



SEX DISCRIMINATION, SEX-BASED HARASSMENT & SEXUAL MISCONDUCT POLICY

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I. Introduction & Non-Discrimination Policy and Notice

Villa Maria College is committed to providing a learning, working and living environment that promotes personal integrity, civility and mutual respect in an environment free of discrimination on the basis of sex, which includes sexual harassment, sexual assault, dating violence, domestic violence, stalking and others forms of sexual misconduct. Sex discrimination violates an individual's fundamental rights and personal dignity. Villa Maria College strictly prohibits sex discrimination, sexual harassment and other forms of sexual misconduct addressed in this policy. Some of the conduct prohibited by this policy is unlawful, and all of the prohibited conduct is antithetical to the mission of the College.

As a recipient of federal funds, Villa Maria College is required to comply with Title IX of the Education Amendments of 1972, 20 U.S.C. & 1681 et seq., which prohibits discrimination and harassment on the basis of sex in education programs or activities. Pursuant to Title IX and the Violence Against Women Act ("VAWA") and New York Education Law Section 129-B, the College also prohibits sexual assault, domestic/dating violence and stalking where it impacts or has the potential to impact the educational or employment environment of a College community member.

This policy provides information about resources and supportive measures available to members of the Villa Mara College community experiencing discrimination or harassment based on sex, including sexual assault, dating violence, domestic violence and stalking. This policy also provides procedures for the investigation and adjudication of allegations of sex discrimination, sexual harassment and other forms of sexual misconduct. Villa Maria College will take reasonable and appropriate remedial action to prevent sex discrimination and harassment and other forms of sexual misconduct, prevent its recurrence, and correct its discriminatory effects on the complainant and others within our campus community.

Individuals have the right to make a report to Campus Security, local law enforcement, and/or state police or choose not to report; to report the incident to Maria Villa College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from Maria Villa College. A Students' Bill of Rights for cases involving sexual assault, domestic violence, dating violence, or stalking, as well as an additional general statement of rights, is attached at the end of this policy. The College's Title IX Coordinator will monitor the College's education programs and activities for barriers to reporting information about conduct prohibited under this Policy, and take steps reasonably calculated to address such barriers.

The College is prohibited from separating or treating any person differently based on sex in a manner that subjects that person to more than de minimis harm, except in the limited circumstances where Title IX regulations allow otherwise, such as in the context of sex-separate living facilities and sex-separate athletic teams. Policies and practices that prevent a student from participating in an institution's education program or activity consistent with their gender identity impose more than de minimis harm on that student on the basis of sex, and therefore generally violate Title IX's nondiscrimination mandate. This Policy does not address Title IX's application to sex-separate athletic

teams.

Non-Discrimination Statement & Notice:

Villa Maria College does not discriminate on the basis of sex and prohibits sex discrimination in any of its education programs or activities as required by Title IX and its regulations, including in admission and employment. Inquiries about Title IX may be referred to Villa Maria's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

Contact Information for the Title IX Coordinator
DJ Schier
Title IX Coordinator, Dean of Students
716.961.1878
dschier@villa.edu
Main Building, Ground Floor across from Room 14

Contact Information for the U.S. Department of Education, Office for Civil Rights is as follows: 400 Maryland Avenue SW, Washington, DC 20202-1100; Telephone: (800) 421-3481; Facsimile: 202-453-6012; TDD#: 877-521-2172; E-mail: OCR@ed.gov; Web: <http://www.ed.gov/ocr>.

In order to report information about conduct that may constitute sex discrimination, including sex-based harassment, or make a Complaint of sex discrimination or sex-based harassment, please refer to this Policy. Villa Maria College's grievance procedures can be located in this Policy or at <https://www.villa.edu/campus-life/campus-security/titleix/>.

II. **Scope of the Policy**

This policy applies to all Villa Marie College students, faculty, and employees, and applies regardless of an individual's sex, race, color, religion, age, national origin, disability, sexual orientation, gender identity/gender expression, familial status, pregnancy, military status, criminal conviction, predisposing genetic characteristics, domestic violence victim status, or other protected status under state or federal law.

This policy applies to conduct that takes place on College property and in connection with any program or activity sponsored by the College, regardless of where it occurs. Additionally, off-campus conduct that does not take place in connection with a College program or activity may violate this policy if the conduct creates a threatening or hostile environment on the College campus or within a Villa Maria program or activity, or if the incident causes concern for the safety or security of the College campus community.

Non-community members (e.g., alumni, family or friends of students, vendors, etc.) visiting campus, participating in a program or activity or interacting with College community members are expected to abide by the behavioral expectations in this policy. A complaint against a non-community member (e.g., a visitor to campus, an alum, a

vendor or contract employees) will be investigated but no formal policy or procedure applies. The College may opt to ban the non-community member from College property or take other appropriate responsive measures.

This policy is effective on August 1, 2024, and will only apply to conduct prohibited under this policy that allegedly occurred on or after August 1, 2024. For conduct allegedly occurring prior to August 1, 2024, please see the previous policy located here: <https://www.villa.edu/wp-content/uploads/2024/02/Villa-Maria-College-Sex-Discrimination-Sex-Harassment-and-Sexual-Misconduct-Policy-020724.pdf>

IV. **Definitions, General:**

1. **Advisor of Choice.** An advisor of choice is a person selected by the Complainant or Respondent to advise and accompany the Complainant or Respondent throughout the investigation and adjudication process. An advisor of choice may be any person, including, but it is not required to be, an attorney. The institution does not appoint or pay for an advisor of choice. An advisor of choice's role is limited to the functions further described in this policy. The advisor will be copied on correspondence that is presented throughout the investigatory process, as well as communications related to determination of the hearing process, and any associated disciplinary action.
2. **Affirmative Consent.** Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.
3. **Coercion.** Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.
4. **Complainant.** The term Complainant refers to the person who allegedly experienced the sex discrimination or sex-based harassment or other conduct prohibited under this policy. or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment under this Policy and who was participating or attempting to participate in the College's education program or activity at the time of the alleged conduct. In some cases, the Title IX Coordinator may file a complaint and thereby initiate an investigation and adjudication process pursuant to this policy. In that instance, the Title

IX Coordinator is not the “Complainant”; the complainant remains the person who allegedly experienced the conduct prohibited under this policy.

5. **Consent.** As used in this policy, term “consent” always refers to “affirmative consent” (defined above).

By way of further explanation, consent is free and informed permission to engage in sexual activity. Consent given verbally is evidenced by affirmative agreement to engage in specific sexual activity. Consent through action is active participation in the specific sexual activity. Past consent to sexual activity cannot be presumed to be consent to engage in the same sexual activity in the future. Consent can be withdrawn at any time, and, if so, the sexual activity must cease. Consent to some sexual activity (e.g., kissing, fondling) cannot be presumed consent for other sexual activity (e.g., intercourse). Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.

Certain conditions prevent a person from being able to consent. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. A person cannot consent if they are unaware of the who, what, when and how of a sexual interaction. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol or drugs or other intoxicants may be incapacitated and therefore unable to consent.

A person who has been drinking or using drugs is still responsible for ensuring that the person has the other person’s affirmative consent and/or appreciating the other person’s incapacity to consent. This means that, even if the accused was drunk or high and, as a result, did not realize that the other person was not consenting to or was unable to consent to sexual activity, the person who committed the non-consensual act is still responsible for having violated this policy.

Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm.

6. **Complaint.** A complaint refers to an oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged misconduct under this Policy. A complaint is necessary to initiate an investigation and adjudication process.
7. **Pregnancy or related medical conditions-** This term encompasses a broad range of conditions and situations associated with pregnancy and childbirth. This includes pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery from any of these conditions. Additionally, it covers

lactation and pregnancy related medical conditions. Pregnancy related conditions include, but are not limited to, morning sickness, fatigue, nausea, dehydration, gestational diabetes, preeclampsia, prenatal or postpartum depression, infertility, recovery from childbirth, miscarriage or abortion, lactation conditions or complications, menstruation, perimenopause and menopause. Pursuant to Title IX regulations, the College will treat pregnancy and related conditions in the same manner and under the same policies as any other temporary disability, ensuring that pregnant individuals have equal access to education programs and activities.

8. **Relevant.** “Relevant” means related to the allegations of sex discrimination or other conduct violation at issue. Questions are relevant when they seek evidence that may aid in showing if the alleged conduct occurred. Evidence is relevant when it may aid a decisionmaker in determining if the alleged conduct occurred. For purposes of this policy, the following types of evidence will be excluded as impermissible (even if otherwise relevant):
 - evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - a party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party’s or witness’s voluntary, written consent for use in the investigation and adjudication process; and
 - evidence that relates to the reporting party’s sexual interests or prior sexual conduct, unless evidence about the prior sexual conduct is offered to prove that someone other than the responding party committed the alleged conduct or is evidence about specific incidents of the reporting party’s prior sexual conduct with the responding party that is offered to prove consent.
9. **Reporting Party.** The term Reporting Party refers to the person who made the report. This may or may not be the same as the Complainant, a witness, or a bystander.
10. **Respondent.** The term Respondent refers to the person alleged to have committed a violation of this policy.

V. **Definitions, Conduct Violations:**

This policy sets forth conduct expectations for our community and provides a process for the reporting, investigation and adjudication of alleged violations. This policy applies to alleged conduct violative of Title IX of the Education Amendments of 1972 and also applies to a broader range of contexts and behaviors inconsistent with the College’s

commitment to equal opportunity. and, in some cases, the College's obligations under other applicable laws such as New York Education Law Article 129-B.

Title IX of the Education Amendments of 1972 provides: "No person in the United States shall, on the basis of sex, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Under Title IX and for purposes of this policy, "on the basis of sex" includes discrimination based on sex, gender, sexual orientation, gender identity and transgender status, sex stereotypes, sex characteristics, and pregnancy or pregnancy-related conditions.

The College recognizes the following as conduct violations under this Policy:

1. **Sex Discrimination.** Sex discrimination is different treatment that disadvantages a person and that occurs on the basis of the individual's sex with respect to an individual's employment or participation in a College education program or activity. Examples of sex discrimination include, but are not limited to, denying a student a research opportunity because of the student's gender; giving a student a lower grade than they deserved because of the student's gender; denying an employee a raise because of the employee's sex. A person who believes that they have been discriminated against based on sex with respect to an academic or employment decision is generally entitled to bring a complaint pursuant to this policy in addition to any other College process or procedure that may be available (such as a grade appeal policy).
2. **Sex-Based harassment.** "Sex-based harassment" is a form of sex discrimination and includes sexual harassment and other harassment on the basis of sex ¹ that satisfies one or more of the following:
 - a. **Quid Pro Quo Harassment:** An employee agent or other person authorized by the College to provide an aid, benefit, or service under the College's education program or activity explicitly or implicitly conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct ;
 - b. **Hostile Environment Sex-Based Harassment:** means unwelcome, offensive conduct that occurs on the basis of sex, that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that is effectively limits or denies a person's ability to participate in or benefit from the College's education program or activity.

¹ As noted above, throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions, or sexual orientation.

Sexual harassment and other forms of sex-based harassment can be verbal, written, visual, electronic or physical. The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. Instead, the determination is based on a “reasonable person” standard and takes into account the totality of the circumstances. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following: the degree to which the conduct affected the complainant’s ability to access the College’s education program or activity; the location of the conduct and the context in which the conduct occurred; the relationship of the individuals involved and their roles within the College’s education program or activity; whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct; the type of the conduct and seriousness of the incident; the intent of the individual who engaged in the allegedly offensive conduct; and its effect or impact on the individual and the learning or working community.

In all instances, a key factor as to whether conduct constitutes sex-based harassment is whether the complained-of behavior occurred because of the targeted person’s gender, sex, sex stereotypes, sexual orientation, sex characteristics, pregnancy or pregnancy-related conditions or gender identity, or was sexual in nature. If it did not or was not, the behavior is not regulated by this policy.

- c. **Sexual assault.** Consistent with federal law, the College defines “Sexual assault” is a sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault consists of the following specific acts:

Rape. The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.

Nonconsensual Sexual Contact. The intentional touching of the private body parts (including the genital area, anus, groin, buttocks and breast), whether the contact is over or under clothing, 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 incapacity.

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

Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

- d. **Dating violence**. “Dating violence” means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where the existence of such a relationship shall be determined based on a consideration of the following factors: a) the length of the relationship; b) the type of relationship; and c) the frequency of interaction between the persons involved in the relationship.
- e. **Domestic violence**. “Domestic violence” means violence committed by a or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the College is located, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
- f. **Stalking**. “Stalking” is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

3. **Sexual Exploitation**. Sexual exploitation occurs when, without affirmative consent, a person takes sexual advantage of another in a manner that does not constitute another violation under this Policy. Examples of sexual exploitation include, but are not limited to: prostitution, acts of incest, observing or recording (whether by video, still photo or audio tape) of a sexual or other private activity (such as consensual sexual activity, undressing or showering) without the affirmative consent of all involved; taking intimate pictures of another, but then distributing the pictures to others without the photographed person’s affirmative consent; engaging in voyeurism, engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of such infection; or exposing one’s genitals in non-consensual circumstances.

4. **Retaliation**. Retaliation is an adverse act perpetrated to “get back” at a person because the person reported sexual misconduct, filed a complaint, or participated in an investigation or proceeding conducted pursuant to this policy by the College or by an external agency. Retaliation includes intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX or this Policy or because the person has reported information, made a

complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, Peer retaliation, defined as retaliation, by one student against another student, is also prohibited under this Policy. An act of retaliation may be anything that would tend to discourage an individual from reporting sexual misconduct, pursuing a complaint, or from participating in an investigation or adjudication as a party or a witness. A person who acts in good-faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacked good-faith; a person may provide inaccurate information believing it is accurate, which is still good-faith. If a person who makes a statement knowing that it is false, the person has acted without good-faith. Nothing in these definitions precludes the College from requiring an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding or hearing.

VI. Resources & Notification Protections Related to Pregnancy & Related Conditions

A. Resources and Notification Protections Related to Pregnancy or Related Conditions

The College will not treat students, employees, or applicants differently based on sex in connection with parental, family or marital status. The College is committed to providing pregnant students, employees, and applicants protections, reasonable modifications and, if appropriate, accommodations due to their pregnancy or any related conditions in order to ensure they are provided an accessible and supportive learning and working environment, regardless of their gender identity or expression.

B. Information Sharing Requirements

If a student discloses her pregnancy or related condition to a College employee, and the employee does not reasonably believe that the Title IX Coordinator has already been informed, the employee must provide the student with the Title IX Coordinator's contact information and inform the student that the Title IX Coordinator can implement specific actions and reasonable modifications to ensure the student's equal access to the College's education program or activity.

Once a student notifies the Title IX Coordinator of the student's pregnancy or related condition, the Title IX Coordinator will inform the student of the College's commitment to protections against sex discrimination and the process of how to file a complaint for alleged sex discrimination, harassment or retaliation. The Title IX Coordinator will inform the student of the College's obligations to allow access, on a voluntary basis, to any separate and comparable portion of the College's education program or activity and to treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

C. Reasonable Modifications for Students

Students experiencing pregnancy and related conditions are entitled to Reasonable Modifications to ensure equal access to education programs and activities. These may include changes to schedules, assignments, and course requirements. Any student seeking

reasonable modifications must contact the Title IX Coordinator to discuss appropriate and available reasonable modifications based on their individual needs. The College will, upon learning of the student's pregnancy or related condition, provide the option of individualized, reasonable modifications, upon request and as needed, to its policies, practices and procedures, in order to ensure equal access to the College's education program or activity. The student can accept or decline any such reasonable modifications offered by the College. Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures determined by the Title IX Coordinator and/or other College officials. Modifications will be determined based on individual needs and may include alternative paths to completion for clinical rotations, performances, labs, and group work. In progressive curricular and cohort-model programs, medically necessary leaves may allow students to shift course order or join subsequent cohorts. Modifications to accommodate pregnancy or related conditions are not considered reasonable if they fundamentally alter the nature of the education program or activity. The College will not require supporting medical documentation from a student for modifications or leaves of absence, unless doing so is necessary and reasonable to determine and provide such modifications or leaves of absence. Information about pregnant students' requests for modifications will be kept private and shared with faculty and staff only to the extent necessary to provide the reasonable modification.

D. Leaves of Absence

The College will allow students a voluntary leave of absence for a reasonable time, at minimum, the time period deemed medically necessary by their healthcare provider because of pregnancy. The leave term may be extended in the case of extenuating circumstances or medical necessity. To the extent possible, the College will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave. Scholarship and funding continuation will depend on the student's registration status and funding program policies. The College will advocate for students with financial aid agencies and external scholarship providers if a leave affects eligibility. In order to initiate a leave of absence, the student must contact the Title IX Coordinator at least thirty (30) calendar days prior to the anticipated start of leave, or as soon as practicable. The Title IX Coordinator will assist the student with completing any necessary paperwork.

Employees are extended similar rights to modifications and accommodations due to pregnancy and related conditions. Information on employment leave can be found [here](#). If an employee is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related-condition leave under Title IX. Employees taking Title IX leave must be reinstated to their original or comparable position without negative effects on

employment privileges or rights. To the extent that an individual's pregnancy or pregnancy-related conditions qualify as a temporary disability under applicable federal and/or state law, they will be eligible for reasonable accommodations like any other person with a temporary disability. The Title IX Coordinator will consult with the Vice President for Finance to ensure the student receives reasonable accommodations for their disability as required by law.

E. Rights of Employees to Express Breast Milk

Employees, including student-employees, have the right to express breast milk in the workplace. Under Section 206-c of the New York Labor Law, employees are, for up to three years following childbirth, entitled to thirty (30) minutes of paid break time to express breast milk when the employee has a reasonable need to express breast milk at work. The College will not deduct an employee's paid break time for breast milk expression from their regular paid break or meal time. Employees can choose to take breast milk expression breaks before or after their regularly scheduled paid break or meal periods. Employees can access additional information by contacting the College's Business Office.

F. Lactation Space Access

Villa Maria College provides students and employees with access to functional, appropriate, and safe lactation spaces. These spaces are regularly cleaned, shielded from view, and free from intrusion. Lactation spaces are located in designated spaces in each building on campus. Employees wishing to request a lactation room must provide reasonable advance notice to the College. If an employee's request for a lactation room poses an undue hardship, College officials will engage in a cooperative dialogue with the employee.

VI. Support & Assistance

Seek a safe place. Villa Maria College Title IX officers, Campus Security officers, Local police officers (typically Cheektowaga or Buffalo Police Departments), and the New York State Police can help you do this. Officers at the local police and New York State Police are specifically trained to respond to the needs of a victim of a sexual offense. They can also make you aware of support and advocacy services and advise you about reporting procedures and requirements.

Consider seeking medical assistance. Those who seek a medical examination may obtain one for free, paid by the office of victim services (<https://ovs.ny.gov/>). The College recommends that students seek medical examination at one of the following facilities that has a trained SANE nurse available:

- Buffalo General Medical Campus
- DeGraff Memorial Hospital
- Kenmore Mercy Hospital
- Mercy Ambulatory Care Center
- Mercy Hospital
- Millard Fillmore Suburban Hospital
- Sisters of Charity Hospital – Main Campus
- Sisters of Charity Hospital – St. Joseph Campus

The closest location to Villa Maria College to have an exam is Sisters of Charity

Hospital – St. Joseph Campus located at 2605 Harlem Rd, Cheektowaga, NY 14225 (716) 891-2400. More information about SANE/SAFE program through Crisis Services can be found on-line: <http://crisisservices.org/rape-domestic-violence/what-is-sexual-violence/> Consider taking a full change of clothing, including shoes, for use after a medical examination. When seeking medical attention, a person may choose whether or not to speak to the police at the hospital or any other time. If they do, the option to choose whether to file charges against the respondent will exist.

Private physicians are not required to notify the police. If a victim desires police involvement, they may request this contact. Also, with a private physician, survivors may have to ask for a rape kit to be completed. Please keep in mind: having a rape exam does not mean that survivors are mandated to press charges. This action only keeps the survivor's options open.

Preserve evidence. In the event that sexual assault or sexual violence occurred, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. (The decision to press charges does not have to be made at this time. However, following these procedures will help preserve this option for the future.) Survivors should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed but if they are bringing all the original clothing to the hospital in a paper bag. (Plastic bags damage evidence.)

VII. Confidential and Non-Confidential Resources

Understanding Confidentiality

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

The College encourages any person who has experienced sexual assault or other forms of sexual misconduct to talk to someone about what happened, so she or he can get the support needed. There are a variety of confidential resources available to members of the College community. Some of these resources maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."

The obligation to keep information in confidence is inherent for certain Villa Maria professionals on campus, such as licensed social workers, licensed psychologists, and pastoral and professional counselors (including licensed mental health counselors). Many off-campus resources such as rape crisis centers are also confidential, and with the exception of certain child abuse and imminent threats, individuals working in such organizations have no obligation to report information back to the reporting individual's campus.

A confidential resource does not reveal the information shared with him/her/them without

the disclosing person's consent. (There may be instances where a confidential resource must disclose information in a criminal or civil court proceeding, but those are very limited circumstances.) A list of confidential resources is provided below. The only College employees who can offer confidentiality are those listed as confidential resources below.

A non-confidential resource is a person who is permitted to share information with others with a need to know. A College employee who is a non-confidential resource will disclose to as few individuals as possible, but a non-confidential resource does not have the ability to promise that he/she/they will not tell others within the College about the information that has been shared with him/her/them.

Mandatory Reporters

Any Villa Maria College employee who is not a Confidential Resource (including, but not limited to, employees who have authority to institute corrective measures on behalf of the College or have responsibility for administrative leadership, teaching, or advising in the College's education programs or activities, such as faculty,) must notify the Title IX Coordinator when the employee has information (whether that information was based on their own observations or they learned about it from another) about conduct that reasonably may constitute conduct prohibited under this Policy. Reports from mandatory reporters (i.e. non-confidential employees) help the College monitor patterns of behavior, drive changes to general training and education, and ensure that students are aware of their options in addressing any conduct prohibited under this Policy as well as the support services that are available to them. A report from a non-confidential employee does not independently initiate any grievance process. If you are unsure of an individual's reporting obligations, please ask before disclosing any information you wish to remain confidential.

Notably, even Villa Maria offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

If you make a report to an official who is required to disclose the occurrence of the event, but you request confidentiality and decline to file a complaint, the Title IX coordinator will evaluate the confidentiality request, by weighing the request against the College's obligation to provide a safe, non-discriminatory environment for all members of its community. If it is determined that the College cannot honor the individual's request for confidentiality, the individual will be informed by the Title IX Coordinator and will be offered privacy to the greatest extent possible. If it is determined that the incident can be kept confidential and the individual's request will be honored, Villa Maria will still assist with academic, housing, transportation, and other reasonable supportive measures and available accommodations.

Privacy – Privacy may be offered by an individual when such individual is unable to offer confidentiality but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with applicable laws, including informing appropriate Villa Maria officials. Although most Villa

Maria employees are not confidential resources, they can still offer “privacy.” This means that an employee may have to share information pursuant to federal or state law or college policy with certain other Villa Maria employees, but they will not share the private information beyond what is required or needed to comply with law and policy, and will otherwise limit re-disclosure as much as possible. Privacy of the records specific to the investigation is maintained in accordance with New York State law and, with respect to student records, the federal Family Educational Rights and Privacy Act of 1974 (FERPA) statute. Any public release of information to comply with the timely warning provisions of the Jeanne Clery Act (Clery Act) will not release the names of victims or information that could easily lead to a victim’s identification.

Villa Maria will make every effort to ensure that you are asked to describe the incident to as few representatives of Villa Maria as possible and are not required to unnecessarily repeat a description of the incident.

The following Confidential Resources are available to members of the College community. The College’s on-campus health, counseling and pastoral services noted below are available to students free of charge.

On-Campus Confidential Resources

- The Villa Maria Care Center is located on the ground floor of the Library Building. The Care Center at Villa Maria College provides professional counseling in a safe, confidential and comfortable setting. The Director is Kasha LeBron, who can be reached at (716) 961-1821 or klebron@villa.edu.
- These On-Campus Confidential Resources must share the following information:
 - That they are confidential, including when they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination (including sex-based harassment) or other forms of sexual misconduct;
 - How to contact the College’s Title IX Coordinator and how to make a complaint of sex discrimination (including sex-based harassment) or other forms of sexual misconduct; and
 - That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Off-Campus Confidential Resources

- Crisis Services (716) 834-3131 <http://crisisservices.org/>
- 24 Hour Erie County Domestic Violence Hotline (716) 862-HELP Shelter: 716-884-6000
- 24 Hour NYS Domestic & Sexual Violence Hotline 1-800-942-6906
- NYS Police Sexual Assault Hotline – 1-844-845-7269

The following Non-Confidential Resources are available to members of the College community who may want to pursue a report and/or complaint.

On-Campus Non-Confidential Resources

- Title IX Coordinator
D.J. Schier
716.961.1878
dschier@villa.edu
Main Building, Ground Floor, Room 15
- Deputy Title IX Coordinator
Brian Emerson
716.961.1838
bemerson@villa.edu
Felician Hall, Room 119
- Campus Security –Campus Security is not a law enforcement agency and will communicate the report to the College’s Title IX Coordinator. Campus Security can be reached at 716-870-7176.

VIII. Reporting to Law Enforcement

Any person may call 911 or Campus Security, which can be reached at 716-870-7176, for immediate safety assistance. Campus Security can also assist the individual in making a report of a crime to local law enforcement.

Individuals may, but are not required, to report a sexual offense to local law enforcement for the purposes of documentation or investigation. Individuals may contact local law enforcement as follows:

1. **Cheektowaga Police (Villa Maria College campus is in Cheektowaga, NY).** 3223 Union Road, Cheektowaga, New York 14227. Emergencies 9-1-1. Non-Emergency Phone: (716) 686-3500. <http://cpdny.org/>
2. **Buffalo Police.** 74 Franklin Street, Buffalo, NY 14202. Emergencies 9-1-1. Non-Emergencies (716) 851-4444. <https://www.bpdny.org/>
3. **New York State Police Campus Sexual Assault Victims Unit.** Non-emergency- toll free hotline to report Campus Sexual Violence to the New York State Police: 1-844-845-7269. Specific contact: S/Inv Thomas Gibbons, Troop A (north). Non-Emergencies 716-239-0298 Thomas.Gibbons@troopers.ny.gov.

Villa Maria College Campus Security staff can assist students in contacting local law enforcement at any time. If you choose to contact law enforcement, you may have the further option, but are not required to, pursue the case through the criminal justice system. You should be aware that there are significant differences between Villa Maria’s formal adjudication process, meaning investigation and hearing process, and the criminal justice system. In the criminal justice system, prosecutors pursue cases when they believe there is sufficient evidence to prove, beyond a reasonable doubt, that an

individual has committed a criminal act. A person who is convicted of a crime will face criminal penalties, such as incarceration, probation, or the imposition of a fine. Villa Maria's policy seeks to determine whether an individual has violated college policy. In this process, a preponderance of the evidence standard of proof is used to determine responsibility. A person who is found to have violated College policy may be suspended, expelled, terminated from employment or otherwise restricted from full participation in the College community.

Orders of Protection

Orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by a College community member or other person. Individuals who have been subjected to sexual assault or other forms of sexual misconduct may have a right to obtain a court order to protect themselves from the perpetrators. Villa Maria will enforce all applicable no contact orders, restraining orders, and similar lawful orders issued by a criminal, civil, or tribunal court, to the extent required by law.

An order of protection is issued by the court to limit the behavior of someone who harms or threatens to harm another person. It is used to address various types of safety issues, including, but not limited to situations involving domestic violence. Family Courts, criminal courts, and Supreme Courts can all issue orders of protection. An order of protection may direct the offending person not to injure, threaten or harass you, your family, or any other person(s) listed in the order. You may learn more about obtaining an Order of Protection in New York State here: <https://www.nycourts.gov/faq/orderofprotection.shtml>

Campus Security, or other College officials, will, upon request, provide reasonable assistance to any member of the campus community in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order, including providing that person with:

- A copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- An explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- Assistance in contacting local law enforcement to effect an arrest for violating such an order of protection.

If you have obtained an Order of Protection, please present the information to Campus Security or the Title IX Coordinator for assistance on campus. Questions about whether incidents violate criminal laws and how the criminal process works should be directed to law enforcement officials or the local district attorney's office.

IX. Reporting to the College and Formal Grievance Process

A. Reporting to the College

The College has individuals who are specially trained to receive reports under this Policy and assist community members in understanding their rights and options.

When you disclose an incident to a representative of Villa Maria College, you will be directed to one of the following individuals listed below, who will assist you. You will be presented a copy of this policy and will be made aware of your rights and options. All who make a report will be informed that they have the right to make a report to local law enforcement, and/or NYS Police, or choose not to report; to report the incident to Villa Maria College ; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from Villa Maria College.

Individuals are encouraged to report an alleged violation of this Policy to either the Title IX Coordinator/Deputy Title IX Coordinator identified below:

- DJ Schier
Title IX Coordinator, Dean of Students
716.961.1878
dschier@villa.edu
Main Building, Ground Floor, Room 15
- Brian Emerson
Deputy Title IX Coordinator, VP for Enrollment, Civil Rights Compliance Officer
716.961.1838
bemerson@villa.edu
Main Building, First Floor, Executive Vice President Office

While the individuals listed above are not a Confidential Resource, College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary and on a need-to-know basis for the Title IX Coordinator to provide individuals with their options, investigate and/or seek a resolution.

Reporting Workplace Sexual Harassment

In compliance with New York State law, sexual harassment, when committed by an employee, is considered a form of employee misconduct. Employees who believe that they are being subjected to harassment or discrimination in violation of this Policy, or who have witnessed or otherwise become aware of behavior prohibited by this Policy should promptly report that behavior to a supervisor, the Human Resources Manager, the Title IX Coordinator, or a member of the College's administration. With respect to sexual harassment of employees, any College supervisor or manager who receives a complaint or information about workplace sexual harassment is required to take appropriate action. Appropriate action may include immediately intervening if harassment is witnessed by the supervisor or manager, and in all instances includes reporting the situation to the Title IX

Coordinator. In addition to being subject to discipline if they themselves engage in sex-based harassment or retaliation, individuals with supervisory authority over other College employees will be subject to discipline for knowingly allowing sexual harassment or any other form of sex-based harassment to continue.

Anonymous Reports

Students and employees may make an anonymous report that will be sent to campus security and the Title IX Coordinator at: <https://www.villa.edu/campus-life/campus-security/anonymous-reporting>. If an anonymous report is received by the College, it will be investigated and appropriate action taken, to the extent practicable. Anonymity may impact the action the College may be able to undertake in response to the report.

B. Supportive Measures

Once a report is made under this Policy, the reporting party will be contacted by the Title IX Coordinator and offered individualized support as more fully described below. A report that triggers supportive measures need not be a complaint, and it may be made by a third-party (i.e., someone other than the complainant himself/herself). Once the respondent is informed of a report or a complaint, the respondent will be contacted by the Title IX Coordinator and offered individualized support as more fully described below.

Supportive measures are intended to restore or preserve, to the extent practicable, equal access to the College's educational programs and activities and protect the safety of all parties without unreasonably burdening the other party or parties. As required by federal regulation, these supportive measures must not be imposed for punitive or disciplinary reasons.

Supportive measures could include, but are not limited to:

- Changes or adjustment in academics such as the extension of deadlines or other course-related adjustments or allowing a withdrawal from a course without penalty;
- Changes to housing, transportation and campus working situations if those changes are requested by a party and reasonably available;
- Mutual "No Contact" orders and, possibly, in certain cases, one-way no contact orders.
- Access to campus escorts or other reasonable security or monitoring measures;
- Counseling services;

The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various College departments and offices that may be involved. Supportive measures will be offered free of charge.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive

measure is reasonable under the circumstances. In addition, each party will, upon request, be afforded the opportunity for a prompt review of the need for and the terms of no contact orders and other supportive measures that have been implemented, including the potential modification of these measures, to the extent that the party is affected by the measure(s) being reviewed. Requests to review a decision with regard to the denial of or need for supportive measures, including a no contact order, should be submitted in writing to Deputy Title IX Coordinator, Brian Emerson. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measures under review affects that party. Additional information about how to request a review will be included in a written communication that will outline the supportive measures offered and any that were requested by the party but denied.

C. Emergency Removal of Student Respondents

In some cases, the College may undertake an emergency removal of a student respondent in order to protect the safety of College community, which may include contacting local law enforcement to address imminent safety concerns.

Emergency removal is not a substitute for reaching a determination as to a respondent's responsibility for the sexual harassment allegations; rather, emergency removal is for the purpose of addressing imminent and serious threats posed to any person's health or safety, which may arise out of the misconduct allegations.

Prior to removing a student respondent through the emergency removal process, the College will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an imminent and serious threat to the health or safety of any student, including the student respondent, or other individual justifies removal, then a student respondent will be removed. This is the case regardless of the severity of the allegations and regardless of whether a complaint was filed.

After determining to effectuate an emergency removal, the Title IX Coordinator will provide written notice of the emergency removal to both the complainant and respondent. This notice will contain: (1) the date the removal is set to begin, (2) the reason for the emergency removal, (3) the consequences of non-compliance, and (4) how to appeal the decision. If a student respondent disagrees with the decision to be removed, the respondent may appeal the decision. The respondent must provide written notice of the intent to appeal, which shall include the substance of the appeal, to the Deputy Title IX Coordinator, Brian Emerson, at bemerson@villa.edu [mailto:](mailto:bemerson@villa.edu) within 10 days of receiving the notice of removal. The burden of proof is on the student respondent to show that the removal decision was incorrect. The Deputy Title IX Coordinator will issue a determination in response to the request and notify both parties of the determination.

This section applies only to student respondents. Employee respondents are not subject to this section and may be placed on administrative leave pursuant to the College's policies and/or collective bargaining agreements during the pendency of a Title IX grievance process. Note on student employees: when a Complainant or Respondent is

both a student and an employee of Villa Maria College, the College will make a fact-specific inquiry to determine whether this procedure applies to that student employee. Among other things, the College will consider if the Complainant or Respondent's primary relationship with the College is to receive an education and whether the alleged sex-based harassment or other policy violation occurred while the Party was performing employment-related work.

D. Disability Accommodation

A Complainant or Respondent with a disability who requires accommodation in the complaint, investigation, hearing or any other phase of the process is responsible for disclosing the need for accommodation to the Title IX Coordinator. The Title IX Coordinator may consult with the appropriate College offices and officials in deciding whether to grant a disability accommodation request.

E. Amnesty for Students

The health and safety of every student at the College is of utmost importance. Villa Maria College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to the College's officials or law enforcement will not be subject to the College's code of conduct action (including but not limited to action under this policy) for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

F. Grievance Process

The Grievance Procedures set forth below are applicable to all complaints of sex-based harassment involving a student as a party (whether the student is a Complainant and/or Respondent), as well as complaints of sex discrimination or other prohibited conduct in which a student is a party. A separate grievance procedure applies to complaints of sex discrimination, sex-based harassment and retaliation where both parties are College employees. The "Grievance Procedures for Sex Discrimination and Sex-Based Harassment Complaints for Employees" is attached hereto as Appendix A.

a. Filing a Complaint.

A complaint is necessary to initiate the College's grievance process, meaning an investigation and adjudication process. A complaint can be written or verbal, so long as it is objectively understood that a request has been made for the College to investigate

and make a determination about an incident. A third-party or anyone other than the victim of the misconduct may report an incident but may not make a complaint. However, a complaint may be filed by a parent or guardian of a minor person.

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail to:

DJ Schier
Title IX Coordinator
716.961.1878
dschier@villa.edu
Villa Marie College
240 Pine Ridge Road
Buffalo, NY 14225

If a complainant declines to file a complaint or does not wish to participate in the investigation and adjudication process, or the complainant's identity is unknown, and the Title IX Coordinator determines there is sufficient cause to submit complaint, the Title IX Coordinator may submit a complaint. In such cases, the Title IX Coordinator is not considered to be a complainant or other party under this Policy.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Although a person may disclose information concerning an incident to the Title IX Coordinator or another non-confidential employee and request that no investigation or disciplinary action be taken, the College may decide not to honor that request, depending on the circumstances. If a complainant requests that his/her identity be kept confidential but that an investigation and review for disciplinary action occur, the College's decision will depend on whether the information provided by the Complainant can be acted upon without revealing the complainant's identity.

The Title IX Coordinator will consider the wishes of the complainant however, the Title IX Coordinator may file a complaint if the Title IX Coordinator determines that the allegations are such that it would be unreasonable not to proceed despite the wishes of the complainant. In making this determination, the Title IX Coordinator will consider, among other factors:

- the reporting party's request not to proceed with initiation of a complaint;
- the reporting party's reasonable safety concerns regarding initiation of a complaint;
- the risk that additional acts of sex discrimination or sex-based harassment would occur if a complaint is not initiated;
- whether there have been other complaints about the same alleged

- respondent;
- Whether the respondent has a history of violent behavior or is a repeat offender;
- whether the alleged Respondent has a history of arrests or records from a prior school indicating a history of violence;
- whether the Respondent allegedly threatened further sex discrimination, sex-based harassment or sexual misconduct against the victim or others;
- whether the alleged misconduct was committed by multiple individuals;
- whether the Respondent allegedly used a weapon;
- The age and relationship of the parties;
- whether the College possesses other means to obtain relevant evidence of the prohibited conduct (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group
- Whether the College could end the alleged sex discrimination or sex-based harassment and prevent its recurrence without initiating the grievance procedure under this Policy.

Where the only parties to the situation are employees, the College will be less inclined to honor a request for confidentiality. Additionally, where the respondent is not enrolled at the College and is not employed by the College, the College may decline to process the complaint through the Grievance Process. The College may take the steps it deems appropriate under the circumstances.

If the Title IX Coordinator determines that the Complainant's request that the College not conduct an investigation can be honored, the College will still assist with academic, transportation, employment, and other reasonable and available supportive measures.

If the Title IX Coordinator determines that the conduct as alleged present an imminent and serious threat to the health or safety of the Complainant or another person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex, the Title IX Coordinator may initiate a complaint. If the Title IX Coordinator determines that the Complainant's request that the College not conduct an investigation cannot be honored, and an investigation is necessary, the College will notify the Complainant and take immediate action as necessary to protect and assist him/her and, if the Complainant declines to file a complaint, the Title IX Coordinator will do so.

The College will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the processes contemplated by this policy, provided that such steps do not restrict the ability of the parties to obtain and present evidence, to speak to witnesses, to consult with their family members, Confidential Resources, or advisors, or otherwise prepare for or participate in a process. Disclosures of such information and evidence for

purposes of administrative proceedings or litigation related to the complaint of conduct prohibited under this Policy are also authorized.

b. Discretionary Dismissal of Complaint/Allegations

The Title IX Coordinator may, but is not required to, dismiss a complaint, or specific allegations within the complaint, in the following circumstances:

- When the complainant voluntarily withdraws a complaint;
- When the College is unable to identify the responding party after taking reasonable steps to do so;
- When the respondent is no longer enrolled in or employed by the College; Where specific circumstances prevent the College from gathering evidence (such as where a complainant refuses to cooperate but does not withdraw a complaint) or
- The Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute a violation of this policy.

The decision to dismiss or not to dismiss a charge under these circumstances will depend on the totality of the situation. If the College dismisses the complaint in whole or in part, the College will inform both parties (except if the dismissal occurs before the responding party has been notified of the allegations, in which case the Title IX Coordinator will provide notice only to the reporting party/complainant) of the decision, the reason for the action, and whether the College intends to proceed under this policy or another College policy. Any decision to dismiss a complaint or allegation pursuant to this section is immediately appealable pursuant to the appeal procedures set forth in this policy.

X. Informal Resolutions Policy

A. Informal Resolution Process

An Informal Resolution Process is a voluntary process in which a trained facilitator assists the parties in resolving the allegations made by a complainant. An Informal Resolution prioritizes educational and conciliatory approaches over more adversarial contestation of the facts. One objective of the Informal Resolution is to provide to the parties an opportunity to hear each other's concerns and address them as collaboratively and usefully for the parties as possible, with the assistance of the facilitator. Informal resolution may occur prior to, after, or without the filing of a complaint.

The intent of an Informal Resolution Process is for the parties to undertake a facilitated discussion regarding the matters at issue related to the allegations to see if they can reach agreement on a resolution that leaves both parties feeling satisfied with that resolution. Supportive measures are available to both parties in the same manner as they would be if the complaint were proceeding under the formal grievance and hearing process.

B. Steps Prior to the Informal Resolution Process

In cases where the Title IX Coordinator determines that informal resolution may be appropriate, the Title IX Coordinator will first consult with the reporting party/complainant about the option to pursue informal resolution. If the reporting party/complainant is agreeable, then the Title IX Coordinator will consult with the responding party to discuss the process. Both parties must consent to use the Informal Resolution process. The Title IX Coordinator must approve of the use of the Informal Resolution process in each individual case. Either party in an Informal Resolution process may terminate it at any time and the complaint will proceed to the formal grievance and hearing process. In some instances, as detailed below, the facilitator in the Informal Resolution process may terminate the process as well.

A written notice will be given to both parties before entering an Informal Resolution Process, and both parties must consent to the process in writing. No party should feel intimidated, coerced or threatened to participate in an Informal Resolution Process, or to withdraw from an Informal Resolution Process. Prior to the initiation of the informal resolution process, the Title IX Coordinator will provide to the parties a written notice that explains: the allegations; the requirements of the informal resolution process; that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the College's formal grievance process; that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming the formal grievance process arising from the same allegations; the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and what information the College will maintain and whether and how the College could disclose such information for use in its formal grievance process if it is initiated or resumed.

If both parties consent to participate in the Informal Resolution process, the College will assign a facilitator who will act in an independent, impartial manner to facilitate a resolution between the parties. The facilitator will be trained on how to perform the role. The facilitator will also be screened to ensure that such person is free from conflicts of interest and bias.

C. How the Process Works

The facilitator will schedule one or more meetings with the parties. The facilitator will assist the parties in communicating information and opinions to the facilitator and each other regarding the allegations in an effort to find common ground and a resolution of the allegations that is satisfactory to both parties. The facilitator may meet separately with each party to explore the party's views about the allegations and desired outcome from the process. Either party can elect to have any meeting occur so that the parties are in different rooms and the facilitator "shuttles" between the parties.

The facilitator's role is to conduct the Informal Resolution process in a way that is impartial

and does not favor one party over the other. The facilitator will not be available as a witness in any hearing that may occur should either party terminate the Informal Resolution process before a resolution. This is in keeping with the concept that the facilitator is impartial and is only facilitating the interaction between the two parties and is not listening or taking notes for any purpose other than assisting the parties.

Should the Complaint be returned to the formal grievance and hearing process of this policy, the parties may not disclose information shared by the other party during the informal resolution process in the hearing. This confidentiality protection does not apply to information that is learned outside the Informal Resolution process through the investigation or otherwise.

D. Possible Outcomes of the Process

A resolution is reached only if both parties agree. The facilitator will not impose an outcome, although they may assist the parties in suggesting resolutions that appear to meet the parties' needs. A party may terminate the informal process at any time before the final written resolution is signed. If an agreement is reached, the facilitator will draft a document reflecting the agreement between the parties that becomes final once it is signed by both parties. This written and signed resolution indicates that the complaint has been resolved under this policy without the need for further investigation or to pursue the formal grievance and hearing process. If an Informal Resolution Process does not result in an agreed-upon resolution, the complaint returns to the formal grievance process outlined in this Policy.

XI. Investigation Procedures

A. Appointment of Investigator

Where a complaint has been filed, and in the absence of an informal resolution, the College will appoint an investigator to conduct an investigation into the allegations in the complaint. The investigation is an impartial fact-finding process.

The College may appoint any qualified investigator, who may be a person internal or external to the College. The College also may appoint more than one investigator in the College's sole discretion. Generally, if the complaint involves employees, the Director of Human Resources will conduct the investigation. If the Title IX Coordinator is implicated in the report, the President will be responsible for designating an investigator to conduct the investigation. If, in a rare case, it would be inappropriate for the Title IX Coordinator or President to designate an investigator to conduct the investigation, then the Chair of the Board of Trustees will make this designation.

B. Temporary Delay Due to Concurrent Law Enforcement Investigation

The College's investigation may be temporarily delayed where there is a concurrent law enforcement investigation if necessary to avoid interference with the law enforcement investigation. Any such delay shall not exceed ten (10) days unless the law enforcement

agency requests and justifies a longer delay.

C. Notice of Investigation

The Complainant and Respondent shall receive a Notice of Investigation & Allegations (NOIA) referencing the violation(s) of this policy alleged to have been committed and the range of possible disciplinary sanctions and remedies following any determination of responsibility. The NOIA will include, to the extent known:

- Notice of the College's Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Policy and a hyperlink to a copy of the policy;
- the identities of the involved parties;
- the date, time, location and factual allegations concerning the alleged violation;
- the policy provisions allegedly violated;
- a description of the investigation and adjudication process;
- potential sanctions;
- the right to an advisor of their choice, who may be, but is not required to be, an attorney;
- their right to inspect and review evidence in accordance with this policy;
- notice that knowingly making false statements or knowingly submitting false information is prohibited under the Student Code of Conduct; and
- that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process
- A statement about the College's policy on retaliation

To the extent the Title IX Coordinator has reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Title IX Coordinator may reasonably delay providing the Notice in order to address the safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not on mere speculation or stereotypes. In any event, the parties will receive the Notice of Allegations with sufficient time to prepare a response before any initial interview. If, in the course of the investigation, the College decides to investigate allegations that are not included in the notice initially provided to the parties, the Title IX Coordinator or designee will provide notice of the additional allegations to the parties. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional allegations.

D. Notice of and Opportunity to Object to Investigator

The Complainant and Respondent will be provided with notice of the name of the appointed investigator and an opportunity of not more than two (2) days after the notice to raise an objection to the investigator based on any alleged conflict of interest known to the party. If an objection is raised, the Title IX Coordinator will determine whether a conflict of interest in fact exists and necessitates the replacement of the investigator.

E. Meetings and Interviews to Gather Information

The Complainant and Respondent will be provided with advance written notice of the date, time, location, participants, and purpose of any meeting or interview in which they are invited to or expected to participate. The Complainant and Respondent have a right to be accompanied by an advisor of their choice, who may be an attorney. The College does not appoint an advisor for a party during any phase of the grievance process. The advisor will not be allowed to interject without permission from both the investigator and the interviewee. Witnesses are not permitted to bring advisors to investigative interviews.

The Complainant and the Respondent will be given an equal opportunity to present information. This includes the opportunity to present fact or expert witnesses and other inculpatory or exculpatory evidence that the party believes tends to prove or disprove the allegations. However, at all times, the burden of gathering evidence remains with the College. The investigator may decline to interview any witness or to gather information the investigator finds to be not relevant or otherwise impermissible. The investigator(s) will determine the order and method of investigation.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or interviews. If the investigator elects to audio and/or video record interviews, all involved parties involved in the meeting or interview will be made aware that audio and/or video recording is occurring.

F. Opportunity for Inspection and Review of Evidence

The Complainant and Respondent will be provided an equal opportunity to inspect and review any relevant and not impermissible evidence that is gathered in the investigation and regardless of whether the information will be relied on in reaching a determination. The parties and their advisors may not make photocopies or take photographs of the materials and are prohibited from disseminating any of the materials subject to inspection and review with any individuals outside of those engaged in the grievance process. Prior to the conclusion of the investigative report, the Complainant and Respondent, and each party's advisor of choice, if any, will be provided a copy (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform) of the relevant and not impermissible evidence, subject to redaction permitted and/or required by law. The Complainant and Respondent will be provided with at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report. The investigator will determine if additional investigation is necessary and, if so, will complete any additional investigative steps.

G. Investigative Report

At the conclusion of the investigation, the investigator will complete a written investigative report that fairly summarizes the relevant and not otherwise impermissible evidence. The investigator will submit the investigative report to the Title IX Coordinator.

At least ten (10) days prior to a hearing to determine whether there is responsibility for

the allegations, the Complainant and Respondent, and each party's advisor, if any, will be provided a copy of the investigative report (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform), subject to redaction permitted and/or required by law. If desired, during that same time period, the parties will have the opportunity to respond to the report.

H. Consolidation of Cases

The Title IX Coordinator may determine that cases where the allegations arise out the same set of facts should be consolidated for purpose of the investigation and/or adjudication. Instances where consolidation of complaints may occur include but are not limited to cross-complaints filed by the parties against each other, multiple complaints by a single complainant against a respondent, or multiple complaints by a single complainant against multiple respondents.

I. Investigation Timeframe

The College will endeavor to complete an investigation within thirty (30) business days. An investigation may be extended for good cause, such as witness unavailability, breaks in the academic schedule, or other similar circumstances.

XII. Hearing Procedures

A. General

A hearing before a Hearing Officer designated by the Title IX Coordinator will be convened not less than ten days after the parties have been provided access to the final investigative report, for the purpose of determining whether the Respondent is responsible or not responsible for the charge(s). The Hearing Officer may be a member of the campus community or may be external to the College, as determined by the Title IX Coordinator.

The Title IX Coordinator will notify the parties in writing of the date, time, and location of the hearing, the name of the Hearing Officer, and how to challenge participation by the Hearing Officer for bias or conflict of interest. Bias or conflict of interest will be judged by an objective standard (whether a reasonable person would conclude the decision maker is biased or has a conflict of interest).

Participants in the hearing will include the Hearing Officer, the Complainant and the Respondent, their respective advisors, the investigator(s) who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability. Cell phones and recording devices may not be used by the parties or their advisors during the hearing.

Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants

may appear at the live hearing virtually, with technology enabling the Hearing Officer and the parties to simultaneously see and hear any party or witness providing information or answering questions. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence.

The Title IX Coordinator may postpone the hearing for good cause as determined by the Title IX Coordinator. Good cause may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

The hearing will be recorded through either an audio recording or transcript. That recording or transcript will be made available to the parties, upon request, for inspection and review. Prior to obtaining access to the recording or transcript, the parties and their advisors must acknowledge in writing that they will not disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the grievance process.

B. Procedural Matters

The Hearing Officer is in charge of organizing the presentation of information to be considered at the hearing. Generally, the hearing will proceed in the following order:

1. Opportunity for Opening Statement by the Complainant
2. Opportunity for Opening Statement by the Respondent
3. Questions for the investigator(s) by the Hearing Officer and, if desired, on behalf of Complainant and the Respondent (as described below)]
4. Questions for the Complainant by the Hearing Officer and, if desired, on behalf of the Respondent (as described below)
5. Questions for the Respondent by the Hearing Officer and, if desired, on behalf of the Complainant (as described below)
6. Questions for each witness by the Hearing Officer and, if desired, on behalf of Complainant and the Respondent (as described below)
7. Opportunity for Closing Statement by the Respondent
8. Opportunity for Closing Statement by the Complainant

Formal rules of evidence will not apply. Except as otherwise expressly prohibited by this Policy, any information that the Hearing Officer determines is relevant and not impermissible may be considered, including hearsay, history and information indicating a pattern of behavior. Generally, the College does not provide for character witnesses in other proceedings and they will not be permitted in investigations and the grievance processes conducted pursuant to this Policy. Absent extraordinary circumstances as determined by the Hearing Officer, no party may seek to introduce at the hearing any

evidence not previously made available for review by the parties, other than the investigative report itself and any responses to the investigative report submitted by the parties pursuant to the review and exchange provision above.

The Hearing Officer will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant or impermissible information. Subject to the terms of this Policy, the Hearing Officer will have discretionary authority to determine all questions of procedure, to determine whether particular questions, evidence or information will be accepted or considered, to call breaks or temporary adjournments of the hearing, and/or to recall parties or witnesses for additional questions as the Hearing Officer deems necessary or appropriate. The Hearing Officer may impose additional ground rules as the Hearing Officer may deem necessary or appropriate for the orderly and efficient conduct of the hearing, which will apply equally to both parties.

C. Advisors

The Complainant and the Respondent may each have present with them during the hearing an advisor of their choice (at the party's expense, if the advisor is a paid advisor).

The advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, address the Hearing Officer during the hearing, question the other party or witnesses, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in a quiet nondisruptive manner or in writing. The advisor may consult with the advisee verbally outside the hearing during breaks, when such breaks are granted by the Hearing Officer. If the Hearing Officer determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor. .

Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation. The Hearing Officer may be advised by and/or consult with the College's legal counsel as the Hearing Officer deems necessary or appropriate.

D. Questioning Procedures

The Hearing Officer will conduct questioning of the parties and any witnesses and will limit such questions to relevant and not impermissible questions and follow-up questions, including those challenging credibility.

The parties are not permitted to conduct direct questioning of the other party or witnesses during the hearing. The Hearing Officer will allow each party to propose questions that the party wants asked of the other party or any witness. The Hearing Officer will determine whether a proposed question is relevant and not impermissible before the question is posed, and will pose any relevant and not impermissible question (see definitions) to the other party or witness on the questioning party's behalf.

In the event the Hearing Officer excludes a question as not relevant or impermissible, the Hearing Officer will explain his/her decision. Such decisions by the Hearing Officer are final and not subject to objection or reconsideration during the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Hearing Officer will give the party proposing the question an opportunity to clarify or revise a relevant and not impermissible question that is determined to be unclear or harassing. If the party sufficiently clarifies or revises the question so that it is no longer unclear or harassing, the question will be asked. All questions must be directed toward and asked through the Hearing Officer. The Hearing Officer will pose all submitted questions deemed relevant and not impermissible, including those challenging credibility to the extent credibility is both disputed and relevant to evaluating one or more allegation under this Policy.

Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation. Any party or student witness may choose not to offer evidence and/or answer questions at the hearing. If a party or witness does not submit to some or all questioning on behalf of a party at the hearing, the Hearing Officer may nevertheless rely on statements of that party or witness, during the hearing or otherwise, in reaching a determination regarding responsibility, but may also choose to place less or no weight upon statements by the party or witness. The Hearing Officer will not draw an inference as to responsibility based solely on a party's or witness's absence from the hearing or refusal to answer some or all questions posed on behalf of a party.

E. Hearing Determinations

Following conclusion of the hearing, the Hearing Officer will deliberate and render a determination as to whether the Respondent is responsible or not responsible for the alleged violation(s). The Hearing Officer will use "preponderance of the evidence" as the standard of proof to determine whether each alleged violation of the Policy occurred. "Preponderance of the evidence" means that the Hearing Officer must determine whether, based on the evidence presented, it is more likely than not that the Respondent engaged in the conduct charged.

In any case where a student is a reporting party or responding party, each party may submit a written personal impact statement to the Title IX Coordinator for consideration by the Hearing Officer prior to a determination of an appropriate sanction in the event there is a finding of responsibility on one or more of the charges. The parties must submit their statements to the Title IX Coordinator within 24 hours after the conclusion of the hearing. The Title IX Coordinator will provide copies of any such written impact statements to the Hearing Officer for consideration in making a determination regarding appropriate sanctions if (but only if) the responding party is found responsible for one or more allegations. In the event written impact statements are provided to the Hearing Officer, the Title IX Coordinator will provide each of the parties an opportunity to review any statement submitted by the other party.

In addition to the impact statement(s), if any, factors considered when determining

sanctions may include:

- the nature and severity of, and circumstances surrounding, the violation(s);
- the Respondent's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.);
- the Respondent's previous disciplinary history;
- the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct;
- the need to remedy the effects of the conduct on the Complainant and/or the community;
- the impact of potential sanctions on the Respondent;
- sanctions imposed by the College in other matters involving comparable conduct; and
- any other lawful factors deemed relevant by the Hearing Officer.

The following are the sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and that further infractions of any College policy, procedure, or directive may result in more severe disciplinary action.
- **Probation:** A written reprimand for violation of the Policy, providing for more severe disciplinary sanctions in the event that the Respondent is found in violation of any College policy, procedure, or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified privileges, exclusion from extracurricular activities, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Cessation of student status for a definite period of time and/or until specific criteria are met.
- **Expulsion:** Permanent termination of student status.
- **Withholding Degree and/or Diploma:** The College may withhold a student's degree and/or diploma for a specified period of time and/or deny a student participation in commencement activities.
- **Other Actions:** In addition to or in place of the above sanctions, the Hearing Officer may assign any other sanctions as deemed appropriate, including but not limited to the following:
 - Mandated counseling so the Respondent has the opportunity to gain more insight into his/her/their behavior.

- A “no contact” directive (including but not limited to continuation of a no contact directive imposed as a supportive measure) prohibiting contact with one or more identified persons, in person or through telephonic, electronic, written or other means. A no contact directive may include additional restrictions and terms.
- Requiring the Respondent to write a letter of apology.
- Requiring unpaid service to the campus or local community stated in terms of type and hours of service.
- Restitution for damage to or misappropriation of property, or for personal injury, and other related costs.
- Loss, revocation or restriction of housing privileges (e.g., exclusion from specified locations).
- Monetary fines.

F. Notice of Outcome

The Hearing Officer will issue a written determination including the following information:

- A description of the allegations that were adjudicated;
- A description of the policies and procedures used to evaluate the allegations;
- The decision-maker’s evaluation of the relevant and not impermissible evidence and determination whether prohibited conduct occurred;
- Conclusions regarding the application of the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the College’s educational programs or activities will be provided to the Complainant; and
- The procedures and permissible bases for the Complainant and Respondent to appeal.

The Title IX Coordinator will provide the written determination to the parties simultaneously.

XIII. Appeals

A respondent or complainant may appeal: (1) a determination regarding responsibility, and (2) the College’s dismissal of a complaint or any allegations therein.

If a party wishes to appeal a determination regarding responsibility or the dismissal of a complaint, the party must submit written notice to the Title IX Coordinator of the party's intent to appeal within five (5) business days of receiving the written notification of the appealable decision.

A respondent or complainant may appeal on the following bases:

- Procedural irregularity that would change the determination regarding responsibility or dismissal of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that would affect the determination regarding responsibility or dismissal of the matter; and
- The Title IX Coordinator, investigator(s), or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the determination regarding responsibility or dismissal of the matter. The professional experience of an individual need not disqualify the person from the ability to serve impartially. Furthermore, bias is not demonstrated by working in complainants' or respondents' rights organization.
- The sanction imposed is disproportionate to the nature or severity of the violation(s) or otherwise inappropriate.

In the case of a claimed procedural irregularity, bias or new information, the appeal must also include a statement of the likely impact of the claimed irregularity, bias, or newly discovered information on the proceedings. A preponderance of the evidence standard will be applied on appeal.

When a party submits a written notice of its intent to appeal to the Title IX Coordinator within 5 business days of the appealable decision, College will notify the other party in writing and implement appeal procedures equally for both parties. If no written notice of either party's intent to appeal is sent, then the written determination becomes final after the time period to file an appeal (5 days) has expired.

Each party will be given a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. Each party will have at least three (3) business days to submit its written appeal statement. If a party needs additional time, it can request such additional time from the decision-maker for the appeal. Such requests will be granted on a case-by-case basis. If the decision-maker for the appeal grants a request for additional time to submit a written appeal statement, all parties will be granted the additional time.

In cases involving a student respondent, the appeal will be decided by a three-member Appeal Panel appointed by the Title IX Coordinator. In cases where the respondent is an employee of the College, the Title IX Coordinator will assign an Appeal Officer. The decision-maker for the appeal will not be the same person as the decision-maker(s) that

reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

The decision-maker(s) for the appeal will issue a written decision describing the result of the appeal and the rationale for the result. This decision will be provided to both parties simultaneously and in writing. Once the appeal decision has been sent to the parties, the appeal decision is final.

XIV. Timeframe for Resolution

The College generally strives to resolve Complaints within no more than 90 business days of the filing of the complaint, excluding any appeal. Specific stages of the process will generally proceed within the following time frames: Initial Intake and review of Complaint: 5 business days; Investigation: 30 business days; Evidence Review and Investigative Report Review /Response: 25 business days; Adjudication/Hearing: 30 business days.

The time frames included in this policy may vary depending on the details of the complaint and, in some cases, extenuating circumstances that may require an extension of the time frames. Extenuating circumstances may include the time of the academic year (e.g., during Institute breaks or final exams), the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation by local law enforcement, or other unforeseen circumstances. In the event that the investigation and resolution exceed this time frame, Villa Maria College will notify the Complainant and Respondent of the reason(s) for the delay and the expected adjustment in the time frame.

XV. Notation on Student Transcripts for Crimes of Violence

If a student is suspended or expelled as a result of being found responsible for a Crime of Violence, Villa Maria must make a notation on the student's transcript that the student was "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." If a student withdraws from Villa Maria while such conduct charges related to crimes of violence are pending against the student, and declines to complete the disciplinary process, Villa Maria must make a notation on the student's transcript that he or she "withdrew with conduct charges pending."

These transcript notations can be appealed by contacting the Vice President for Enrollment Management, Brian Emerson at bemerson@villa.edu. Transcript notations for violence-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notations for violence-related expulsions shall never be removed from a student's transcript. A notation for an expulsion may not be removed via an appeal to Villa Maria. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed. Further, if a court vacates a finding of responsibility for a violation of College policy, the transcript notation memorializing that finding will also be vacated.

XVI. **Application to Faculty and Staff**

One or more of the College's personnel policies or faculty and staff handbook policies may overlap with this policy in a particular situation. This policy applies to any situation where a student is the complainant or respondent. In all other situations, the College reserves the right to apply this policy or another applicable College policy or process. The College will apply this policy to any situation where the College determines that Title IX requires the application of this policy.

XVII. **Academic Freedom**

The College is an academic institution at which academic freedom possessed by those who are teaching/conducting research and their students is necessary and valued. The College will not construe this policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

XVIII. **Clery Act Compliance**

The College is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Neither the names of individuals involved in incidents nor the specific details of the incidents are reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, the College will issue a timely warning to the campus, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/Complainant will not be disclosed.

XIX. **Education & Training**

Because Villa Maria College recognizes that prevention of sex discrimination, including sex-based harassment, as an important issue, the College offers educational programming to a variety of groups such as: campus personnel (Campus Safety, faculty, and staff); incoming students participating in orientation; and, members of student organizations, among others.

All College employees will receive annual training on:

- The College's obligation to address Sex Discrimination in its education programs or activities;
- The scope of conduct that constitutes Sex Discrimination under Title IX and this policy, including the definition of Sex-Based Harassment; and
- All applicable notification and information requirements with respect to reports of Sex Discrimination and when an employee is informed that the student is pregnant or experiencing a pregnancy related event.

The Title IX Coordinator and Deputy Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process or has the authority to modify or terminate supportive measures, will receive training on the following aspects of the policy: the College's obligations to respond to Sex Discrimination under Title IX and other relevant laws; the College's formal and informal resolution processes; the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under in the formal resolution process; the effects of trauma; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and the rights of the responding party (including the right to a presumption that the responding party is "not responsible" unless and until a finding of responsibility is made). Decision-makers will also receive training on any technology to be used at a live hearing, and issues of relevance and impermissibility of questions and evidence, including when questions and evidence about the reporting party's sexual predisposition or prior sexual behavior are not permissible. Individuals who facilitate informal resolution processes will also receive training on: the rules and practices associated with the College's informal resolution process; and on how to serve impartially, including by avoiding conflicts of interest and bias. Investigators will also receive training on conducting investigations of conduct prohibited under this Policy and issues of relevance and how to create an investigative report that fairly summarizes relevant and not impermissible evidence.

XX. **Climate Surveys**

Villa Maria will conduct an anonymous survey of students and employees to examine (1) the prevalence and incidence of Sexual Offense, (2) the perceptions of the campus climate, (3) the general awareness and knowledge of students and employees about the provisions of the New York Enough is Enough law, and (4) student experience with and knowledge of reporting and college adjudicatory processes. Participation in such climate survey shall be voluntary but will be encouraged. Villa Maria will take steps to ensure that answers to climate assessments remain anonymous and that no individual is identified. The College will publish an executive summary of the climate assessment survey results on Villa Maria website, provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual is shared.

XXI. **Coordination with Other Policies**

A particular situation may potentially invoke one or more College policies or processes. The College reserves the right to determine the most applicable policy or process and to utilize that policy or process.

XXII. **Designation of Authority**

Any College administrator or official empowered by this policy, may delegate their authority to any other appropriate College official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations

prevent a College official named in this policy from fulfilling their designated role.

XXIII. **Student Bill of Rights**

All students have the right to:

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

XXV. RIGHTS IN CASES INVOLVING SEXUAL ASSAULT, DOMESTIC/DATING VIOLENCE AND STALKING

Anyone reporting an incident of sexual assault, domestic or dating violence or stalking has the right to:

- Notify Campus Safety, Local Law Enforcement or the New York State Police;
- Emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including options;
- Information, where applicable, of the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
- Know that the criminal justice process utilizes different standards of proof and evidence than the College's procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;

- If they are a student, to contact the College’s Health and Counseling Center, where they may be offered confidential resources pursuant to applicable laws/College policies and can be assisted in obtaining services for reporting individuals; or to contact off-campus confidential resources;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to the College officials who can offer privacy or, in appropriate cases determined by the Title IX Coordinator, confidentiality, subject the College’s Policy against Sex-Based Harassment and Other Sexual Misconduct;
- Make a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College policy. A reporting individual’s identity shall remain private if that is what the reporting individual wishes, however privacy is not the same as confidentiality. Private information can be shared to implement and fulfill the College’s obligations under the law and its policies and procedures;
- Disclose, if the accused is a College employee of the institution, the incident to Human Resources or to request that a private employee assist in reporting to Human Resources;
- Receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court, such assistance to consist of facilitation in contacting appropriate local agencies who can provide direct assistance with court proceedings; and
- Withdraw a complaint or involvement from the College processes at any time.

Appendix A

Procedures for Complaints of Sex Discrimination, Sex-Based Harassment or Sexual Misconduct Between or Among Employees Effective August 1, 2024

I. OVERVIEW

Villa Maria College is committed to providing a learning and working environment in which all interpersonal relationships are based upon respect and dignity. Therefore, in accordance with Title IX of the Education Amendments of 1972 (Title IX), the Clery Act, the Violence Against Women Act, Title VII of the Civil Rights Act of 1964; and New York Education Law Article 129-B, Villa Maria College will not tolerate sex-based harassment or sexual misconduct, which are forms of discrimination on the basis of sex, that include any of the following when they impact or have the potential to impact the educational or employment environment of any members of the College community: sex discrimination, sex-based harassment (including harassment based on gender identity, gender expression, or transgender status); sexual assault; domestic or dating violence; stalking; sexual exploitation; or other behavior prohibited by the Villa Maria *Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Policy* (the “Policy”).

The College's policy and processes relative to conduct prohibited under the Policy and the definition of Prohibited Conduct, are described generally in the Policy. As set forth in the Policy, the processes described in the Policy apply to any situation where a student is a reporting party/complainant or responding party (as defined therein), and the College reserves the right to apply the processes described in the Policy or another applicable College policy or process in other situations. The College has established these Procedures to investigate and adjudicate allegations of Prohibited Conduct that (a) the College determines fall within the scope of Title IX, and (b) do not involve a student as a reporting party/complainant or a responding party.

These Procedures are effective on August 1, 2024, and will only apply to Prohibited Conduct (as defined in the Policy) that allegedly occurred on or after August 1, 2024. For alleged misconduct allegedly occurring prior to August 1, 2024, Villa Maria College will respond and comply in accordance with the Title IX statute and regulations, and College policy, in place at the time that the alleged misconduct occurred.

II. Jurisdiction of Procedures

As noted above, these Procedures apply to the investigation and adjudication of allegations of Prohibited Conduct that (a) the College determines fall within the scope of Title IX, and (b) do not involve a student as a reporting party/complainant or a responding party. All complaints meeting the requirements of the Policy ("Complaints") received or filed by the Title IX Coordinator will be reviewed by the Title IX Coordinator, who will determine whether the allegations meet the aforementioned criteria. The Title IX Coordinator may consult with other College officials for purposes of making this determination. If it is determined that the allegations fall within the scope of these Procedures, the Title IX Coordinator will:

- Offer, and if applicable provide or arrange for, resources and/or supportive measures in accordance with the Policy;
- Evaluate the Complaint for potential dismissal in accordance with the Policy;
- If appropriate offer, and if agreed upon by the parties and the Title IX Coordinator arrange for, an informal resolution process in accordance with the Policy; and
- If warranted, refer the Complaint to the Office of Human Resources for investigation and adjudication in accordance with these Procedures.

To the extent information is discovered during the course of carrying out these Procedures suggesting that other College policies and/or procedures may have been violated, the College may either (a) address such potential violations in accordance with these Procedures, or (b) initiate a separate and independent investigation that is outside the scope of these Procedures that will be handled in accordance with applicable College policies and procedures. If it is determined that a Complaint does not fall within the jurisdiction of these Procedures, the College will consider whether an alternative College policy or procedure is more applicable.

III. PRINCIPLES FOR HANDLING COMPLAINTS UNDER TITLE IX AND THESE PROCEDURES

- a. *Equitable Treatment*: The College will treat reporting parties/complainants and responding parties equitably.
- b. *Conflicts and Bias*: The College requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against reporting parties/complainants or responding parties generally or an individual reporting party/complainant or responding party. Under these procedures, a decisionmaker may be the same person as the Title IX Coordinator or

investigator, a supervisor or other appropriately trained College employee, or an appropriately trained external resource appointed by the Title IX Coordinator.

- c. *Presumption:* The College presumes that the responding party is not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of these Procedures.
- d. *Reasonably Prompt Timeframes:* The College will attempt to review, investigate, and adjudicate a Complaint within a reasonable time period, typically within no longer than seventy-five days after a Complaint is made, provided that the process may be extended with notification to the parties for good reason, including but not limited to the absence of party or a party's advisor (if applicable), or a witness; concurrent law enforcement activity; breaks in the academic schedule; or approved extensions. The timeframes of the major stages of the process are estimated as follows: Intake: 5 days; Investigation: 30 days; Evidence Review: 15 days; Determination/Adjudication: 15 days; and Appeal: 10 days. Both parties will be notified simultaneously if the College determines the process cannot be concluded within 75 business days. The notification will outline the reasons for extension.
- e. *Privacy:* The College will take reasonable steps to protect the privacy of the parties and witnesses under these procedures in accordance with the Policy. This means that College officials and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible, consistent with the College's obligations as employer and the need for the Title IX Coordinator to identify and address patterns and systemic issues. The College will limit disclosures as much as practicable, even if the Title IX Coordinator determines that a request for confidentiality cannot be honored.
- f. *Objectivity:* The College will objectively evaluate all evidence that is relevant and not impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a reporting party/complainant, responding party, or witness.
- g. *Advisors:* In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence or Stalking, the parties will be entitled to be accompanied by an Advisor of Choice (provided that any cost associated with a paid advisor will be the responsibility of that party) to the extent required by the federal Violence Against Women Act of 1994 (VAWA).
- h. *Impermissible Evidence:* The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies; will not be disclosed; and will] not otherwise be used), regardless of whether they are otherwise relevant:
 - evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written consent for use in the investigation and adjudication process; and
 - evidence that relates to the reporting party/complainant's sexual interests or prior sexual conduct, unless evidence about the prior sexual conduct is offered to prove that someone other than the responding party committed the alleged conduct or is evidence about specific

incidents of the alleged reporting party/complainant's prior sexual conduct with the responding party that is offered to prove consent.

IV. INVESTIGATION AND ADJUDICATION PROCEDURE FOR COMPLAINTS OF PROHIBITED CONDUCT FOR EMPLOYEES

A. Notice of Allegations

Upon initiation of the investigation and adjudication process under these Procedures, the College will notify the parties, verbally or in writing, of the following:

- The applicable process under these Procedures;
- Sufficient information available at the time to allow the parties to respond to the allegations, including (to the extent known) the identities of the parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
- That Retaliation is prohibited; and
- That the parties are entitled to an equal opportunity to access and respond to the relevant and not impermissible evidence, or an accurate description of such evidence, as provided in these Procedures.

If, in the course of an investigation, the College decides to investigate additional allegations of Prohibited Conduct that are not included in the notice, the College will notify the parties of the additional allegations.

B. Investigation

The College will provide for an adequate, reliable, and impartial investigation of Complaints. Investigations will be conducted by trained, impartial investigators. Investigators may be appropriately trained College personnel, or external investigators, as appointed by the Title IX Coordinator.

The burden is on the College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. The College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. The College will keep the investigation confidential to the extent reasonably possible and in keeping with applicable law. All employees, including managers and supervisors, are required to cooperate with any internal investigation. The College will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible.

The College will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of Prohibited Conduct and not otherwise impermissible, or a written or verbal description of such evidence, and to respond to such evidence before a determination is made. This description may, but is not required to, take the form of an Investigative Report that fairly summarizes the relevant and not impermissible evidence. If the College provides an Investigative Report or other description of the relevant and not impermissible evidence, it will provide the parties an equal opportunity to access the evidence upon request.

The College will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through these Procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Prohibited Conduct are authorized.

C. Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

When a party's or witness's credibility is in dispute, and such dispute is relevant to evaluating one or more allegations of Prohibited Conduct, the investigator and/or decisionmaker must have an opportunity to question such party or witness. If applicable, this will occur during individual meetings with a party or witness.

D. Determination Regarding Responsibility

Following an investigation and evaluation of all relevant and not impermissible evidence, the College will:

- Use the preponderance of the evidence standard of proof to determine whether Prohibited Conduct occurred. That means that cases shall be determined as to whether it is more likely than not that the responding party committed the alleged violation(s). This determination will be made by an appropriate College official.
- Notify the parties in writing of the determination whether Prohibited Conduct occurred, including the rationale for such determination, and, if applicable, the procedures and permissible bases for the reporting party/complainant and responding party to appeal;
- Not impose discipline on a responding party unless there is a determination at the conclusion of the process that the responding party engaged in Prohibited Conduct; and

If there is a determination that Prohibited Conduct occurred, the Title IX Coordinator will, as appropriate, coordinate the provision and implementation of remedies to a reporting party/complainant; coordinate the imposition of any disciplinary sanctions on a responding party (which sanctions may be determined by the decision-maker or his/her/their designee (who may include, without limitation, the responding party's direct or indirect manager or supervisor, or other appropriate College personnel)), including notification to the reporting party/complainant of any such disciplinary sanctions. Employees who are found responsible will be issued discipline in accordance with the current College Employee Handbook; and; will take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the College's education program or activity.

V. INTERPRETATION/OTHER ISSUES

Final interpretation of these Procedures is vested in the Title IX Coordinator, who will have discretion to construe any uncertain or disputed provisions. Issues that are not specifically addressed in this Policy may be resolved by the Title IX Coordinator in his/her/their discretion. Without limiting the generality of the foregoing, the Title IX Coordinator will have discretionary authority to interpret, construe and apply the terms of these Procedures in conjunction with the terms of the Policy, and to resolve any conflicts between such terms.

VI. DISABILITY ACCOMMODATIONS

These Procedures do not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the processes described above that do not fundamentally alter the applicable process(es). The Title IX Coordinator may consult with the Office of Accessibility Services & Accommodations to provide support to individuals with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973 (if applicable). The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other institutional programs and activities.

VII. DELEGATION OF AUTHORITY AND USE OF EXTERNAL RESOURCES

Any College administrator or official whom these Procedures empower to act may request that the Title IX Coordinator delegate that authority to another appropriate College official, or the Title IX Coordinator in his/her/their own discretion may delegate that administrator's or official's authority to act to another appropriate person. The Title IX Coordinator may also delegate his/her/their responsibilities and/or authorities under these Procedures to any other appropriate official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a College official named in these Procedures from fulfilling his/her/their designated role.

The College may utilize appropriately trained external personnel for any role under these Procedures as it may deem necessary or appropriate. Any College administrator or official involved in implementing these

Procedures may seek the advice of the College's legal counsel, to be coordinated through the Title IX Coordinator.