



## Sexual Misconduct Policy

Magdalen college of the Liberal Arts is committed to providing a learning, working, and living environment free from all forms of sexual harassment, sexual assault and other forms of sexual violence, dating violence, domestic violence, and stalking (hereafter “Sexual Misconduct”). Thus, the College flatly prohibits conduct which constitutes sexual harassment, sexual assault and other forms of sexual violence, dating violence, domestic violence, and stalking as those terms are defined in the College’s written Policy on Discrimination, Harassment and Sexual Misconduct which can be found in Appendix A to this document.

All employees of Magdalen College of the Liberal Arts (except for confidential advocates, professional counselors, priests and other designated pastoral personnel, and health care professionals) are obligated to report alleged incidents of sexual misconduct, sexual harassment, sexual assault, sexual violence, dating violence, domestic violence, and stalking to the Title IX Coordinator to assure that the matter is handled promptly and appropriately by qualified and trained personnel and that corrective and remedial actions may be taken as warranted, including interim measures. Prompt reporting of such incidents enhances the College’s ability to remedy such misconduct and to prevent its recurrence.

Students reporting incidents of alleged interpersonal violence sometimes ask that the students’ names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged violence. In such cases, the Title IX Coordinator (or designee) will inform the student that honoring the request may limit the College’s ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator, and will explain that College Policy and the law include protections against retaliation.

If the student still requests that his or her name not be disclosed to the alleged perpetrator or that the College not investigate or seek action against the alleged perpetrator, the Title IX Coordinator (or designee) will determine whether or not the College can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the incident of alleged violence. Resources and services are available to students, faculty, and staff who experience sexual assault and other forms of sexual violence, domestic violence, dating violence, and instances of stalking. In these situations, the College is committed to providing crisis intervention measures for students, faculty, and staff, as well as appropriate administrative response for the complainant and respondent; referring individuals to criminal authorities; and educating and promoting discussion on abuse and violence issues.

A victim of sexual violence, dating violence, domestic violence, or stalking has the option of filing a criminal complaint. Telling one’s experience to the Title IX Coordinator (or designee) does not obligate the individual to report it to the police, nor does reporting it to the police obligate someone to file a formal complaint under the College’s policy; these are separate processes. College process and criminal process can occur simultaneously, or they can occur independently. If a victim would like to notify law enforcement, the Title IX Coordinator (or designee) can assist with that notification. The College encourages victims of sexual assault and other forms of sexual violence, dating violence, domestic violence, and stalking to report these matters to the police.

Magdalen College of the Liberal Arts prohibits retaliation by its officers, administrators, employees, agents, students, and other members of the College community against any individual who exercises his/her rights or responsibilities under College Policy, Title IX of the Education Amendments, the Clery Act, Campus SaVE Act, or any other applicable federal or state law, rule, or regulation. The College will take steps to prevent retaliation and will also take strong responsive action if it finds that retaliation has occurred.

### **If you are a victim of sexual misconduct:**

- Don’t blame yourself. Remember you are not to blame for what happened to you, no matter what the circumstances were.
- Get to a safe place. Victims will be notified in writing of the procedures to follow if they become a victim of sexual misconduct. This notification will include:
  - The importance of preserving evidence as the evidence may assist with the investigation, serve as proof of offense, and/or as proof in connection with obtaining a protection from abuse order. Avoid destruction of the evidence by bathing, changing/washing clothes, or cleaning up in any way. Preserve evidence in a paper bag for possible future action. Also, keep copies of emails, text messages, and voice messages. The notification will include information on where to get a forensic examination, which does not require the filing of a police report. The preservation of

evidence, including a forensic examination, may be helpful if a victim later decides to file a report with the police. A forensic examination can be provided at a local emergency room.

- To whom and how the alleged offense should be reported.
- The following options regarding notification to law enforcement:
  - Option to notify local police;
  - Option to be assisted by campus security authorities in notifying law enforcement if the victim so chooses; and
  - The option to decline to notify such authorities. Where applicable, the rights and responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court. (see the section titled “Sanctions and Protective Orders” below for more information about how to obtain a protection order).

### Services to Victims

- Victims will also be notified in writing about existing counseling, health, mental health, victim advocacy, student financial aid, and visa and immigration assistance and other services available for victims both on and off-campus.
- **Student Financial Aid:** Sometimes a victim of a crime may feel the need to take a leave of absence from school. If a student is considering a leave of absence based on the circumstances of a complaint, he/she should understand there may be financial aid implications in taking such leave. This should be discussed with financial aid personnel, and the Title IX Coordinator (or designee) can assist in facilitating this conversation if desired.
- Victims also will be notified in writing about options for available assistance in changing academic, living, transportation and working situations (to the extent those matters are under the control of the College). The College will provide such accommodations or protective measures if requested to do so by the victim and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus security or local law enforcement. To request an accommodation, a victim should contact the Title IX Coordinator.

At any time after receiving notice of an allegation of a violation of this policy, the College may provide reasonable and appropriate interim measures to address the immediate effects of discrimination, harassment, sexual misconduct or retaliation to ensure equal access to its education programs and activities and to protect the alleged victim and the campus community as necessary. The Title IX Coordinator (or designee) will notify the alleged victim of his/her options for interim measures. Additionally, the Title IX Coordinator (or designee) has sole discretion to implement or stay an interim measure imposed under this policy and to determine its conditions and duration. The measures that the College implements will vary depending on the facts of each case. Factors that might be considered during this process include, but are not limited to the following: the specific need expressed by the alleged victim; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the alleged victim; whether the alleged victim and alleged perpetrator share the same residence hall, class, transportation or job location; and whether other judicial measures have been taken to protect the victim (e.g., civil protection orders). The College will keep interim measures as confidential as possible, provided the confidentiality does not impair the College’s ability to provide the accommodations or protective measures.

These interim measures may include, but are not limited to:

- Imposition of a “no contact order,” an administrative remedy designed to curtail contact and communications between two or more individuals.
- Interim suspension of a student or employee.
- Referral to counseling and health services.
- Rescheduling of exams and assignments.
- Change in class schedule, including the ability to transfer course sections or withdraw from a course when possible.
- Change in work schedule or job assignment.
- Change in campus housing as available and extracurricular activities.
- Denying access to campus housing, facilities, events and/or activities.
- Any other remedy that can be used to achieve the goals of this policy.

In the event any cleric or religious, for whom there is reasonable cause to suspect unwelcome sexual contact against a student, will be immediately suspended from private interactions with students until such time as the matter is resolved. So too, in the event any non-cleric employee for whom there is reasonable cause to suspect unwelcome sexual contact against a student, will be immediately suspended from private interaction with students, until the matter is resolved or the Title IX Coordinator (or designee) determines such restrictions are no longer needed. The Title IX Coordinator (or designee) is responsible for determining what necessary information about a victim should be disclosed and to whom this information will be disclosed in order to provide accommodations or protective measures in a timely manner. The Title IX Coordinator (or designee) will carefully consider who may have access to this information to minimize the risk to a victim’s confidentiality. If necessary to disclose personal information for this purpose, the College will notify the victim in advance as to which information will be shared, with whom it will be shared and why.

## **Responsible Employee Title IX Guidelines:**

If you are a Magdalen College of the Liberal Arts Faculty or Staff member and a complainant approaches you to disclose or expresses a desire to disclose an incident of sexual harassment, sexual assault, other forms of sexual violence, dating violence, domestic violence, or stalking you should do the following:

### **1. Talk about confidentiality.**

Explain your mandatory reporter status the moment you realize a student might be about to discuss sexual assault or harassment. Confidential resources (i.e., professional counselor, priest, pastoral counselor, or health care professional) are not required to report the incident to the College's Title IX Coordinator. Tell the student that you will be required to report their assault or harassment to Magdalen College and cannot guarantee them complete confidentiality. Assure the student that the Title IX officials will do their best to respect his/her wishes but must consider the safety of other students on campus as well.

If the student is willing to talk with you about the situation without the guarantee of confidentiality, then move to Step #3.

### **2. Explain how to receive confidential services.**

Explain to the survivor that they may discuss their experience in a free, confidential environment with our campus counselor, Mr. Dan Offsay. They can arrange for these services by requesting an appointment via e-mail ([doffsay@magdalen.edu](mailto:doffsay@magdalen.edu)), or by phone (860) 303-8471.

### **3. Report the Assault.**

Talk to the survivor about reporting the incident to the local police. Remind the survivor that reporting the assault is not the same as prosecuting the assault. They can contact the police and weigh their options before making a decision about filing a criminal complaint. The police can provide valuable information that might assist the student in making an informed decision. If the survivor is willing, contact the Warner Police Department at 603-4563433 or dial 911.

If the survivor does not want to call the police, move on to the next step.

### **5. Seek Professional Assistance.**

Inform the survivor about national sexual assault telephone hotline. RAINN advocates are on call 24/7 to provide support, information, and referrals. Call 800-656-HOPE to contact an advocate. When the survivor calls the hotline he/she will be routed to a local RAINN affiliate organization based on the first six numbers of the phone number placing the call. Cell phone callers have the option to enter the ZIP code of their current location to more accurately locate the nearest sexual assault service provider.

If the survivor does not want to call the hotline, move on to the next step.

### **6. Recommend Medical Attention.**

Encourage the survivor to seek medical attention. Getting medical attention as soon as possible after an assault is important, whether or not a survivor plans to file a criminal complaint. Medical attention can detect, document and treat physical injury, sexually transmitted infections and pregnancy. Options to consider would be Concord Hospital or Dartmouth Hospital.

### **7. Seek Emotional Support.**

Encourage the survivor to seek emotional support and assistance. Refer to step #2 for more information.

### **8. Seek Judicial Support through the Title IX Coordinator (Mandatory and must be completed as quickly as possible)**

Explain to the survivor that the Office of Student Life can assist with filing a complaint against the alleged assailant, help initiate a "No Contact Order," help arrange interim protective measures (such as class schedule changes), and complete an investigation. Make note that involving Office of Student Life is not the same as filing a police report. The Office of Student Life is responsible for the judicial process for students alleged to have violated a provision of the Student Code of Conduct. To make a report, contact Title IX Coordinator Ms. Mazel Belt at (702) 343-9625.

## On-Campus Investigation and Adjudication

The College has detailed processes and procedures for resolving complaints of sexual misconduct (i.e., sexual harassment, sexual assault, domestic violence, dating violence, stalking and other forms of sexual violence) as set forth in the Policy on Discrimination, Harassment, and Sexual Misconduct (“Policy”). Individuals who believe they have been subjected to sexual misconduct can file a complaint with:

Name	Title	Contact Information
Dr. Eric Buck	Interim President	ebuck@magdalen.edu
Daniel Peterson	Chief Operating Officer	dpeterson@magdalen.edu
Mazel Belt	Director of Campus Safety/ Dean of Students/ Title IX Coordinator	mbelt@magdalen.edu
Samuel Fusini	Dean of Men	sfusini@magdalen.edu
Any Resident Assistant		

Where discrimination, harassment and sexual misconduct are involved, this Policy shall supersede all other policies and procedures set forth in all other College policies and handbooks. All allegations of misconduct not involving discrimination, harassment or sexual misconduct will be addressed through the procedures elaborated in the respective student, faculty or staff/employee handbooks. If the accused individual has dual status, or in cases where there are multiple accused individuals with varying statuses, the Title IX Coordinator (or designee) will determine the appropriate resolution process under this policy.

Where the accused individual is not a member of the College community (such as a vendor, contractor, third party or visitor), the College is not required to follow the entire process described in this Policy or in the above specified handbooks. In such cases, the College reserves the right to take summary action. When there are multiple complainants making complaints against a single respondent, or a single complainant making complaints against multiple respondents, each complaint will usually be addressed separately under these procedures. If the complaints arise from the same set of facts, the investigator and Title IX Coordinator (or designee) may merge the complaints into a single complaint for investigation and resolution purposes.

Similarly, reciprocal allegations by a respondent against a complainant or additional allegations raised by a complainant after the initial complaint may be combined for investigation and resolution purposes. Certain forms of sexual misconduct (i.e., sexual assault and violence, dating violence, domestic violence, and stalking) may constitute criminal conduct. Whether or not someone who has been subjected to such conduct chooses to pursue criminal charges externally, they have the right to pursue an internal complaint under this policy, regardless of the status of any external proceedings.

Further, the College may have an obligation to pursue an investigation, or make a complaint and/or take remedial action directly even if a victim chooses not to pursue the matter internally at the College and/or requests that his/her name not be disclosed to the alleged perpetrator.

### Initiation of the Process under this Policy

The investigation and adjudication of complaints under this policy will be prompt, fair and conducted by qualified persons who receive appropriate annual training on the issues and the subject matters encompassed by this policy as well as address the latest issues and techniques for conducting proceedings. This training may be delivered in person or by electronic means, such as webinar or video. Upon receiving a report for a violation of this policy, the Title IX Coordinator (or designee) will begin a preliminary review. Upon completing the preliminary review, the Title IX Coordinator (or designee) will determine whether or not there is reasonable cause to initiate a formal investigation (see below) and whether or not there is reasonable cause to move toward adjudication through either the Informal Resolution Process or Formal Resolution Process as described below. If reasonable cause is found, the Title IX Coordinator (or designee) will contact the complainant if someone other than the complainant made the report. In cases in which someone other than the complainant made the report, the reporting party may have no further involvement in the process.

The Title IX Coordinator (or designee) will notify the complainant in writing of available resources (such as counseling services, medical and mental health services, victim advocacy services), the right to report/file a criminal complaint with local law enforcement, and the option to seek a protection/restraining order from a court of law. The Title IX Coordinator (or designee) will

initiate the resolution process by notifying the respondent in writing that a complaint has been filed against him or her and inform the respondent of the nature of the complaint, providing a written copy or a summary of the complaint to the respondent and will notify the complainant of available resources (such as counseling services, medical and mental health services, advocacy services).

**The written notice will include the following information:**

- (i) The actual allegations and facts that would constitute sexual harassment
- (ii) A presumption of innocence
- (iii) A statement that the parties are entitled to the advisor of their choice
- (iv) A statement that parties can request to review and inspect certain evidence
- (v) Information regarding the code of conduct and false statements

The Title IX Coordinator (or designee) shall explain to both parties the avenues for informal and formal action, including a description of the process and the relevant avenues to the complainant and respondent and provide each of them with a copy of this policy. The Title IX Coordinator (or deputy coordinator) shall have the authority to take all reasonable and prudent interim measures to protect the parties pending completion of the investigation and during the informal or formal procedures to resolve the complaint, including interim disciplinary measures if necessary and appropriate.

**Informal Resolution Process:**

The College encourages informal resolution when the parties desire to resolve the situation cooperatively. Informal resolution may include inquiries into the facts, but does not rise to the level of a formal investigation. The informal resolution process is designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow, the informal process will be initiated as soon as possible after the filing of the complaint or receipt of a report of an alleged violation, absent any unusual circumstances. With the concurrence of the complainant and the respondent, an investigator assigned by the Title IX Coordinator (or designee) and/or the Title IX Coordinator (or designee) will seek an outcome through informal resolution with the assistance of an appropriate College official designated by the Title IX Coordinator (or designee). Any resolution through this informal resolution procedure must be mutually agreed upon by the parties involved. Both the complainant and the respondent have the right to bypass or end the informal resolution process at any time and initiate a formal resolution investigation and hearing. Any failure to comply with the terms of an informal resolution agreement may result in disciplinary action/sanctions and/or, if warranted, a further allegation of misconduct. Informal resolution includes, but is not limited to mediation, separation of the parties, referral of the parties to counseling programs, conducting educational and/or training programs, or other remedial measures. Situations that are resolved through informal resolution are usually subject to follow up after a period of time. Steps taken by the Title IX Coordinator (or designee) to help the parties achieve informal resolution will be documented. Some reports of alleged violations of this policy may not be appropriate for informal resolution and may require a formal investigation at the discretion of the Title IX Coordinator (or designee). The Title IX Coordinator (or designee) will review the resolution and may approve it, reject it, or require modification. If the resolution is approved, the investigator will prepare a written memorandum and will present the memorandum to the parties for their review and approval. The investigator will then provide the parties with simultaneous written notice that the complaint has been resolved. Typically an Informal Resolution will be completed within 45 days of the receipt of the complaint. If additional time is needed, both parties will be notified.

**Formal Resolution Process:**

If the allegation of alleged violation of this policy has not been resolved as a result of the informal process or is not suited for informal efforts, or if either the complainant or the respondent requests to invoke the formal resolution process, a formal investigation will be initiated.

The formal resolution process will involve an investigation and a hearing panel determination. An investigation by the College and a decision by the hearing panel will, in most cases, be rendered within sixty (60) calendar days of the filing of a complaint. This time period can be modified for good cause at the discretion of the College's Title IX Coordinator (or designee), if deemed necessary to conduct a thorough investigation or to protect the rights of all parties. If the investigation and resolution for the alleged violation will not be completed within 60 calendar days from the filing of the complaint, the complainant and the respondent will be notified.

Because sexual misconduct may constitute both a violation of this policy and criminal laws, the College encourages individuals to report alleged criminal sexual misconduct to law enforcement agencies. Although individuals are encouraged to notify law enforcement agencies, they are not required to do so. Whether or not an individual who has been subjected to sexual misconduct chooses to pursue criminal charges externally, they have the right to pursue an internal complaint under this policy, regardless of the status of any external proceedings. As such, a victim may seek recourse under this policy and/or pursue criminal action. In certain circumstances, the College may have an obligation to pursue an investigation, make a complaint, and/or take remedial action directly, even if a victim chooses not to pursue the matter internally at the College and/or requests that their name not be disclosed to the alleged perpetrator.

Law enforcement's determination of whether or not to prosecute a respondent, nor the outcome of any criminal prosecution, is determinative of whether a violation of College policy has occurred. The College will assist a victim, at the victim's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a victim decides to pursue the criminal process. In addition, the College will assist an alleged victim of sexual misconduct, who is interested, in obtaining a protection/restraining order from a court of law. If a complainant obtains such a court order, Campus Security will enforce the court order on campus. The investigation and proceedings under this policy may be carried out prior to, simultaneously with, or following any external civil or criminal proceedings occurring off-campus. At the request of law enforcement, the College may agree to defer its fact gathering for a brief period during the initial evidence-gathering stage of a criminal investigation.

The College will nevertheless communicate with the complainant and respondent regarding support, options for resolution and the implementation of interim measures to address concerns regarding their safety and well-being. The College may also take immediate and prompt steps that it deems necessary to protect the College community. The College will promptly resume its fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

### **Formal Investigation**

This policy provides for a thorough, prompt, fair and impartial investigation. The trained investigator appointed by the Title IX Coordinator (or designee) will conduct the formal investigation. The College reserves the right to utilize outside trained investigators as needed. During an investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The investigator will review evidence presented and will meet with additional witnesses identified by the complainant, the respondent, or third parties, as determined appropriate by the investigator.

All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information throughout the investigation process. In some cases, the investigator may interview the parties on more than one occasion. The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. Additionally, the investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. Evidence that is irrelevant or whose prejudicial effect substantially outweighs its probative value may be excluded from consideration by the investigator or the Hearing Panel.

### **Investigation Report**

Upon completion of the investigation, the investigator will provide both the complainant and the respondent with the opportunity to review the written report and submit the written report to the Title IX Coordinator (or designee). The report will detail the allegations made by the complainant; summarize the statements of the complainant, respondent and witnesses; describe the findings and conclusions of the investigation; and include a recommendation as to whether or not there is sufficient evidence, by a clear and convincing evidence standard, to support a finding that the respondent violated this policy. The Title IX Coordinator (or designee) will refer the case for a hearing before the Hearing Panel for further proceedings as outline in this policy.

### **Hearing Panel:**

At the conclusion of the hearing, the Hearing Panel will deliberate in private regarding whether the respondent is "In violation" or "Not in violation" of this policy. The Chairperson and Hearing Panel may confer with the Title IX Coordinator, (or designee) as needed. Evidence will be evaluated under a "clear and convincing evidence standard," meaning that the evidence is highly and substantially more likely to be true than untrue. The respondent will be found "In violation" of the policy if, based upon the entirety of the evidence presented during the hearing, it is determined that "it is highly probable" that the respondent violated the policy in question. A majority vote is required. If there is a finding that the respondent is "In violation" of this policy, sanctions will be imposed as described below. The parties will be advised in writing of the decision and the imposed sanctions, if applicable.

The written decision will summarize the hearing panel's rationale for the decision and, where applicable, will summarize credibility determinations that were important to the decision.

### **Sanctions:**

- If there is a finding that the respondent is "In violation" of this policy, a sanction will be imposed.
- Sanctions for students will be determined by the Dean of Students (or designee) and may include: warning, restitution, disciplinary probation, suspension for a definite period of time after which the student is eligible to return (Note: Conditions for readmission may be specified), permanent dismissal, specialized treatment off-campus, no contact orders, trespass from campus, housing restrictions, adjustments to course schedules, revocation of admission, restrictions on participation in graduation and/or other College programs or activities, and/or other educational sanctions deemed appropriate under the circumstances.
- Sanctions for College employees (other than faculty) will be determined by the Human Resources Director (or designee) and may include, warning, restitution, suspension for a definite period of time after which the employee is eligible to return

(Note: Conditions for reemployment may be specified), permanent termination from employment, required counseling, educational measures, and/or other sanctions deemed appropriate under the circumstances

- Sanctions for College faculty will be determined by the Academic Dean (or designee) and may include, warning, restitution, suspension for a definite period of time after which the faculty member is eligible to return (Note: Conditions for re-employment may be specified), permanent termination from employment, required counseling, educational measures, termination of an appointment with tenure or of a non-tenured appointment (for faculty) and/or other sanctions deemed appropriate under the circumstances.
- Imposed sanctions will remain in effect pending the outcome of any appeal process; although a request may be made to the Chairperson of the Hearing Panel to delay implementation of the sanctions until the appeal is decided.
- Both parties will be notified in writing simultaneously of the panel's decision. The parties will also be informed of the sanctions imposed, if applicable, and the College appeal procedures. The Chairperson will also promptly notify the Title IX Coordinator (or designee) in writing of the decision and the sanctions imposed, if applicable. Regardless of the outcome of the formal hearing, interim measures may be provided to the complainant or respondent by the Title IX Coordinator (or designee). Such interim measures (as described hereinabove) include any appropriate remedy warranted by the circumstances.

## Appeals:

Complainants and respondents may file a written appeal with the College's Title IX Coordinator (or designee) within seven (7) calendar days from the date of the decision. To file an appeal, please fill out the Request for Appeal form found on the website or contact the Title IX Coordinator (or designee) to obtain a paper version of the Request for Appeal Form. The non-appealing party will have an opportunity to provide a written response to the request for appeal via by contacting the Title IX Coordinator (or designee) to obtain a paper version of the Response Statement. This Response Statement must be submitted within seven (7) calendar days of receipt of Request for Appeal. If the appeal request is not timely filed with the College's Title IX Coordinator (or designee), the appeal will be dismissed and the Hearing Panel's decision and imposed sanctions (if applicable) will stand. However, as to respondent faculty members, if the proposed sanction includes suspension or dismissal of a faculty member and the appeal is dismissed, the matter will be referred to the College's President, who will decide whether to initiate the process set forth in the Faculty Handbook for imposition of such a sanction. The only grounds for appeal are as follows:

- The appropriateness of the sanction(s) relative to the violation(s);
- A conflict of interest on the part of a Title IX Coordinator, an investigator who compiled evidence, or a decision maker, and the conflict of interest affected the outcome.
- To consider substantive new evidence, unavailable during the investigation or at the time of the hearing, that could substantially impact the original finding or sanction;
- A procedural or substantive error occurred that significantly impacted the outcome of the hearing; and/or
- The decision of the Hearing Panel was unsupported by substantial evidence. Substantial evidence refers to evidence that a reasonable person could accept as adequate to support the decision.

If an appeal is timely filed, the President (or designee) will review the case and may issue the following outcomes:

- Affirm the decision and imposed sanction(s) rendered.
- Affirm the decision and change the sanction(s) imposed to a lesser or more severe sanction.
- If the President (or designee) determines that a procedural or substantive error(s) occurred in the Formal Resolution Process, the case may be remanded to the Hearing Panel with specific instructions to correct the error(s) and reconsider the case.
- If the President (or designee) determines that the appeal request contains substantive new information, the case shall be remanded to the Hearing Panel to reconsider the case in light of the new information.
- Reverse the decision (and imposed sanctions if applicable) rendered as the decision was unsupported by substantial evidence. The decision of the President (or designee) will be final. The President (or designee) will generally decide an appeal within twenty (20) calendar days from when the appeal was received; if the decision will take longer, the President (or designee) will let the parties know.

The President (or designee) will provide written notification to the complainant and respondent after a decision has been determined. Sanctions and Protective Orders Sanctions, protective orders, and corrective actions will be implemented on a case-by-case basis for violations of the College's Policy on Discrimination, Harassment and Sexual Misconduct and they will be appropriate to the circumstances and gravity of the violation. The College will assist a victim of sexual misconduct, who is interested, in obtaining a protection/restraining order from a court of law.

If a victim has obtained an order of protection or restraining order or other no contact order against the alleged perpetrator, the victim must provide such information to the Title IX Coordinator (or designee) so that the College can take all reasonable and legal action to implement the order in the College's jurisdiction. Moreover, a victim can obtain a "no contact order" through the College by contacting the College's Title IX Coordinator or a Deputy Title IX Coordinator. The possible sanctions for employees, faculty and

students are set forth in the section hereinabove. The College will take appropriate steps to prevent recurrence of any violations and to remediate the effects on the complainant and the campus community, if and as appropriate. Protective measures will also be taken if and as necessary (for example, the continuation of no-contact orders and other accommodations such as those discussed above under interim measures).

### **Simultaneous Notifications**

In the process described above, there will be simultaneous notification, in writing, to both the complainant and the respondent, of:

- the result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
- the institution's procedures for the accused and the victim to appeal the result of the disciplinary proceedings, if such procedures are available;
- any change to the result; and
- when such results become final. Advisors During the process described above, each party has the right to choose and consult with an advisor of their choice throughout the investigation and resolution process. The advisor may be any person who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any interview, meeting or proceeding related to the investigation and resolution process. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in such interviews, meetings or proceedings. An advisor shall keep all information acquired during the process confidential. The College reserves the right to dismiss an advisor who fails to follow this policy.

### **Victims to Receive Written Explanation of Rights and Options**

When a student or employee reports being a victim of domestic or dating violence, sexual assault or stalking, whether on or off-campus, the College will provide a written explanation of the victim's rights and options as described above.

### **Disclosure of the Outcome of a Crime of Violence or Non-Forcible Sex Offense**

The College will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, USC), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the College against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph. The previous paragraph does not apply to victims of dating violence, domestic violence, sexual assault, or stalking because under the Violence Against Women Act both the accused and accuser in these cases are given the results without the need to make a written request.

### **Education, Awareness, and Prevention Practices**

The College strives to foster a safe living, learning, and working environment for all members of the campus community. To accomplish this, Magdalen College of the Liberal Arts provides educational and ongoing communication programs that address all aspects of sexual assault, sexual violence, and other forms of sexual misconduct, dating violence, domestic violence, and stalking. Incoming students and new employees participate in primary prevention and awareness programs related to sexual violence and assault (including rape and acquaintance rape), domestic violence, dating violence, and stalking.

*Among other topics, these training programs include:*

- A statement that the institution prohibits these offenses
- The definitions of these offenses (see Appendix A)
- The definition of consent (see Appendix A)
- Safe and positive options for bystander intervention to prevent harm or intervene in risky situations
- Recognition of signs of abusive behavior and how to avoid personal attacks • The impact that these acts have on victims
- The College's policies and procedures related to sexual misconduct, including what has been covered in the prior sections of this report

While these programs undoubtedly have an impact, the College is committed to integrating prevention and awareness of sexual violence, dating violence, domestic violence, and stalking into its culture. To achieve this goal, Magdalen College of the Liberal Arts provides an ongoing prevention and awareness campaign for all students and employees. This training is designed to increase understanding of topics relevant to and skills for addressing instances of sexual misconduct using a range of strategies. This includes but is not limited to:

- Primary education programs for faculty, staff, and new students
- Annual education programs for the entire campus community
- A communication campaign that promotes:
  - The understanding and responsibility of the campus community
  - The understanding of the impact of these acts on victims and the cognizance of resource available to victims
  - Utilization of safe bystander intervention strategies

- Prompt and effective reporting of alleged misconduct in accordance with established College procedures. Furthermore, the College strives to offer education, prevention, and awareness programming, consistent with its Catholic and Magdalen values. The following list is a sample of the programs offered over the last year: • Online Title IX Training • Title IX Orientation Presentation • New Student Formation • Brochures for Title IX, Bystander Intervention, Sexual Violence and Safety and Security • Title IX Training for Resident Directors and Resident Assistants • Safety Training • Bulletin Boards • Violence Prevention Training Risk Reduction Tips

**The following are some strategies to reduce one’s risk of sexual assault or harassment:**

- Acknowledge that use of alcohol and drugs can lower your inhibitions and make you more vulnerable.
- Lock the doors and windows in your vehicle and/or residence hall.
- Have your keys in hand when approaching your vehicle and/or residence hall.
- Don’t be afraid to ask for help if you find yourself in a situation that makes you uncomfortable.
- Try to avoid isolated areas, particularly with people that you don’t know or don’t trust.
- Walk with others especially after dark and in isolated areas. Trust your instincts. If a situation or location feels unsafe or uncomfortable, go with your gut. Call 911.
- Being intoxicated is not an excuse for immoral sexual activity or for using force. It does not diminish personal responsibility for violent behavior in either a criminal court or a college disciplinary hearing. Remember, consent cannot be given if one or both parties are incapacitated, including by alcohol or drugs.
- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Watch out for your friends and vice versa. If a friend seems out of it, is way too intoxicated, or is acting out of character, get him or her to a safe place immediately. Support your friends; intervene if you see them making decisions that are harmful to themselves or others.
- Don’t leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you’ve left your drink alone, get a new one. Don’t accept drinks from people you don’t know or trust.
- Don’t compromise. Set clear boundaries that respect your moral choices.
- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way out of a bad situation. Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows?
- Are there people around who might be able to help you? Is there an emergency phone nearby?

**How To Be an Active Bystander**

Bystanders play a critical role in the prevention of sexual and relationship violence. They are individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it. The College desires to promote a culture of community accountability in which bystanders are actively engaged in the prevention of violence without causing further harm. You may not always know what to do even if you want to help. Below is a list of some ways to be an active bystander.

- If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another, and it is not safe for you to interrupt.
- Watch out for your friends and fellow students/employees. If you see people who look like they could be in trouble or need help, ask if they are OK.
- Talk to your friends about ways to intervene. Provide a distraction that interrupts the situation. Pull one of the parties aside and speak with them.
- Make an excuse to separate those involved. • Create a plan to look out for friends when at parties.
- Confront people or speak up when someone discusses plans to take advantage of another person, particularly if the other person is incapacitated.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to on-or off-campus resources listed in this document.

**Warning Signs and Prevalence of Abuse**

Domestic abuse often escalates from threats and verbal abuse to violence. And while physical injury may be the most obvious danger, the emotional and psychological consequences of domestic abuse are also severe. Emotionally abusive relationships can destroy your self-worth, lead to anxiety and depression, and make you feel helpless and alone. No one should have to endure this kind of pain—and your first step to breaking free is recognizing that your situation is abusive. Once you acknowledge the reality of the abusive situation, then you can get the help you need. Signs that you may be in an abusive relationship (the more “yes” answers, the more likely it is that you’re in an abusive relationship):

- Your inner thoughts and feelings: Do you feel afraid of your partner much of the time? Do you avoid certain topics out of fear of angering your partner?
- Do you believe that you deserve to be hurt or mistreated? Do you feel emotionally numb or helpless? Are you nervous around your partner?
- Are you afraid of disagreeing with your partner? Is your partner always questioning you about your whereabouts?
- Your partner's belittling behavior: Does your partner blame you for his or her own abusive behavior? Does he or she hurt you or threaten to hurt you? Does he or she humiliate you or yell at you? Does he or she have a bad and unpredictable temper? Does he or she threaten to commit suicide if you leave? Does he or she act possessive or jealous about where you go or what you do? Does he or she isolate you from your family and friends?

Sexual assault and violence are forms of physical abuse. Any situation in which you are forced to participate in unwanted or degrading sexual activity is abuse. Forced sex, even by a spouse or intimate partner with whom you also have consensual sex, is an act of aggression and violence. Furthermore, people whose partners abuse them physically and sexually are at a higher risk of being seriously injured or killed.

It's still abuse if:

- The incidents of physical abuse seem minor when compared to those you have read about, seen on television, or heard other people talk about. There isn't a "better" or "worse" form of abuse.
- The incidents of physical abuse have only occurred one or two times in the relationship. Studies indicate that if your spouse/partner has injured you once, it is likely he or she will continue to physically assault you.
- The physical assaults stopped when you became passive and gave up your right to express yourself as you desire, to move about freely and see others, and to make decisions. It is not a victory if you have to give up your rights as a person and a partner in exchange for not being assaulted!
- There has not been any physical violence. Many women are emotionally and verbally assaulted. This can be as equally frightening and is often more confusing to try to understand.

According to the CDC's National Intimate Partner and Sexual Violence Survey:

- Approximately 1 in 5 (21.3% or an estimated 25.5 million) women and about 1 in 14 men (7.1% or nearly 7.9 million) in the U.S. reported completed or attempted rape at some point in their lifetime.
  - Over one-third of women (36.4% or 43.5 million) and over one-third of men (34.2% or 38.1 million) experienced psychological aggression by an intimate partner during their lifetime.
  - A majority of female victims of completed or attempted rape first experienced such victimization early in life, with 81.3% (nearly 20.8 million victims) reporting that it first occurred prior to age 25.
  - Nearly 1 in 6 women (16.0%, or 19.1 million) and 1 in 17 (5.8% or 6.4 million) men in the U.S. were victims of stalking at some point in their lifetime, during which they felt very fearful or believed that they or someone close to them would be harmed or killed.
- Effects of Abuse Men and women who experience rape or stalking by any perpetrator or physical violence by an intimate partner in their lifetime were more likely to report post-traumatic stress disorder, frequent headaches, chronic pain, difficulty with sleeping, activity limitations, poor physical health, and poor mental health than men and women who did not experience these forms of violence.

## Appendix A: *Definitions*

**A. Sexual misconduct** includes a range of behaviors used to obtain sexual contact against a person's will.

- Sexual misconduct includes all sex offenses prohibited under federal law.
- Sexual misconduct includes, but is not limited to, date rape, stranger rape, indecent exposure, and attempted sexual acts by use of verbal or non-verbal threats.
- Sexual misconduct includes sexual contact without consent by an acquaintance or a stranger and includes:
- Intentional touching without consent, either of the victim or when the victim is forced to touch, directly or through clothing, another person's genitals, breast, groin, thighs or buttocks;
- Rape, or attempted rape, as defined by the federal government: <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/violentcrime/rape>

**B. To constitute lack of consent, the act must be committed either:**

- By threat, force, or intimidation.
- Through the use of the victim's mental or physical inability, such as when the victim is physically or mentally incapacitated by alcohol or other drugs, or when the victim suffers from a mental state which renders him or her incapable of understanding the nature of the contact; or

- When the victim is less than sixteen years of age.

- C. Domestic violence** is abusive behavior that is physical, sexual and/or psychological and is intended to establish and maintain control over a partner.
- D. Dating violence** (or “relationship abuse”) is emotional, psychological, physical, sexual, or financial abuse (or, sometimes, a combination of these) perpetrated over a sustained period of time in order to gain and/or maintain power and control in a dating relationship.
- E. Stalking** is a course of conduct directed at a specific person that would cause a reasonable person to feel fear. A “course of conduct” can be defined as a pattern of behavior composed of two or more acts over a period of time, however short, that evidence a continuity of purpose. A “reasonable person” standard asks if a reasonable person in similar circumstances would be made afraid by the perpetrator’s behavior. A reasonable person fear standard can help avoid various subjective perceptions of fear, as different people may not be fearful of the same things.