclusion of the complaint resolution process will be mutual and will serve as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another. Individuals who would like to request a no contact order from the College should contact the Title IX Coordinator.

APPENDIX C – GEORGIA CRIMINAL LAW DEFINITIONS

Some of the conduct prohibited by the Policy may be a crime under Georgia law. Links to relevant Georgia criminal law definitions are provided below. The Georgia criminal law citations are provided for informational purposes only. The definitions set forth in **Section VI Prohibited Conduct** above will be used for all purposes under the Policy.

CONSENT

Georgia laws on sexual offenses do not define the term “consent.” However, the State of Georgia defines “without consent” as a circumstance in which “a person whose concurrence is required has not, with knowledge of the essential facts, voluntarily yielded to the proposal of the accused or of another.”

[O.C.G.A. § 16-1-3\(19\).](#)

DATING VIOLENCE

The occurrence of one or more of the following acts between persons through whom a current pregnancy has developed or who are currently, or within the last 12 months were, in a dating relationship: any felony; or, commission of the offenses of simple battery, battery, simple assault, or Stalking. A “dating relationship” is defined as a committed romantic relationship characterized by a level of intimacy that is not associated with mere friendship, or between persons in an ordinary business, social, or educational context; provided, however, that sexual involvement is not required.

[O.C.G.A. § 19-13A-1.](#)

FAMILY VIOLENCE (SEE ALSO “DOMESTIC VIOLENCE”)

The occurrence of one or more of the following acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household: any felony; or, commission of offenses of battery, simple battery, simple assault, assault, Stalking, criminal damage to property, unlawful restraint, or criminal trespass. The term “family violence” shall not be deemed to include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention.

[O.C.G.A. § 19-13-1.](#)

INCEST

A person commits incest when he or she engages in sexual intercourse or sodomy with a person whom he or she knows he or she is related to either by blood or by marriage as follows: father and child or stepchild; mother and child or stepchild; siblings (whole or half); grandparent and grandchild (whole or half); aunt and niece or nephew (whole or half); uncle and niece or nephew (whole or half).

[O.C.G.A. § 16-6-22.](#)

SEXUAL ASSAULT

Rape, sodomy, aggravated sodomy, incest, sexual battery, and aggravated sexual battery.

[O.C.G.A. § 15-24-1.](#)

SEXUAL BATTERY

A person commits sexual battery when he or she intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person.

The term “intimate parts” means the primary genital area, anus, groin, inner thighs, or buttocks of a male or female, and the breasts of a female.

[O.C.G.A. § 16-6-22-1.](#)

SODOMY

A person commits sodomy when he or she performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another.

A person commits aggravated sodomy when he or she commits sodomy with force and against the will of the other person or when he or she commits sodomy with a person who is less than ten years of age.

[O.C.G.A. § 16-6-2.](#)

STALKING

A person commits the offense of Stalking when he or she follows, places under surveillance, or contacts another person at or about a place or places without the consent of the other person for the purpose of harassing and intimidating the other person. An overt threat of death or bodily injury does not need to be made for the offense to constitute Stalking.

A person also commits Stalking when they violate a temporary restraining order, temporary protective order, permanent restraining order, permanent protective order, preliminary injunction, or permanent injunction or condition of pretrial release, condition of probation, or condition of parole in effect prohibiting the harassment or intimidation of another person, by broadcasting or publishing (including electronic publication) the picture, name, address, or phone number of a person for whose benefit the bond, order, or condition was made and without such person’s consent in such a manner that causes other persons to harass or intimidate such person

and the person making the broadcast or publication knew or had reason to believe that such broadcast or publication would cause such person to be harassed or intimidated by others.

The term “contact” means any communication, including but not limited to: communication in person, by telephone, by mail, by broadcast, by computer, by computer network, or by any other electronic device; and the place or places that contact by telephone, mail, broadcast, computer, computer network, or any other electronic device is deemed to occur shall be the place or places where such communication is received.

The term “place” or “places” includes any public or private property occupied by the victim other than the residence of the defendant.

The term “harassing and intimidating” means a knowing and willful course of conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear for such person’s safety or the safety of a member of his or her immediate family, by establishing a pattern of harassing and intimidating behavior, and which serves no legitimate purpose.

[O.C.G.A. § 16-5-90.](#)

STATUTORY RAPE

A person commits statutory rape when he or she engages in sexual intercourse with any person under the age of 16 who is not his or her spouse.

[O.C.G.A. § 16-6-3.](#)