

# Hendrix College

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TITLE IX POLICY

Dr. Jennifer Fulbright

DIRECTOR OF TITLE IX & TITLE IX COORDINATOR | FEBRUARY 2025

# Hendrix College Title IX Policy

## Table of Contents

Advisor ..... 6

Appeal Decision-maker ..... 6

Complainant..... 6

Complaint (formal)..... 6

Confidential Resource ..... 6

Day ..... 6

Directly Related Evidence ..... 6

Education program or activity ..... 6

Final Determination ..... 6

Finding..... 6

Formal Complaint..... 6

Formal Grievance Process or Process A..... 7

Hearing Chair ..... 7

Informal Resolution ..... 7

Investigator ..... 7

Mandated Reporter ..... 7

Notice ..... 7

Official with Authority (OWA)..... 7

Parties ..... 7

Process A or the Formal Grievance Process ..... 7

Process B ..... 7

Pregnant and parenting protections ..... 7

Hendrix College..... 7

Relevant Evidence ..... 7

Remedies..... 8

Respondent ..... 8

Resolution ..... 8

Retaliation ..... 8

Sanction.....	8
Sexual Harassment.....	8
Title IX Coordinator.....	8
Witness .....	8
Rationale for policy.....	8
Applicable Scope.....	9
Community Expectations.....	9
Title IX Coordinator.....	9
Independence and Conflict-of-Interest .....	10
Administrative Contact Information.....	10
Faculty/Staff Relationships with Students or Employees.....	12
Notice/Complaints of Discrimination, Harassment, and/or Retaliation .....	12
Supportive Measures.....	13
Emergency Removal .....	15
Promptness.....	16
Confidentiality/Privacy.....	16
Jurisdiction .....	16
Time Limits on Reporting.....	18
Online Harassment and Misconduct .....	18
Policy on Nondiscrimination.....	18
Disability Discrimination and Accommodation Policy.....	19
Students with Disabilities.....	19
Employees with Disabilities .....	20
Discriminatory Harassment Policy.....	20
Discriminatory Harassment .....	20
Sexual Harassment.....	21
Title VII Sexual Harassment .....	21
Title IX Sexual Harassment.....	21
Force, Coercion, Consent, and Incapacitation.....	24
Force .....	24
Coercion .....	24

Consent .....	24
Incapacitation .....	25
Other Civil Rights Offenses .....	26
1) Sexual Exploitation .....	26
1) Harm/Endangerment .....	27
2) Discrimination .....	27
4) Hazing.....	27
5) Bullying.....	27
Retaliation.....	27
Mandated Reporters and Confidential Resources .....	28
Confidential Resources .....	29
Mandated Reporters and Formal Notice/Complaints .....	29
When a Complainant Does Not Wish to Proceed.....	30
Federal Timely Warning Obligations.....	31
False Allegations and Evidence .....	31
Amnesty .....	32
Students .....	32
Employees.....	32
Pregnant and Parenting Students.....	33
Preservation of Evidence .....	33
<b>RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE HENDRIX COLLEGE TITLE IX POLICY</b> <b>(KNOWN AS PROCESS “A”)</b> .....	<b>35</b>
Overview .....	35
Notice/Complaint.....	35
Initial Assessment .....	36
Violence Risk Assessment .....	37
Dismissal (Mandatory and Discretionary).....	38
Counterclaims .....	38
Right to an Advisor.....	39
Who Can Serve as an Advisor .....	39
Advisor’s Role in Meetings and Interviews.....	39

Advisors in Hearings/Hendrix College-Appointed Advisor .....	39
Advisor Violations of Hendrix College Policy .....	40
Sharing Information with the Advisor .....	40
Privacy of Records Shared with Advisor .....	41
Expectation of an Advisor .....	41
Expectations of the Parties with Respect to Advisors .....	41
Assistance in Securing an Advisor.....	41
Resolution Processes .....	42
Informal Resolution .....	42
Alternative Resolution Approaches .....	43
Respondent Accepts Responsibility for Alleged Violations .....	44
Formal Grievance Process: Notice of Investigation and Allegations .....	44
Resolution Timeline .....	45
Appointment of Investigators.....	46
Ensuring Impartiality.....	46
Investigation Timeline.....	46
Investigation Process Delays and Interactions with Law Enforcement.....	46
Investigation Process Steps .....	47
Witness Role and Participation in the Investigation.....	49
Interview Recording.....	49
Evidentiary Considerations .....	49
Referral for Hearing .....	49
Hearing Decision-maker Composition .....	50
Additional Evidentiary Considerations in the Hearing.....	50
Hearing Notice .....	50
Alternative Hearing Participation Options.....	52
Pre-Hearing Preparation .....	52
Pre-Hearing Meetings.....	53
Hearing Procedures.....	53
Joint Hearings.....	54
The Order of the Hearing – Introductions and Explanation of Procedure .....	54

Investigator Presentation of Final Investigation Report.....	54
Testimony and Questioning.....	55
Refusal to Submit to Questioning, Inferences.....	55
Hearing Recordings.....	55
Deliberation, Decision-making, and Standard of Proof.....	56
Notice of Outcome.....	56
Sanctions.....	57
Student Sanctions.....	57
Student Organization Sanctions.....	58
Employee Sanctions/Responsive/Corrective Actions.....	59
Withdrawal or Resignation Before Complaint Resolution.....	59
Students.....	59
Employees.....	60
Appeals.....	60
Grounds for Appeal.....	61
Sanctions Status During the Appeal.....	62
Appeal Considerations.....	62
Long-Term Remedies/Other Actions.....	63
Failure to Comply with Sanctions and/or Responsive Actions.....	64
Recordkeeping.....	64
Revision of this Policy and Procedures.....	64

## Glossary

**Advisor** a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.

**Appeal Decision-maker** means the person who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.

**Complainant** an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.

**Complaint (formal)** a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that Hendrix College investigate the allegation.

**Confidential Resource** an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).

**Day** a business day when Hendrix College is in normal operation.

**Directly Related Evidence** documentation connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.

**Education program or activity** locations, events, or circumstances where Hendrix College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and includes any building owned or controlled by a student organization that is officially recognized by Hendrix College.

**Final Determination** a conclusion by the preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy.

**Finding** a conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged.

**Formal Complaint** a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the Title IX Office investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

**Formal Grievance Process or Process A** the method of formal resolution designated by Hendrix College to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.

**Hearing Chair** designee who has decision-making and sanctioning authority within the Hendrix College Title IX Formal Grievance process.

**Informal Resolution** a complaint resolution approved by the Parties that occurs prior to a formal Final Determination being reached.

**Investigator** the Title IX Coordinator serves as the investigator for Title IX allegations involving student respondent(s), anonymous reports, and all others The investigator, or designee, is responsible for gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

**Mandated Reporter** an employee of Hendrix College who is obligated by policy to *immediately* share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.

**Notice** occurs when an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority (OWA) of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

**Official with Authority (OWA)** means an employee of Hendrix College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of Hendrix College.

**Parties** include the Complainant(s) and Respondent(s) collectively.

**Process A or the Formal Grievance Process** detailed below and defined above.

**Process B** the administrative resolution procedures detailed in other applicable College policies or procedures that only apply when Process A does not, as determined by the Title IX Coordinator.

**Pregnant and parenting protections.** In alignment with other federal laws, provisions for reasonable accommodations for qualified applicants, students, or employees who have known limitations with pregnancy or other related issues including termination of pregnancy.

**Hendrix College** means a postsecondary education program that is a recipient of federal funding.

**Relevant Evidence** is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.



**Remedies** post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Hendrix College's educational program.

**Respondent** an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected characteristic; or retaliation for engaging in a protected activity.

**Resolution** the result of an Informal Resolution or Formal Grievance Process.

**Retaliation** Hendrix College and any member of Hendrix College's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

**Sanction** means a consequence imposed by Hendrix College on a Respondent who is found to have violated this Policy.

**Sexual Harassment** the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.

**Title IX Coordinator** official designated by Hendrix College to ensure compliance with Title IX and Hendrix College's Title IX program.

**Witness** persons identified by either party as having information directly related to the alleged Title IX policy violations.

## **Rationale for policy**

Hendrix College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination and harassment based on a protected characteristic, and retaliation for engaging in a protected activity.

Hendrix College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, Hendrix College has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of a protected characteristic, and for allegations of retaliation.

## **Applicable Scope**

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using “Process A” or “Process B,” as determined by the Title IX Coordinator and as detailed below.

When the Respondent is a member of the Hendrix College community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the Hendrix College community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

Hendrix College recognizes that reports and/or Formal Complaints under this Policy may include multiple forms of discrimination and harassment as well as violations of other Hendrix College policies; may involve various combinations of students, employees, and other members of the Hendrix College community; and may require the simultaneous attention of multiple Hendrix College departments. Accordingly, all Hendrix College departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable Hendrix College policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination and harassment or retaliation.

## **Community Expectations**

All members of the Hendrix community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated. Upon notice of gender or sex-based discrimination as described by this policy, appropriate measures will be taken to stop the conduct, remedy the effects on individuals and the Hendrix community, and prevent recurrence.

## **Title IX Coordinator**

The Hendrix College Title IX Coordinator, Dr. Jennifer Fulbright, can be reached at [Fulbright@hendrix.edu](mailto:Fulbright@hendrix.edu) or 501-505-2901 and offices on campus at the Student Life and Technology Center #150. The Title IX Coordinator has the primary responsibility for coordinating efforts related to the intake, initial assessment, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this Policy at Hendrix College.

***Independence and Conflict-of-Interest*** the Director of Title IX manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Director of Title IX contact the Executive Vice President for Academic Affairs & Provost, Dr. Teresa Garrett at [tgarrett@hendrix.edu](mailto:tgarrett@hendrix.edu) or 501-450-1254.

To raise any concerns of bias, potential conflict of interest, misconduct, or discrimination by any other Title IX Team member or Official With Authority (OWA) should be raised with the Director of Title IX, Dr. Jennifer Fulbright, at [Fulbright@hendrix.edu](mailto:Fulbright@hendrix.edu) or 501-505-2901.

### **Administrative Contact Information**

Any member of the community who believes they have experienced gender or sex-based discrimination or misconduct that violates Hendrix College Title IX Policy should report that conduct in person, via email, telephone to:

Name: Dr. Jennifer Fulbright

Role: Director of Title IX & Title IX/VI Coordinator

Office: Title IX Office, Student Life & Technology Center, #150

Phone: 501-505-2901

Email: [fulbright@hendrix.edu](mailto:fulbright@hendrix.edu)

In addition to the Title IX Coordinator, the following individuals have been designated by Hendrix College as Officials with Authority (OWA) to institute corrective measures on behalf of Hendrix College and may receive reports alleging possible policy violations. **Once an OWA receives a report or notice of an alleged violation of the Hendrix College Title IX policy, that OWA shall immediately forward the information to the Title IX Coordinator for review. The OWA shall not initiate the investigation process or contact any other involved party.**

Reports made to the Title IX Coordinator or any of the OWAs listed below constitute actual knowledge on behalf of Hendrix College of an allegation of a violation of the Title IX Sexual Harassment Policy.

Name: Bernadette Hinkle

Role: Vice President for Finance & Operations and CFO

Office: Fausett #103

Phone: 501-450-1334

Email: [hinkle@hendrix.edu](mailto:hinkle@hendrix.edu)

Name: Dr. Teresa Garrett  
Role: Executive Vice President for Academic Affairs & Provost  
Office: Fausett Hall, 2nd floor  
Phone: 501-450-1254  
Email: [tgarrett@hendrix.edu](mailto:tgarrett@hendrix.edu)

Name: Dr. Donna Eddleman  
Role: Assistant Vice President for Student Affairs & Dean of Students  
Office: Student Life & Technology Center, 2nd floor, #211  
Phone: 501-450-1222  
Email: [Eddleman@hendrix.edu](mailto:Eddleman@hendrix.edu)

Name: Amy Weaver  
Role: Director of Athletics  
Office: Wellness and Athletics Center, #213  
Phone: 501-450-3899  
Email: [weaver@hendrix.edu](mailto:weaver@hendrix.edu)

Name: David Bugh  
Role: Director of Public Safety  
Office: Office of Public Safety, 1553 Washington Avenue  
Phone: 501-450-1467  
Email: [bugh@hendrix.edu](mailto:bugh@hendrix.edu)

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Office for Civil Rights,  
Kansas City Office  
U.S. Department of Education  
One Petticoat Lane  
1010 Walnut Street, Suite 320

Kansas City, MO 64106  
Telephone: (816) 268-0550  
Facsimile: (816) 268-0559  
[Email: OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov)

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#)

## **Faculty/Staff Relationships with Students or Employees**

The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. There are inherent risks in any romantic or sexual relationship between individuals in positions of unequal power (teacher and student, supervisor, and employee) *such as quid pro quo harassment*. These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties consented at the outset of a relationship to romantic or sexual involvement, this past consent *will not* remove grounds for a later charge of a violation of this policy. *For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student) are strongly discouraged.*

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the attention of their supervisor and Chief Human Resources Officer Britni Rush at [rushb@hendrix.edu](mailto:rushb@hendrix.edu) or 510-450-3882 at the outset and will likely result in the removal of the employee from the supervisory or evaluative responsibilities or make changes to prevent an individual from being supervised or evaluated by someone with whom they have established a consensual relationship.

Failure to self-report such relationships as required is a violation of this policy and may result in disciplinary action for an employee. Employees are cautioned that in many circumstances an imbalance of power, perceived or real, may occur in employee-student relationships. In such cases, consent is not an acceptable defense against an allegation of non-consensual sexual relationships.

*Any romantic relationship between two employees (regardless of supervisory capacity) or between an employee and student should be promptly reported to Chief Human Resources Officer Britni Rush at [rushb@hendrix.edu](mailto:rushb@hendrix.edu) or 510-450-3882.*

## **Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

Notice or complaints of discrimination, harassment, and/or retaliation may be made by any member of the community using any of the following options:

- File an incident report or Formal Complaint with, or give verbal notice to, the Director of Title IX & Title IX Coordinator, Dr. Jennifer Fulbright, at [Fulbright@hendrix.edu](mailto:Fulbright@hendrix.edu) or 501-505-2901. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, by mail to the office listed for the Title IX Coordinator or any OWA, or using the online reporting form found at [www.hendrix.edu/titleix](http://www.hendrix.edu/titleix).
- Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. Hendrix College tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.
- A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that Hendrix College investigate the allegation(s). A complaint may be filed with an OWA in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that Hendrix College investigate the allegations.
- Because reporting carries no obligation to initiate a formal response, and because Hendrix College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows Hendrix College to discuss and/or provide supportive measures.

### **Supportive Measures**

Hendrix College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the parties, to restore or preserve access to Hendrix’s education program or activity, including measures designed to protect the safety of all parties and/or Hendrix College’s educational environment and/or to deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the Title IX Coordinator will inform the Complainant, in writing, that they may file a Formal Complaint with the Title IX Coordinator either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

Hendrix College will maintain the confidentiality of the supportive measures, provided that does not impair Hendrix's ability to provide those supportive measures. Hendrix College will act to ensure as minimal an academic/occupational impact on the parties as possible. The Title IX Coordinator will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

Any person who believes supportive measures are being violated should report the alleged violation in the same manner for reporting discrimination. Alleged violations of supportive

measures may be investigated along with the underlying complaint of sexual misconduct, or separately, at the discretion of the Title IX Coordinator.

## **Emergency Removal**

Hendrix College can act to remove a student Respondent from its education program or activities—partially or entirely—on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator, in conjunction with appropriate authorities using its standard objective violence risk assessment procedures.

When an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. *There is no appeal process for emergency removal decisions.*

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

Hendrix College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to:

- removing a student from a residence hall
- temporarily re-assigning an employee
- restricting a student's or employee's access to or use of facilities or equipment
- allowing a student to withdraw or take incomplete grades without financial penalty



- authorizing an administrative leave
- suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics
- At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact on the parties as possible.

### **Promptness**

Once Hendrix College has received notice or a Formal Complaint, all allegations are promptly acted upon. Complaints typically take 60-90 college business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but Hendrix College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in this Policy will be delayed, Hendrix College will provide written notice to the parties of the delay, the cause for the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### **Confidentiality/Privacy**

Every effort is made by Hendrix College to preserve the confidentiality of reports. Hendrix College will not share the identity of any individual who has made a report or Formal Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of harassment, discrimination, or retaliation; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) or its implementing regulations, or as required by law; or to carry out the purposes of 34 C.F.R. Part 106, including any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Hendrix College reserves the right to determine which Hendrix College officials have a legitimate educational interest in being informed about incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Division of Student Affairs, Hendrix College Public Safety, and Human Resources. Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

### **Jurisdiction**

This Policy applies to the education program and activities of Hendrix College, to conduct that takes place on property owned or controlled by Hendrix College, at Hendrix College-sponsored events, and in buildings owned or controlled by Hendrix College's recognized student organizations. The Respondent must be a member of Hendrix College's community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to Hendrix College's education program or activities. Hendrix College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial Hendrix College interest.

Regardless of where the conduct occurred, Hendrix College will address notice/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity. A substantial Hendrix College interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with the educational interests or mission of Hendrix College.

If the Respondent is unknown or is not a member of the Hendrix College community, the Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, Hendrix College can assist in contacting local or institutional law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of Hendrix College's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator.

In addition, Hendrix College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Hendrix College property and/or events.

All vendors serving Hendrix College through third-party contracts are subject to the policies and procedures of their employers and to these Policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator *may be* able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to Hendrix College where sexual harassment or nondiscrimination

policies and procedures of the facilitating or host organization may give the Complainant recourse.

### **Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Hendrix College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

### **Online Harassment and Misconduct**

Hendrix College policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on Hendrix College's education program and activities, or when they involve the use of Hendrix College networks, technology, or equipment.

Although Hendrix College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to Hendrix College, it will engage in a variety of means to address and mitigate the effects.

Members of the Hendrix community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Hendrix community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of Hendrix College's control (e.g., not on Hendrix College networks, websites, or between Hendrix College email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

### **Policy on Nondiscrimination**

Hendrix College adheres to all federal, state, and local civil rights laws and regulations prohibiting discrimination in private higher education institutions.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the Hendrix College community whose acts deny,

deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the Hendrix College community, guest, or visitor on the basis of that person's actual or perceived protected characteristics, is in violation of the Hendrix College policy regarding nondiscrimination.

When brought to the attention of Hendrix College, any such discrimination will be promptly and fairly addressed and remedied by Hendrix College according to the applicable grievance process described below.

### **Disability Discrimination and Accommodation Policy**

Hendrix College is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal, state, and local laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by Hendrix College, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Director of Academic Success, Julie Brown, has been designated as Hendrix College's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Any inquiries, questions, or concerns about ADA/504 accommodations should be submitted to the Director of Academic Success and ADA/504 Coordinator, Julie Brown, at 501- 505-2954 or [brownj@hendrix.edu](mailto:brownj@hendrix.edu).

#### ***Students with Disabilities***

Hendrix College is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to Hendrix College's academic programs, facilities, and activities.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Director of Academic Success and ADA/504 Coordinator, Julie Brown, at 501- 505-2954 or [brownj@hendrix.edu](mailto:brownj@hendrix.edu), who coordinates services for students with disabilities.

The Director of Academic Success and ADA/504 Coordinator reviews documentation provided by the student and, in consultation with the student, determines which

accommodations are appropriate for the student's particular needs and academic program(s) in accordance with applicable Hendrix College policies.

### ***Employees with Disabilities***

Pursuant to the ADA, Hendrix College will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to Hendrix College.

An employee with a disability is responsible for submitting an accommodation request to the Director of Academic Success and ADA/504 Coordinator and providing necessary documentation. The Director of Academic Success and ADA/504 Coordinator will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with applicable Hendrix College policies.

## **Discriminatory Harassment Policy**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial, or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Hendrix College Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Hendrix College Policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

### ***Discriminatory Harassment***

Discriminatory harassment—defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived characteristic protected by policy or law—is a form of prohibited discrimination under Hendrix College policy.

Hendrix College does not tolerate discriminatory harassment of any employee, student, visitor, or third party. Hendrix College will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment." A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe or pervasive and objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, Hendrix College may also impose sanctions on the Respondent through application of the appropriate grievance process.

Hendrix College reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under Hendrix College policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

### ***Sexual Harassment***

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Arkansas regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender of those involved.

Hendrix College has adopted the following definitions of sexual harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

***Title VII Sexual Harassment*** applies to situations where an employee is subjected to workplace sexual harassment or where a situation involves a residential Complainant in Hendrix College-provided housing.

- a) Unwelcome verbal, written, graphic, and/or physical conduct;
- b) that is severe or pervasive and objectively offensive;
- c) on the basis of sex/gender, that
- d) unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

***Title IX Sexual Harassment***, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes:

Conduct on the basis of sex, or that is sexual in nature, that satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of Hendrix College,

- b. implicitly or explicitly conditions the provision of an aid, benefit, or service of Hendrix College,
  - c. on an individual's participation in unwelcome sexual conduct.
  
- 2) Sexual Harassment (Hostile Environment):
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a Complainant equal access to Hendrix College's education program or activity.
  
- 3) Sexual Assault, defined as:
  - a. Any sexual act directed against a Complainant,
    - i. without their consent, or
    - ii. instances in which the Complainant is incapable of giving consent.
  
  - b. Incest:
    - i. Non-forcible sexual intercourse,
    - ii. between persons who are related to each other,
    - iii. within the degrees wherein marriage is prohibited by Arkansas law.
  
  - c. Statutory Rape:
    - i. Non-forcible sexual intercourse,
    - ii. with a person who is under the statutory age of consent of 16 years.
  
- 4) Dating Violence, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
      - 1. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

2. Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Arkansas, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Arkansas.
- h. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. suffer substantial emotional distress.

For the purposes of this definition—

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



- Hendrix College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/expulsion/termination.

## **Force, Coercion, Consent, and Incapacitation**

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent** is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on Hendrix College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, thus Hendrix College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

***Incapacitation:*** A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drug consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

## Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, Hendrix College additionally prohibits the following offenses as forms of discrimination that may be within Title IX when the act is based upon the Complainant's actual or perceived protected characteristic.

1) **Sexual Exploitation**, defined as:

- a. an individual taking non-consensual or abusive sexual advantage of another
- b. for their own benefit or for the benefit of anyone other than the person being exploited, and
- c. that conduct does not otherwise constitute Sexual Harassment under this Policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking

- Knowingly creating, possessing, or disseminating child pornography

1) **Harm/Endangerment**, defined as:

- a. threatening or causing physical harm;
- b. extreme verbal, emotional, or psychological abuse; or
- c. other conduct which threatens or endangers the health or safety of any person or damages their property.

2) **Discrimination**, defined as:

- a. actions that deprive, limit, or deny
- b. other members of the community of educational or employment access, benefits, or opportunities, including disparate treatment.

3) **Intimidation**, defined as:

- a. implied threats or
- b. acts that cause the Complainant reasonable fear of harm.

4) **Hazing**, defined as:

- a. acts likely to cause physical or psychological harm or social ostracism
- b. to any person within the Hendrix College community,
- c. when related to the admission, initiation, pledging, joining, or any other group-affiliation activity as defined further in the Student Code of Conduct.

5) **Bullying**, defined as:

- a. repeated and/or severe aggressive behavior
- b. that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- d. that is not speech or conduct that is otherwise protected by the First Amendment.

Violation of any other Hendrix College policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived protected characteristic(s), and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from warning through expulsion/termination.

## **Retaliation**

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Hendrix College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Hendrix College and any member of Hendrix College's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

Filing a complaint under Process B could be considered retaliatory if those allegations could be subject to Process A, when the Process B allegations are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, the Hendrix College Title IX Coordinator carefully vets all complaints to ensure this does not happen, and to ensure that complaints are routed to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

### **Mandated Reporters and Confidential Resources**

In order for Hendrix College to respond effectively and to proactively stop instances of gender or sex based discrimination, harassment, retaliation, and sexual misconduct within the Hendrix community, Hendrix College has designated all full time employees as mandatory reporters of gender or sex based discrimination including: faculty, adjunct instructors, administrative staff including coaches, and student employees are required to notify the Title IX Coordinator *immediately* after receiving information regarding a potential violation of this policy. Mandatory Reporters are encouraged to explain their reporting obligations prior to receiving any information that is subject to mandatory reporting.

To make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting institutional resources. Within the institution, some resources may maintain confidentiality and are not required to report actual or suspected harassment, discrimination, or retaliation in a way that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or institution official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe Hendrix College reporting options for a Complainant or third party (including parents/guardians when appropriate):

### ***Confidential Resources***

Confidential Resources are employees who are statutorily prohibited from disclosing such information including Counseling Services, Campus Chaplain, and support staff such as frontline dining services and facilities staff, are exempt from Title IX reporting requirements.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination
- Community-based (non-employees):
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains
  - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Hendrix College employees who have confidentiality as described above, and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner as described in the Student Code of Conduct or Employee Handbook.

### ***Mandated Reporters and Formal Notice/Complaints***

All Hendrix College employees (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from Hendrix College.

Supportive measures may be offered as the result of such disclosures without formal Hendrix College action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment, discrimination, or retaliation of which they become aware is a violation of Hendrix College Policy and can be subject to disciplinary action for failure to comply/failure to report.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this Policy, they still have a duty to report their own misconduct, though College is technically not on notice simply because a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

### **When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, and/or does not want a Formal Complaint to be pursued, they 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 institution and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether Hendrix College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Hendrix Colleges may be compelled to act on alleged employee misconduct irrespective of a Complainant’s wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and Hendrix College’s ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

When Hendrix College proceeds, the Complainant (and/or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that Hendrix College's ability to remedy and respond to notice may be limited if the Complainant does not want Hendrix College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing Hendrix College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow Hendrix College to honor that request, Hendrix College may offer Informal Resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Hendrix College and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

### **Federal Timely Warning Obligations**

Hendrix College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community as described in the Student Code of Conduct and Employee Handbook.

Hendrix College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

### **False Allegations and Evidence**

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.



Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate Hendrix College policies.

## **Amnesty**

The Hendrix College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to Hendrix College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of Hendrix College community that Complainants choose to report misconduct to Hendrix College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Hendrix College maintains a policy of offering parties and witnesses amnesty from minor policy violations—such as underage consumption of alcohol or the use of illicit drugs—related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty—the incentive to report serious misconduct—is rarely applicable to Respondent with respect to a Complainant.

### ***Students***

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to the hospital).

Hendrix College maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, Hendrix College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance in good faith to others in need.

### ***Employees***

Sometimes, employees are hesitant to report harassment, discrimination, or retaliation they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the unethical relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to Hendrix College officials.

Hendrix College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

## **Pregnant and Parenting Students**

Title IX prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Title IX also prohibits a school, college, or university from applying any rule related to a student's parental, family, or marital status that treats students differently based on their gender.

If you're pregnant, you should notify Title IX Coordinator, Dr. Jennifer Fulbright, at [Fulbright@hendrix.edu](mailto:Fulbright@hendrix.edu) or 501-505-2901 and your instructor(s) as soon as possible so they're aware of absences due to pregnancy or related conditions. The Title IX Coordinator in conjunction with your instructor, Department Chair, Dean, Assistant Provost, and/or Provost will then develop a reasonable plan for completing missed coursework or assignments; this can include assignment substitutions, modified due dates or additional assignments. Federal Statistical Reporting Obligations

Certain institutional officials—those deemed Campus Security Authorities—have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking
- 4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug law violations

All personally identifiable information is kept private, but statistical information must be shared with Hendrix College Public Safety staff regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

## **Preservation of Evidence**

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. Hendrix College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

## **Sexual Assault**

- Seek forensic medical assistance at the hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container.
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

## **Stalking**

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, to include those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

## **RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE HENDRIX COLLEGE TITLE IX POLICY (KNOWN AS PROCESS "A")**

### ***Overview***

Hendrix College will act on any formal notice/complaint of violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy ("the Policy") that is received by the Title IX Coordinator by applying these procedures, known as "Process A."

The procedures below apply only to qualifying allegations of Title IX Sexual Harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in the Policy) involving students, staff, administrators, or faculty members.

If other Policy definitions are invoked, such as protected characteristic harassment or discrimination as defined above, please see the Student Code of Conduct or the Employee Handbook for a description of the procedures applicable to the resolution of such offenses, known as "Process B."

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

The procedures below may be used to address alleged collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the Policy are being addressed at the same time. In such cases, the Title IX Coordinator may consult with the institution officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs, etc.) to provide input as needed. All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

### ***Notice/Complaint***

Upon receipt of a Formal Complaint or notice of an alleged policy violation the Title IX Coordinator initiates a prompt initial assessment to determine the next steps Hendrix College needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will then initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a Formal Complaint
- 2) An Informal Resolution (upon submission of a Formal Complaint)
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint)

Hendrix College uses a Formal Grievance Process as described below to determine whether the Policy has been violated. If so, Hendrix College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, and/or their effects.

### ***Initial Assessment***

Following receipt of notice or a Formal Complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, typically within one to five (1-5) college business days. The steps in an initial assessment can include:

- The Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves
- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determine appropriate supports, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - If a Formal Grievance Process is preferred by the Complainant, the Title IX Coordinator determines if the alleged misconduct falls within the scope of the 2020 Title IX regulations:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue
    - If alleged misconduct does not fall within the scope of the Title IX regulations, the Title IX Coordinator determines that the regulations do

not apply and will “dismiss” that aspect of the complaint, if any, assesses which policies may apply, which Resolution Process is applicable, and will refer the matter, accordingly, including referring the matter for resolution under Process B, if applicable. Please note that dismissing a complaint under the 2020 Title IX regulations is solely a procedural requirement under Title IX, which does not limit Hendrix College’s authority to address a complaint with an appropriate process and remedies.

### ***Violence Risk Assessment***

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- 1) Emergency removal of a Respondent on the basis of immediate threat to an individual or the community’s physical health/safety
- 2) Whether the Title IX Coordinator should pursue/sign a Formal Complaint absent a willing/able Complainant
- 3) Whether the scope of the investigation should include an incident, and/or pattern of misconduct, and/or climate of hostility/harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to permit a voluntary withdrawal by the Respondent
- 8) Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent
- 9) Assessment of appropriate sanctions/remedies (to be applied post-hearing)
- 10) Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

A VRA authorized by the Title IX Coordinator should occur in collaboration with the appropriate authorities. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence,

often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

***Dismissal (Mandatory and Discretionary)***

Hendrix College must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined above, even if proved
- 2) The conduct did not occur in an educational program or activity controlled by Hendrix College (including buildings or property controlled by recognized student organizations), and/or Hendrix College does not have control of the Respondent
- 3) The conduct did not occur against a person in the United States
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in Hendrix College's education program or activity, and based on the available information, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on behalf of Hendrix College.

Hendrix College may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
- 2) The Respondent is no longer enrolled in or employed by Hendrix College
- 3) Specific circumstances prevent Hendrix College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Upon any dismissal, Hendrix College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal by providing written notice to the Executive Vice President for Academic Affairs & Provost, Dr. Teresa Garrett, at [tgarett@hendrix.edu](mailto:tgarett@hendrix.edu).

***Counterclaims***

Hendrix College is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. Hendrix College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the Resolution Process below. Investigation of such claims may take place after resolution of the underlying initial complaint, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

### ***Right to an Advisor***

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available. An involved party or Witness cannot also serve as an Advisor.

### ***Who Can Serve as an Advisor***

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Advisors from inside or outside of the Hendrix College community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from Hendrix College, the Advisor will have been trained by Hendrix College and be familiar with the Hendrix College Title IX Resolution Process.

If the parties choose an Advisor from outside the pool of those identified by Hendrix College, the Advisor may not have been trained by Hendrix College and may not be familiar with Hendrix College policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process, prior to a hearing.

### ***Advisor's Role in Meetings and Interviews***

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Hendrix College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, Hendrix College is not obligated to provide an attorney.

### ***Advisors in Hearings/Hendrix College-Appointed Advisor***

Under the Title IX Regulations, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted



to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, Hendrix College will appoint a trained Advisor for the limited purpose of conducting any questioning of the parties and witnesses.

***Advisor Violations of Hendrix College Policy***

All Advisors are subject to the same Hendrix College policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by Hendrix College. Advisors are expected to advise their advisees without disrupting proceedings.

Advisors should not address Hendrix College officials or Investigators in a meeting or interview unless invited to do so (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with Hendrix College's established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including Hendrix College requiring the party to use a different Advisor or providing a different Hendrix College-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

***Sharing Information with the Advisor***

Hendrix College expects that the parties may wish to have Hendrix College share documentation and evidence related to the allegations with their Advisors. Hendrix College provides a consent form that authorizes Hendrix College to share such information directly with a party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before Hendrix College is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, Hendrix College will comply with that request at the discretion of the Title IX Coordinator.

Advisors appointed by the institution will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers.

***Privacy of Records Shared with Advisor***

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Hendrix College.

Advisors will be asked to sign Non-Disclosure Agreements (NDAs) with the exception of Attorneys serving as an Advisor. Hendrix College may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by Hendrix College's privacy expectations.

***Expectation of an Advisor***

Hendrix College generally expects an Advisor to adjust their schedule to allow them to attend Hendrix College meetings/interviews/hearings when planned, but Hendrix College may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

Hendrix College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

***Expectations of the Parties with Respect to Advisors***

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) college business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor should be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor and provide the newly signed consent form at least two (2) college business days before the hearing.

***Assistance in Securing an Advisor***

For representation, Respondents may wish to contact organizations such as:

- Families Advocating for Campus Equality (<http://www.facecampusequality.org>)
- Stop Abusive and Violent Environments (<http://www.saveservices.org>)

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>)
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association
- The Time's Up Legal Defense Fund (<https://nwlc.org/times-up-legal-defense-fund/>)

## **Resolution Processes**

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with Hendrix College Policy.

Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose as part of an Informal Resolution. Hendrix College encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is Hendrix College's primary resolution approach unless Informal Resolution is elected by all parties and Hendrix College.

### ***Informal Resolution***

Three options for Informal Resolution are detailed in this section.

- 1) **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation
- 2) **Alternative Resolution.** When the parties agree to resolve the matter through an alternative resolution mechanism including mediation, restorative practices, facilitated dialogue, etc., as described below, often before a formal investigation takes place.
- 3) **Accepted Responsibility.** When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the Resolution Process.

To initiate an Informal Resolution, a Complainant must submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. The parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The parties may not enter into an agreement that requires Hendrix College to impose specific sanctions, though the parties can agree to certain restrictions or other courses of action. For example, the parties cannot require a

student be suspended, but the parties can agree that the Respondent will temporarily or permanently withdraw. The only Informal Resolution Process that can result in sanctions levied by the institution is “Accepted Responsibility.” The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, Hendrix College will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by Hendrix College.

Hendrix College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

### ***Alternative Resolution Approaches***

Alternative Resolution is an informal approach, including mediation, restorative practices, facilitated dialogue, etc. by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the parties:

- The parties’ amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the parties
- The nature and severity of the alleged misconduct
- The parties’ motivation to participate
- Civility of the parties
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history of the Respondent
- Whether an emergency removal is needed
- Skill of the Alternative Resolution facilitator with this type of complaint
- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties
- Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether Alternative Resolution is available or successful is made by the Title IX Coordinator. The Title IX Coordinator is authorized to

facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors, including terms of confidentiality, release, and non-disparagement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply). Results of complaints resolved by Alternative Resolution are not appealable.

### ***Respondent Accepts Responsibility for Alleged Violations***

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and Hendrix College are able to agree on responsibility, restrictions and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of Hendrix College policy and implements agreed-upon restrictions and remedies and determines the appropriate sanction(s) in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

## **Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written Notice of the Investigation and Allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all allegations
- The identity of the involved parties (if known)

- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures
- A statement of the potential sanctions/responsive actions that could result
- A statement that Hendrix College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity during the review and comment period to inspect and review all directly related and/or relevant evidence obtained
- A statement about Hendrix College's policy on retaliation
- Information about the confidentiality of the process
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the parties that Hendrix College's policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how the party may request disability accommodations during the Resolution Process
- An attachment of or link to the Hendrix College's VAWA Brochure
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official Hendrix College records, or emailed to the parties' Hendrix College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

### **Resolution Timeline**

Hendrix College will make a good faith effort to complete the Resolution Process within a sixty to ninety (60-90) business-day time period, including appeal if any, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## **Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator will begin the investigation usually within two (2) business days of determining that an investigation should proceed.

## **Ensuring Impartiality**

Any individual materially involved in the administration of the Resolution Process including the Title IX Coordinator, Investigator(s), and Decision-maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

Hendrix College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof, preponderance of evidence.

## **Investigation Timeline**

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take many weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc.

Hendrix College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

## **Investigation Process Delays and Interactions with Law Enforcement**

Hendrix College may undertake a short delay in its investigation if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions.

Hendrix College will communicate the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. Hendrix College will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, Hendrix College will implement supportive measures as deemed appropriate.

Hendrix College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### **Investigation Process Steps**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all available relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. Recordings of interviews are not provided to the parties, but the parties will have the ability to review the transcript of the interview once the investigation report is compiled.

At the discretion of the Title IX Coordinator, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the parties and witnesses
- Meet with the involved parties to finalize their interview/statement, if necessary
- Work with the Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations
- Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Advisor Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the transcript of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible



- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which Hendrix College does not intend to rely in reaching a determination, for a ten (10) business-day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- Elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- Incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- Share the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- Incorporate any relevant feedback and share the final report with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business

days prior to a hearing. The parties and Advisors are also provided an opportunity to review the file of any directly related evidence that was not included in the report.

### **Witness Role and Participation in the Investigation**

Witnesses (as distinguished from the parties) who are employees of Hendrix College are strongly encouraged to cooperate with and participate in the investigation and Resolution Process. Student witnesses and witnesses from outside the Hendrix College community are encouraged to cooperate with Hendrix College investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Zoom, Microsoft Teams, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness, efficiency, or other reasons dictate a need for remote interviewing. Hendrix College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

### **Interview Recording**

No unauthorized audio or video recording of any kind is permitted during investigation meetings by any involved party, Advisor, or witness.

### **Evidentiary Considerations**

Neither the investigation nor the hearing will consider: (1) incidents not relevant or not directly related to the possible violation(s), unless they evidence a pattern; or (2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the hearing panel can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

### **Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties and the Decision-maker(s)—unless all parties and the Decision-maker(s) agree to an expedited timeline.

The Title IX Coordinator will select appropriate Decision-makers from the Pool and provide a copy of the investigation report and the file of directly related evidence. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-maker(s) depending on the context and nature of the alleged misconduct.

### **Hearing Decision-maker Composition**

Hendrix College will designate a Decision Maker, at the discretion of the Title IX Coordinator.

The Decision-maker will not have had any previous involvement with the complaint.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Witnesses or Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator or designee.

### **Additional Evidentiary Considerations in the Hearing**

Previous disciplinary action of any kind involving the Respondent may not be used unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility, assuming Hendrix College uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact and/or mitigation statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker(s) render(s) a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

### **Hearing Notice**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or designee will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Description of any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator as soon as possible, preferably at least 10 college business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker(s) based on demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least 5 college business days prior to the hearing.
- Information on how the hearing will be recorded and how the parties can access the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing with approval from the Title IX Coordinator.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they wish to conduct cross-examination and do not have an Advisor, and Hendrix College will appoint one. Each party must have an Advisor present if they intend to cross-examine others. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the complaint unless they have already been provided.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker(s) will review during any sanction determination.
- An invitation to contact the Director of Academic Success and ADA/504 Coordinator, at 501- 505-2954 or brownj@hendrix.edu to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Parties can bring mobile phones/devices into the hearing but cannot record at any time.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by Hendrix College and remain within the 60-90 business-day goal for resolution. Employees who do not have 12-month contracts are still expected to participate in Resolution Proceedings that occur during months between contracts.

## **Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator as soon as possible, preferably at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know as soon as possible, preferably at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

## **Pre-Hearing Preparation**

After any necessary consultation with the parties, the Title IX Coordinator will provide the names of persons who have been asked to participate in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties assent to the witness's participation in the hearing. The same holds for any relevant evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the complaint.

The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at a pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

## **Pre-Hearing Meetings**

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors and invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a pre-hearing ruling by the Chair based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At the pre-hearing meeting with a party and/or their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with Hendrix College legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting may be recorded at the discretion of the Title IX Coordinator. The pre-hearing meetings may be conducted as separate meetings with each party/Advisor, with all parties/Advisors present at the same time, remotely, or as a written-only exchange. The Chair or Title IX Coordinator will work with the parties to establish the format.

## **Hearing Procedures**

At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Equal Opportunity, Harassment, and Nondiscrimination Policy.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions about procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-maker(s) and the parties, and the witnesses will then be excused. The Investigator will remain present for the duration of the hearing.

### **Joint Hearings**

In hearings involving more than one Respondent and/or involving more than one Complainant who has accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

### **The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) based on bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review the challenge and decide.

The Chair and/or hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator.

The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

### **Investigator Presentation of Final Investigation Report**

The Investigator will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker and the parties through their Advisors. The Investigator will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from

discussion of or questions for Investigators about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

### **Testimony and Questioning**

Once the Investigator(s) present(s) the report and respond(s) to questions, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The hearing will facilitate questioning of parties and witnesses by the Decision-maker and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair prior to the hearing), the proceeding will pause to allow the Chair to consider the question (and state it if it has not already been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

### **Refusal to Submit to Questioning, Inferences**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared. It is otherwise considered off-limits, and an Advisor who is an institutional employee is temporarily alleviated from mandated reporter responsibilities related to their interaction with their advisee during the Resolution Process.

### **Hearing Recordings**

Hearings (but not deliberations) are recorded by Hendrix College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of Hendrix College will be permitted to review the recording or review a transcript of the recording, upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.



## **Deliberation, Decision-making, and Standard of Proof**

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Chair will ensure that each of the parties has an opportunity to review any submitted impact and/or mitigation statement(s) once they are submitted.

The Decision-maker will also review any pertinent conduct history and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written statement detailing all findings and final determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s) and will deliver the statement to the Title IX Coordinator.

This statement is typically three pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

## **Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome letter. The Title IX Coordinator will then share the letter, which includes the final determination, rationale, and any applicable sanction(s), with the parties and their Advisors within 5 college business days of receiving the deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Hendrix College records, or emailed to the parties' Hendrix College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will also include information on when the results are considered final by Hendrix College, will note any changes to the outcome and/or sanction(s) that occur prior to finalization, and the relevant procedures and bases for appeal.

## Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and/or referring that information to another process for resolution.

### ***Student Sanctions***

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

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any Hendrix College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either Hendrix College -sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Hendrix College. Transcript notation of “suspension due to an issue other than scholastic or financial” will be used.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend Hendrix College -sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student’s official transcript, subject to any applicable expungement policies.
- *Withholding Diploma*: Hendrix College may withhold a student’s diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating policy.
- *Revocation of Degree*: Hendrix College reserves the right to revoke a degree previously awarded from Hendrix College for fraud, misrepresentation, and/or other violation of Hendrix College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions*: In addition to or in place of the above sanctions, Hendrix College may assign any other sanctions as deemed appropriate.

### ***Student Organization Sanctions***

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

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any Hendrix College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of Hendrix College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student organization recognition for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student organization may not conduct any formal or informal business or participate in Hendrix College -related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from Hendrix College.

- *Expulsion*: Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific Hendrix College privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, Hendrix College may assign any other sanctions as deemed appropriate.

### ***Employee Sanctions/Responsive/Corrective Actions***

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- Verbal or Written Warning
- Performance Improvement Plan/Management Process
- Enhanced Supervision, Observation, or Review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of (or referral for delay of) Tenure Track Progress
- Assignment to New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination
- *Other Actions*: In addition to or in place of the above sanctions/responsive actions, Hendrix College may assign any other responsive actions as deemed appropriate.

## **Withdrawal or Resignation Before Complaint Resolution**

### ***Students***

Should a Respondent decide not to participate in the Resolution Process, the process proceeds, absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from Hendrix College, the Resolution Process typically ends with a dismissal, as Hendrix College has lost primary disciplinary jurisdiction over the withdrawn student. However, Hendrix College may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be

necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the Resolution Process, Hendrix College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to Hendrix College in any capacity. Admissions and Human Resources will be notified, accordingly. Such exclusion applies to all Hendrix College locations.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely and, if found in violation, that student is not permitted to return to Hendrix College unless and until all sanctions, if any, have been satisfied.

### ***Employees***

Should an employee Respondent resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as Hendrix College has lost primary disciplinary jurisdiction over the resigned employee. However, Hendrix College may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the matter is dismissed or pursued to completion of the Resolution Process, Hendrix College will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire with Hendrix College or any Hendrix College location, and the records retained by the Title IX Coordinator will reflect that status.

All Hendrix College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

### **Appeals**

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within 3 college business days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker, the Executive Vice President for Academic Affairs & Provost, will Chair the appeal process. The Appeal Decision-maker will not have been previously involved in the Resolution Process for the complaint.

The Request for Appeal will be forwarded to the Executive Vice President for Academic Affairs & Provost for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

### ***Grounds for Appeal***

Appeals are limited to the following grounds:

1. A procedural irregularity affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair, and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s).

All other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the Request for Appeal with the approved grounds and then be given 3 college business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Executive Vice President for Academic Affairs & Provost to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Executive Vice President for Academic Affairs & Provost and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses, if any, within 5 college business days. Any such responses will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Executive Vice President for Academic Affairs & Provost will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses will be shared with the Executive Vice President for

Academic Affairs & Provost, and they will render a decision within no more than 7 college business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which Hendrix College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent Hendrix College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' Hendrix College-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### ***Sanctions Status During the Appeal***

Any sanctions imposed as a result of the hearing are stayed (i.e.: not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If the original sanctions include separation in any form, Hendrix College may place a hold on official transcripts, diplomas, graduations, course registration, etc. pending the outcome of an appeal. The Respondent may request a stay of these holds from the Title IX Coordinator within two (2) business days of the notice of the sanctions. The request will be evaluated by the Title IX Coordinator or designee, whose determination is final.

#### ***Appeal Considerations***

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Decision-maker(s) may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.

- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker(s) for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand.
- When appeals result in no change to the finding or sanction, that decision is final.
- In cases that result in reinstatement to Hendrix College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **Long-Term Remedies/Other Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the institutional community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.
- At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies Hendrix College owes the Respondent to ensure no effective denial of educational access.

Hendrix College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair Hendrix College's ability to provide these services.



## **Failure to Comply with Sanctions and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) including the Appeal Chair/Decision-maker.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from Hendrix College. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

## **Recordkeeping**

Hendrix College will maintain for a period of at least seven years following the conclusion of the Resolution Process, records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
2. Any disciplinary sanctions imposed on the Respondent
3. Any remedies provided to the Complainant designed to restore or preserve equal access to Hendrix College's education program or activity
4. Any appeal and the result therefrom
5. Any Informal Resolution and the result therefrom
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. Hendrix College will make these training materials publicly available on Hendrix College's Title IX website.
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent
  - b. Any measures designed to restore or preserve equal access to Hendrix College's education program or activity
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

Hendrix College will also maintain any and all records in accordance with state and federal laws.

## **Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policies addressing harassment, sexual misconduct, discrimination, and/or retaliation for incidents occurring on or after August 1, 2022, under Title IX and will be reviewed and updated annually by the Title IX Coordinator.

Hendrix College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change—or court decisions alter—the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This policy and procedures are effective February 2025.