Young Harris College Sexual Misconduct Policy

Policy Statement

It is the policy of Young Harris College ("Young Harris" or the "College") to maintain an environment that is free of all forms of discrimination and harassment, including sexual misconduct for its community members. College community members include students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, conducting business, studying, living, visiting, or having any official capacity with the College or on its property. The College has enacted this Sexual Misconduct Policy (the "Policy") to reflect and maintain its institutional values and community expectations, to provide for fair and equitable procedures for determining when this Policy has been violated, and to provide recourse for individuals and the community in response to violations of this Policy.

This Policy prohibits all forms of sexual harassment and discrimination, and sexual assault, domestic violence, dating violence, and stalking. This Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in any matter related to this Policy. All of the foregoing conduct shall be referred to as "Prohibited Conduct."

Young Harris does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

> *No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

Sexual harassment is also prohibited under Title IX and Title VII of the Civil Rights Act of 1964, and other applicable statutes. This Policy prohibits sexual harassment against Young Harris community members of any sex in the context of education or employment. This Policy also prohibits sex-based harassment that does not involve conduct of a sexual nature. Sexual harassment cases involving two employees will be handled through the Title IX process or Title VII of the Civil Rights Act (as covered in Policy 703 Sexual and other Unlawful Harassment) depending on the alleged Prohibited Conduct.

Upon receipt of a Formal Complaint, the College will take prompt and equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. In addition, the College will fulfill its obligations under the Violence Against

Women Reauthorization Act of 2013 ("VAWA") amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") in response to reported Prohibited Conduct. Students, employees, or third parties who are found to have violated this Policy may face disciplinary action up to and including expulsion (students) or termination of employment or contractual relationship (employees or third-party contractors).

Young Harris College also prohibits other forms of discrimination and harassment as described in Policy 103 Equal Employment Opportunity in the *Employee Handbook* and in the *Guide to Student Life*.

Scope of Policy

This Policy applies to all reports of Prohibited Conduct occurring on or after the effective date of this Policy. Where the date of the reported conduct precedes the effective date of the revised Policy, the definitions in existence at the time of the report will be used. Where the date of the reported conduct precedes the effective date of the revised Policy, the process in existence at that time will be used until such time as the revised process is adopted. At the time of adoption of the revised Policy, the process under the revised Policy will apply. The Grievance Process under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the incident(s) occurred.

When used in this Policy, "Complainant" refers to an individual who is alleged to be the victim of conduct that could constitute sexual harassment. "Respondent" refers to an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A "Third-Party" refers to any other participant in the process, including a witness or an individual who makes a report on behalf of a Complainant.

The process begins with a Formal Complaint filed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct against a Respondent and requesting that the College investigate the allegation of sexual misconduct. The process could begin with an anonymous complaint, however, the ability of the College to process this complaint could be compromised.

At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the College.

Nothing in this Policy derogates the legal right of a parent or guardian acting on behalf of the Complainant, Respondent, or Third-Party, including, but not limited to, filing a Formal Complaint.
A possible violation of the Sexual Misconduct Policy is handled through an administrative process. A Complainant may also pursue criminal or civil legal recourse concurrently. One is not dependent upon another.

Persons Covered by the Policy
This Policy applies to all Young Harris community members, including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, conducting business, studying, living, visiting, or having any official capacity with the College or on its property. Situations in which either one or both parties are students will be resolved through the Title IX process. Situations in which both parties are employees may be resolved through the process outlined in the *Employee Handbook* (Policy 703 Sexual and Other Unlawful Harassment) or may be resolved through the Title IX process depending on the alleged Prohibited Conduct.

The College strongly encourages reports of Prohibited Conduct regardless of who engaged in the conduct. Even if the College does not have jurisdiction over the Respondent, the College will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community. The College will provide supportive measures with or without a Formal Complaint.

Locations Covered by the Policy
This Policy applies to the College's educational program or activity which includes locations, events, or circumstances over which the College exercises substantial control over both the Complainant and Respondent and the context in which the sexual harassment occurs.

This Policy applies to all on-campus conduct. The College strongly encourages reports of Prohibited Conduct. Even if the Policy does not apply to the conduct because of its location, the College will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community under applicable College policies.

> **On-Campus Conduct.** This Policy applies to conduct that occurs on-campus, including conduct which occurs on property owned or controlled, leased, or managed by the College. Policy also applies to any building owned or controlled by a student organization that is officially recognized by the College.

College Programs. This Policy applies to conduct that occurs in the context of College employment or education programs or activities, including, but not limited to, internship programs or Athletic travel.

Off-Campus Conduct. This Policy applies to all conduct that occurs on College premises and at College-sponsored activities. The College also has the discretion to discipline a student for conduct that occurs off campus, if that conduct adversely affects the YHC community and/or the pursuit of its objectives. The Vice President for Student Development, in their sole discretion and on a case-by-case basis, decides whether campus proceedings should be initiated against a student for conduct occurring off campus and refer to the appropriate office. (See the *Guide to Student Life*.)

Definitions

Prohibited Conduct Definitions
This section defines specifically prohibited types of conduct based on sex including sex-based harassment and discrimination and sexual misconduct.

Sexual Harassment means conduct on the basis of sex that satisfies one or more the following points:

1. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (also known as *Quid Pro Quo* harassment)
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity. (also known as Hostile Environment)
3. Sexual Assault (defined below); or Dating Violence (defined below); or Domestic Violence (defined below) or Stalking (defined below).

Both women and men may be sexually harassed. Sexual harassment may occur between males and females and between persons of the same sex. Both subordinates and co-workers may be victims of sexual harassment. While a co-worker does not have the direct ability to hire or fire another co-worker, the person may influence a job evaluation or create an intolerable working environment which may be handled through the Title IX process or Title VII of the Civil Rights Act as covered in Policy 703 Sexual and other Unlawful Harassment depending on the alleged Prohibited Conduct.

Sexual harassment may be physical and/ or verbal in nature. Conduct that may be considered sexual harassment include, but is not limited to the following examples of Sexual Harassment:

- Unwanted sexual advances or comments
- Inappropriate or unwelcome touching of a person's body
- Implied or overt threats of punitive employment or academic actions as a result of rejection of sexual advances

More subtle incidents may also be considered sexual harassment. Examples of more subtle sexual harassment include, but, are not limited to the following:

- Sending sexually-oriented emails and voice mails
- Sexual jokes
- Repeatedly asking for a date when the person has declined
- Display of sexually-oriented cartoons, objects, posters
- Indirect sexual innuendo such as voice inflection when complimenting appearance or gazing at parts of the body other than the face

Sex-Based Harassment means harassment based on sex, which may include acts of aggression, intimidation, or hostility, whether verbal, physical, graphic, or otherwise. To qualify as Sex-Based Harassment, the conduct need not involve conduct of a sexual nature.
Harassing conduct can take many forms. The determination of whether an environment is hostile is based on the totality of the circumstances, including but not limited to:

1. The frequency of the conduct;
2. The nature and severity of the conduct;
3. Whether the conduct was physically threatening;
4. The effect of the conduct on the Complainant's mental or emotional state, with consideration of whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or College programs or activities;
5. Whether the conduct was directed at more than one person;
6. Whether the conduct arose in the context of other discriminatory conduct; and
7. Whether the conduct implicates concerns related to academic freedom or protected speech.

A single isolated incident may create a hostile environment if the incident is sufficiently severe, particularly if the conduct is physical.

Sexual Assault means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, as defined in 20 U.S.C. 1092(f)(6)(A)(v). Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

Crime Definitions from the National Incident-Based Reporting System (NIBRS) User Manual

(From the Federal Bureau of Investigation Uniform Crime Reporting Program Sex Offenses)

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. *Fondling* - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

B. *Incest* - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. *Statutory Rape* - Sexual intercourse with a person who is under the statutory age of consent.
(https://www.law.cornell.edu/cfr/text/34/appendix-A_to_subpart_D_of_part_668)

Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim (ages 11-24) who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. [34 USC 12291(a)(8)]

Dating Violence means violence committed by a person:

1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and

2. where the existence of such a relationship shall be determined based on a consideration of the following factors:

    a. The length of the relationship.
    b. The type of relationship.
    c. The frequency of interaction between the persons involved in the relationship.

[34 USC 12291(a)(10)]

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. fear for his or her safety or the safety of others; or
2. Suffer substantial emotional distress.

[34 USC 12291(a)(30)]

Retaliation
No recipient (the College) or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this part, 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 part.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation prohibited under paragraph (a) of this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

Additional Policy Definitions
This section defines other terms used within the Policy that are not previously defined as Prohibited Conduct.

Advisor for the purposes of this Policy means any person of the Respondent or the Complainant's choosing to serve as the Advisor for the Title IX process. This person may be an attorney, but does not have to be. The Advisor has specific responsibilities and requirements for participation in the process which are outlined in the section on Rights of the Respondent and Complainant.

Business Day(s) refers to a Business Day or Business Days in which the College is open for business. This is generally Monday through Friday, from 8:00 a.m. until 5:00 p.m. and excludes weekends, holidays, designated closures including but not limited to weather delays and closures.

Consent for the purposes of this Policy means that agreement to an activity is knowingly and freely given and communicated, through words or actions, to create a mutual understanding regarding the conduction of sexual activity.
Elements of consent include:

1. Consent is not valid when it involves:
    a. Physical force, threats, or intimidation;
    b. Minors under the age of consent,
    c. Persons whose mental disabilities prohibit sound judgment;
    d. Persons physically or mentally incapacitated, either voluntarily or involuntarily, as a result of alcohol or other drug consumption; and
    e. Individuals who are unconscious, unaware, or otherwise physically incapacitated.
2. Silence cannot be interpreted as consent.
3. Lack of consent may also be communicated through the use of non-verbal expressions or actions indicating resistance.
4. Consent may be withdrawn at any time.

5. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.
6. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.

Force means the use or threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or provide consent. Consent obtained by force is not valid.

For the use of force to be demonstrated, there is no requirement that a Complainant resist the sexual advance or request. However, evidence of resistance by the Complainant will be viewed as a clear demonstration of a lack of consent.

Coercion means the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual's will. Consent cannot be obtained through coercion.
Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include, but are not limited to:

- Threatening to out someone based on sexual orientation or
- Threatening to harm oneself if the other party does not engage in the sexual activity. or
- When someone indicates, verbally or physically, that they do not want to engage in a particular sexual activity, that they want to stop a particular activity, or that they do not want to go past a certain point of sexual interaction, continued activity or pressure to continue beyond that point can be coercive.

The College will evaluate the following in determining whether coercion was used:

1. The frequency of the application of pressure,
2. The intensity of the pressure,
3. The degree of isolation of the person being pressured, and
4. The duration of the pressure.

Incapacitation means a physical or mental state in which an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand who, what, when, where, why, or how of the sexual interaction) and/or is physically helpless. Examples of incapacitation include, but are not limited to, individuals who:

- Are asleep; or
- Are unconscious; or
- Are unaware that sexual activity is occurring; or
- Cannot understand the nature of the activity or communicate due to a mental or physical condition; or
- Are under the influence of alcohol, drugs or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's:

1. Decision-making ability;
2. Awareness of consequences;
3. Ability to make informed judgments; or
4. Capacity to appreciate the nature and the quality of the act.

It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances: (a) the Complainant was asleep or unconscious; (b) the Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; (c) the Complainant was unable to communicate due to a mental or physical condition.

Whether the Respondent reasonably knew or should have known that the Complainant was incapacitated will be evaluated using an objective reasonable person standard. The fact that the Respondent was actually unaware of the Complainant's incapacity is irrelevant to this analysis. In particular, consent could not occur when:

- The Respondent failed to appreciate the Complainant's incapacitation or;

- The Respondent failed to take reasonable steps to determine the Complainant's incapacitation or;
- The Respondent's own incapacitation (from alcohol or drugs) caused the Respondent to misjudge the Complainant's incapacity.

It is the responsibility of each Party to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all Parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.

Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one's responsibility to obtain consent.

Privacy means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who "need to know" in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process to the extent permitted by law.

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports and Formal Complaints under this Policy. The College also is committed to assisting students, employees, and third Parties in making informed choices. With respect to any report or Formal Complaint under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

Confidentiality means that information shared by an individual with designated campus or community professionals will not be revealed to any other individual without the expressed permission of the individual.
An individual who seeks confidential assistance may do so by speaking with professionals who have a legally-protected confidentiality. (See the section on Resources for how to report confidentially.)

Official with Authority means any official of the College who has authority to institute corrective measures on behalf of the College (§106.30). Young Harris College has designated the following positions as Officials with Authority:

1. President of the College
2. Title IX Coordinator
3. VP of Student development
4. Deputy Title IX Coordinator

Responsible Employee means any employee with the obligation to report sexual harassment or the responsibility to inform a student how to report sexual harassment. The College requires that all Responsible Employees share any report of misconduct with the Title IX Coordinator. A Responsible Employee is anyone who:

1. Has the duty to report to appropriate College officials sexual harassment or any other misconduct by students or employees; or
2. A student could reasonably believe has the responsibility to assist them. All College employees who do not have legally protected confidentiality are considered Responsible Employees. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the College.
3. A Responsible employee is any employee with supervisory or leadership responsibilities on campus, including, but not limited to, all faculty (full time, part time, and adjunct) Athletic staff (coaches, assistant coaches, trainers, and athletic administrators), administrators (those with responsibilities for administering a program or service); staff members, including Residence Life Coordinators and Resident Assistants.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. (§106.30)

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. (§106.30)

Third-Party refers to any other participant in the process, including a witness or an individual who makes a report on behalf of a Complainant.

Formal Complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. (§106.30)

Immunity for Victims

Young Harris College encourages the reporting of conduct violations and crimes that occur on campus or against YHC students. A victim might be hesitant to report a crime to a College official for fear of being charged with a policy violation themselves (i.e., underage drinking at the time of a sexual assault). It is in the best interest of the YHC community that a victim of a crime report the incident to a College official. To encourage reporting, Young Harris College offers victims of crimes, and may offer those who assist victims of crimes, amnesty from College policy violations related to the incident. Such amnesty is given at the discretion of the Vice President for Student Development or their designee. (See *Guide to Student Life*.)

Reporting Options and Resources

On-Campus Reporting Options

The College strongly encourages all individuals to report any violation of this Policy to the Title IX Coordinator or any College employee who is designated as an Official with Authority. The College recommends that individuals report Prohibited Conduct to any of the following offices or individuals:

1. Officials with Authority (See information above.)
2. Responsible Employee (See information above.)
3. The Title IX Coordinator or Deputy Coordinator (See information below.)
4. A Confidential Report (See information below.)
5. Young Harris College Police (See information below.)

Title IX Coordinator and Deputy Coordinators

Young Harris College has designated the following individuals to serve in official capacity regarding Title IX reporting.

Name	Title IX Position	Office	Phone	Email
Naveela Philbeck	Title IX Coordinator	RCC-Robinson Suite	706-379-5042	nphilbeck@yhc.edu
Dr. David Jones	Deputy Title IX Coordinator	RCC-PREP	706-379- 5013	dvjones@yhc.edu
Alissa Cheek	Deputy Title IX Coordinator	RCC-PREP	706-379-	agcheek@yhc.edu

The Title IX Coordinator, assisted by Deputy Coordinators, is responsible for the following:

- Ensuring Title IX compliance
- Assessing initial intake reports
- Knowledgeable in College policies and procedures
- Provides information about resources available to both the Complainant and the Respondent
- Assigning appropriate investigators to individual cases
- Identifying the appropriate College policy to resolve the complaint in a prompt and equitable manner
- Tracking and monitoring incidents of sex discrimination and sexual misconduct
- Providing information on options for complaint resolution
- Coordinating education and prevention efforts
- Reporting crimes to the Clery Administrator for reporting in the Annual Security Report (ASR)

Confidential Reporting on Campus

The confidential resources available to individuals on campus are:

Counselor	Chaplain
Nerissa Baker	Rev. Dr. Adam Daniels
Phone: 706-379-5160	Phone: 706-379-5166
Email: nbbaker@yhc.edu	Email: adaniels@yhc.edu
Success Center-RCC	Student Development-RCC

These confidential resources are not required by current Title IX law to report claims of sexual misconduct without consent. A confidential report is required by state law to notify child protective services and/or local law enforcement of suspected abuse of a minor under the age of 18 years of age. Those in positions designated as Confidential Reports may have a duty to report incidents of sexual misconduct for the purposes of reporting numbers for the Annual Security Report (ASR), but are not obligated to report the details of the incidents including the names of potential complainants or respondents except as required by their license and professional ethics.

Law Enforcement Reporting Options On and Off Campus

Complainants have the right to notify or decline to notify law enforcement. The College strongly encourages all individuals to seek assistance from law enforcement immediately after an incident of Sexual Misconduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The

College will assist any Young Harris community member in securing a safe place to go; assist in arranging for transportation to the hospital should the Complainant need medical care or assistance.; and assist in coordination with law enforcement, and information about on-campus and off-campus resources and options for resolution.

Campus Police have officers on duty twenty-four (24) hours a day. You may report crimes or other emergencies by calling:

Emergency Assistance	911
Local Dispatch (non-emergency)	706-896-7460
Campus Police Office	706-379-4569
Towns County Police	706-896-7460 or 706-896-6388

Off-Campus Confidential Reporting Options

North GA Mountain Crisis Network 706-632-8400|
crisisshelter@etcmail.com
Blue Ridge, GA

SAFE/Support in Abusive Family Emergencies 706-379-3000
info@safeservices.org
www.safe.org
Blairsville, GA

Union General Clinic, Young Harris, GA 706-439-6683

Supportive Measures

Supportive Measures are non-disciplinary services offered as appropriate, as reasonably available, and without fee or charge to both the Complainant and the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. These Supportive Measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening Complainant and Respondent, including measures designed to protect the safety of all Parties or the College's educational environment, or deter sexual harassment. The College offers support to Complainants and Respondents through access to the following services:

Supportive Measures for Students

- Access to counseling services on campus;

- Change in on-campus housing assignment and assistance from College support staff in completing housing relocation;
- Provide academic support services, such as tutoring, extensions of deadlines or other course-related adjustments, class schedules;
- Change in work schedule or job assignment;
- Mutual restrictions on contact between the parties;
- Provide information regarding off-campus services;
- Provide other Supportive Measures as appropriate.

Supportive Measures for Employees

- Modification of work schedule;
- Mutual restrictions on contact between the parties;
- Changes in work or on-campus housing locations;
- Leaves of absence;
- Increased security and monitoring of certain areas of campus;
- Provide other Supportive Measures as appropriate.

A Complainant or a Respondent may request a "No-Contact Order" or other protection, or the College may choose to use Supportive Measures at its discretion to ensure the safety of all Parties, the broader College community, and/or the integrity of the process.

The College will maintain the privacy of any Supportive Measures provided under this Policy to the extent practicable and will promptly address any violation of the Supportive Measures put in place. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a Supportive Measures. The College will take immediate and responsive action to enforce a previously implemented restriction if such restriction was violated.

Emergency Removal

Nothing in this Policy precludes the College from removing a Respondent from the College's education program or activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990.

In the event that an Emergency Removal is enacted, the Respondent has the opportunity to submit in writing a challenge to the emergency removal. The challenge

to the emergency removal must contain all information, documentation, and evidence that the Respondent wants to have considered in requesting to remain on campus. The Vice President for Student Development will receive the written materials and appoint an Appeals Officer, either the Provost or the Chief Operating Officer. The Appeals Officer is separate from investigators, hearing panel members, and decision-makers. The Appeals Officer will review all materials and determine if the Emergency Removal is in the best interest of the Complainant and/or the Respondent and/or is in the best interest of the safety of the campus community. The Appeal Officer's decision is final and binding regarding the Emergency Removal.

Administrative Leave
Nothing in this Policy precludes the College from placing a non-student employee Respondent on administrative leave during the pendency of this process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

Educational Programming and Prevention
The College offers a variety of educational programs on Sexual Misconduct aimed at prevention and awareness of sexual assault, stalking, dating violence, and sexual harassment. Students are required to complete an online course on Sexual Misconduct as well as an online course on Alcohol upon entering the College. Other programming includes Sexual Assault and Domestic Violence Awareness Week, Alcohol Awareness, Bystander Intervention education, and Sexual Misconduct Information Sessions during orientation. Employees are required to complete Sexual Misconduct Education online.

Young Harris College Grievance Procedures for Resolving Allegations of Sexual Misconduct

General Information

The following outlines the procedures the College follows in resolving allegations by a Complainant against a Respondent in violation of the College's Sexual Misconduct Policy. Complainant and Respondent will be referred to collectively as the "Parties." This is an administrative process.

Situations in which both Complainant and Respondent are employees of the College may be handled through the processes outlined in the *Employee Handbook* (Policy 703 Sexual and Other Unlawful Harassment) or through the Title IX process depending upon the alleged Prohibited Conduct.

The Office of Title IX, and the Title IX team, will coordinate resolution of all reports of Prohibited Conduct defined in the *Young Harris College Sexual Misconduct Policy*.

Prohibited Conduct Not Based on Sex

Prohibited Conduct (discrimination, harassment or retaliation) based on protected status other than sex (e.g., race, color, age, disability, veteran status or other classification protected by federal or state law or College policies) is prohibited by other College policies. These policies prohibiting other forms of discrimination and harassment are described in the Non-Discrimination policy, Policy 103 Equal Employment Opportunity in the *Employee Handbook* and in the *Guide to Student Life* under the section entitled General College Policies and Procedures under the sub-heading Discrimination and Harassment. In the event of such complaints, the College will identify, based upon the allegations, the appropriate office to coordinate resolution of the report.

Dismissal of Formal Complaint

If the conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in this Policy even if proved, or did not occur in the College's education program or activity, or did not occur against a person in the United States, then the College must dismiss the Formal Complaint with regard to that conduct for purposes of sexual harassment under this Policy. However, such a dismissal does not preclude action under another provision of the College's Code of Conduct for students published in the *Guide to Student Life*.

The College may dismiss the 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 or employed by the College; or
3. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon dismissal of the Formal Complaint either required or permitted, the College will promptly send written notice of the dismissal and reasons for the dismissal simultaneously to each Party through email, the College's official means of communication (See the *Guide to Student Life*.). Either the Complainant or the Respondent have the right to appeal the decision to dismiss a Formal Complaint.

Consolidation of Formal Complaints

The College may consolidate Formal Complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Rights of Respondent and Complainant

- Right to be informed of the process and all available options
- Right to be informed of resources
- Right to Supportive Measures
- Right to a timely investigation
- Right to an Advisor of choice
- Right to review report
- Right to appeal

Advisor

Both Complainant and Respondent have the right to have an Advisor of their choice. It is the responsibility of the Complainant and Respondent to communicate with the Advisor regarding allegations, times and dates of meetings, hearings, outcomes and any other information regarding the case. The Investigators, Title IX Coordinator, Assistant Coordinator, and Deputy Coordinators will not discuss the case with any Advisor. The Advisor may:

- Attend any meeting or hearing with the respective Complainant or Respondent regarding the case, if invited by the respective Complainant or Respondent
- May not participate directly in any meeting involving the case
- May provide advice to the Complainant or the Respondent he/she is advising through quiet conversation or written notes in any meeting related to the case
- May be a member of the College community, but is not required to be.
- May be an attorney, but, is not required to be.
- If a party does not have an advisor present at the Live Hearing, the College must provide without fee or charge to that party, an Advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. [§106.45 (b)(6) (i)]
- At the Live Hearing, the decision-maker(s) must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. [§106.45 (b)(6) (i)]

Step by Step Process

Actual Knowledge
The Title IX grievance process begins with Actual Knowledge. Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the College's Title IX Coordinator or any Official with Authority who has authority to institute corrective measures on behalf of the College. [§106.30]. The actual knowledge standard is not met when the only official of the College with actual knowledge is the Respondent. Actual Knowledge may come in the form of a Formal Complaint.

Intake meeting with Complainant
With or without a Formal Complaint, the Title IX Coordinator must promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to supportive measures, and explain to the Complainant the process for filing a Formal Complaint.

- Address immediate physical safety and emotional well-being needs
- Notify the Complainant of the right to contact law enforcement and seek medical treatment (and the right to decline to do so), and the importance of preservation of evidence
- Notify the Complainant of the right to be assisted by individuals at the College in contacting law enforcement
- Notify the Complainant of confidential and non-confidential reporting options on and off campus
- Provide the Complainant with information about:
    - On and off campus resources, including counseling, health, mental health, and victim advocacy;
    - The range of Supportive Measures and remedies, including changes to academic, living, transportation, and/or working situations, or other protective measures, which are available to the Complainant and the Respondent regardless of whether the Complainant files a Formal Complaint with the College or other action with local law enforcement.
- Provide an overview of the procedural options and process, including Informal Resolution and Formal Resolution. This overview would include explanation that the Complainant will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Complainant to prepare to participate.

- Explain that if, in the course of an investigation, the College decides to investigate allegations about the Complainant or the Respondent that are not included in the notice described above, the College will provide notice of the additional allegations to the Parties.
- Provide notice of any provision in the College's Code of Conduct or *Employee Handbook* that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- Explain the right to object to the assignment of the Title IX Coordinator, Deputy Title IX Coordinator or Investigators based on bias or conflict of interest within 1 (one)Business Day of a decision to proceed through the process;
- Explain that the student has a right to an Advisor of their choice during the process;
- Assess for pattern of evidence or other similar conduct if possible;
- Explain the College's immunity/amnesty policy as published above in this document and in the *Guide to Student Life*;
- Explain the College's policy prohibiting retaliation as listed in the Standards of Conduct in the Code of Student Conduct and in the section entitled General College Policies and Procedures in the *Guide to Student Life;*
- Respondent is presumed not responsible for the alleged conduct and any determination regarding responsibility is made at the conclusion of the process;
- If the Title IX Coordinator dismisses the Formal Complaint or any allegations therein, both Complainant and Respondent have the right to appeal that decision.

At the Intake Meeting, the Coordinator or Deputy Coordinator will provide the Complainant with the above-listed information in writing. If the Intake Meeting is conducted by a Deputy Coordinator, the meeting report will be submitted to the Coordinator for consideration. As described in the Sexual Misconduct Policy, the Complainant has the right to request that the Title IX Office not share the Complainant's name (or other identifiable information) with the Respondent, or that the Title IX office take no formal action in response to the report. If the Complainant makes such a request, the Coordinator will balance the request with his/her dual obligation to provide a safe and nondiscriminatory environment for all College community members, and to remain true to principles of fundamental fairness that require the College to provide the Respondent with notice of the allegations and an opportunity to respond before action is taken against the Respondent.

The Coordinator will make this determination consistent with the following considerations, namely:

1. The seriousness of the conduct;
2. The respective ages and roles of the Complainant and the Respondent:
3. Whether there have been other complaints or reports of Prohibited Conduct against the Respondent; and
4. The right of the Respondent to receive notice and relevant information before disciplinary action is sought.

Should the Coordinator determine that, in response to the Complainant's request, the College can satisfy its obligations to the Complainant, the College community members, and the Respondent without proceeding through the process described herein, the Coordinator has the discretion to do so.

Absent a request for confidentiality as described above, the Coordinator or Deputy Coordinator will interview the Complainant to gain a basic understanding of the reported Prohibited Conduct. The interview will focus on key facts upon which the Complainant bases the report (i.e., who, what, where, and when) to assess how to proceed. At the conclusion of the Intake Meeting, and if the individual wishes to move forward with a complaint, the Coordinator will make two threshold determinations:

1. Does the Complainant's report state facts that, if true, could constitute a violation of the College's Sexual Misconduct Policy?

2. If yes, should the College proceed through Informal Resolution?

The Coordinator will make both threshold determinations as soon as possible after the Intake Meeting with the Complainant and communicate that finding in writing to the Complainant.

Initial interview with Respondent

The College will provide written notice to Respondent of the allegations of sexual harassment including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.

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The Title IX Coordinator or Deputy Coordinator will schedule an initial interview with the Respondent and to discuss the availability of Supportive Measures, consider the Respondent's wishes with respect to supportive measures, and explain to the Respondent the process for resolving a Formal Complaint.

- Address immediate physical safety and emotional well-being needs;
- Notify the Respondent of the right to contact law enforcement and seek medical treatment (and the right to decline to do so), and the importance of preservation of evidence;
- Notify the Respondent of the right to be assisted by individuals at the College in contacting law enforcement;
- Notify the Respondent of confidential and non-confidential reporting options on and off campus;
- Provide the Respondent with information about:
    - On and off campus resources, including counseling, health, mental health, and victim advocacy;
    - The range of Supportive Measures and remedies, including changes to academic, living, transportation, and/or working situations, or other protective measures, which are available to the Complainant and the Respondent regardless of whether the Complainant files a Formal Complaint with the College or other action with local law enforcement
- Provide an overview of the procedural options and process, including Informal Resolution and Formal Resolution. This overview would include explanation that the Complainant will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Respondent to prepare to participate;
- Explain that if, in the course of an investigation, the College decides to investigate allegations about the Complainant or the Respondent that are not included in the notice described above, the College will provide notice of the additional allegations to the Parties;
- Provide notice of any provision in the College's Code of Conduct or *Employee Handbook* that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
- Explain the right to object to the assignment of the Title IX Coordinator, Deputy Title IX Coordinator or Investigators based on bias or conflict of interest within 1 (one) Business Day of a decision to proceed through the process;
- Explain that the student has a right to an Advisor of their choice during the process;
- Assess for pattern of evidence or other similar conduct if possible;

- Explain the College's immunity/amnesty policy as published above in this document and in the *Guide to Student Life*;
- Explain the College's policy prohibiting retaliation as listed in the Standards of Conduct in the Code of Student Conduct and in the section entitled General College Policies and Procedures both found in the *Guide to Student Life;*
- Respondent is presumed not responsible for the alleged conduct and any determination regarding responsibility is made at the conclusion of the process;
- If the Title IX Coordinator dismisses the Formal Complaint or any allegations therein, both Complainant and Respondent have the right to appeal that decision.

Determining Course of Resolution for the Grievance
As an alternative to Formal Resolution, and only if the Coordinator determines that it is appropriate, the Parties may choose to resolve complaints through Informal Resolution. Informal Resolution must be mutually agreed upon in writing by both parties in any case.

Some complaints that allege harassment may be appropriate for Informal Resolution. The purpose of an Informal Resolution is to stop the inappropriate behavior. The process will not be used to resolve allegations that an employee sexually harassed a student. Sec. 106.45(b)(9). If the Coordinator determines that the Formal Complaint may be resolved appropriately through informal resolution, the Coordinator will ask the Complainant and the Respondent, separately, whether they would agree to pursue resolution of the complaint informally. The parties must voluntarily agree, in writing, to consent to use the Informal Resolution process. Any resolution reached through an informal process will be confirmed in writing and provided to the parties.

Informal Resolution
An Informal Resolution process cannot begin unless a Formal Complaint is filed. An individual who feels she/he is being harassed may seek to resolve the matter informally. Examples of informal ways to resolve a complaint of sexual harassment may include:

- A supervisor counsels the accused individual to stop the alleged misconduct; or
- Confronting the harasser face to face; or
- Writing a letter to the harasser; or
- Requesting advice and/or intervention from a Title IX Coordinator or third party.

The main purpose of the Informal Resolution procedure is to stop the inappropriate behavior.

To proceed with Informal Resolution, the College must provide the parties with written notice:

1. Disclosing the allegations, and
2. The requirements of the Informal Resolution process including the circumstances under which the parties could be precluded from resuming a Formal Resolution process arising from the same allegations; and
3. That no party can be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive their right to an investigation and adjudication of a Formal Complaint.

Any Party (including the Title IX Coordinator) may terminate the Informal Resolution process at any time up until the Informal Resolution becomes binding. In that event, the Title IX Coordinator will so notify the Parties in writing via official College email and will describe next steps and timeframes for the Formal Resolution. If the Parties reach agreement, the matter is closed. If not, the Parties will proceed with Formal Resolution set forth in the section on Formal Resolution below.

At the conclusion of an Informal Resolution, and upon receipt of official notification via College email, the Complainant and the Respondent have 2 (two) Business Days to change their mind about the resolution of the case. If either the Complainant or the Respondent changes their mind regarding the agreed upon resolution, they must do so in writing and submit it to the Title IX Coordinator. Should the Party's request not be received in writing (including electronically), or does not submit within 2 (two) Business Days, the informal resolution will be considered final and binding.

Formal Resolution

A Formal Resolution process cannot begin unless a Formal Complaint is filed. If the Coordinator determines that the Complainant's report must proceed through Formal Resolution, the Coordinator will notify both Parties, in writing, of the decision. The Coordinator's written notification to the Respondent will state facts sufficient to apprise the Respondent of the nature of the allegations, including, specifically:

1. Complainant's name
2. Nature of the Report
3. Specific policy violations (example: sexual assault, sexual harassment, retaliation)

4. Date of alleged policy violations
5. Time of alleged policy violations
6. Location of alleged policy violations
7. Brief description of allegations

Investigation

All investigations will be conducted in a timely and impartial manner. The Parties will be informed of the projected timeline for conclusion of the process. There may be temporary delays of the process and limited extensions of time frame for good cause. The Parties will be provided written notice of the delay and reasons for such delay.

The Coordinator will select trained internal investigators to conduct a reasonable, impartial, and prompt investigation of the complaint. The Coordinator will select Investigators based on several factors, including:

- The Parties involved,
- The complexity of the complaint,
- The need to avoid any potential conflict of interest, and who may best conduct a fair and equitable investigation for all Parties involved.

The Coordinator will notify the Parties, in writing, of the name of the designated Investigators at the time the Coordinator issues the notice of a Formal Resolution process. Both Parties will have 2 (two) Business Days to object to the Investigators selected on the basis of bias or conflict of interest. If either of the Parties objects, the Coordinator will evaluate whether the objection is substantiated. The Coordinator will remove and replace any Investigator the Coordinator finds to have a bias or conflict of interest against either Party. The Coordinator's decision is final and cannot be appealed.

The Investigators will commence the investigation once the time for the Parties to object to the selected investigators has expired or, if an objection is made, and the Coordinator determines the objection is not substantiated, from the time the Coordinator notifies the objecting party of the determination). The Investigators, in consultation with the Coordinator, will establish a preliminary timeline and process for conducting the investigation and report the timeline to the Parties. The Parties will also be notified in writing of any delays and the new timeline.

Step One: Fact-Gathering

The Investigators will interview both Parties and relevant witnesses, including fact and expert witnesses, and gather documentary evidence provided by the Parties and any identified witnesses. This evidence will include both inculpatory and exculpatory

evidence. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the Parties.
The Investigators will prepare a summary of each interview ("Interview Summary"). The Investigators will share the Interview Summary with the interviewee. The interviewee will have the opportunity to correct or comment on any statements made in the Interview Summary.

If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will sign an acknowledgement that the interviewee has reviewed and agrees that the Interview Summary is accurate. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response directly to the Investigators within 3 (three) Business Days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received from the interviewee, their Interview Summary may be included in the Investigative Title IX report and will be presumed to be accurate. In all instances where the Investigators include the Interview Summary as an exhibit to a report, the Investigators will also include any response.

The Investigators may use, if available, all of the following, but, are not limited to the following:

- Police Reports
- Video or Audio recordings
- Witness statements
- Campus Reports (scan logs, campus business, required programs completed)
- All other appropriate reports, recordings, etc.

The College cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the College obtains that Party's voluntary, written consent.

Step Two: Rebuttal Fact-Gathering
The Investigator may conduct follow-up interviews with both Parties and witnesses based upon testimonial and documentary evidence gathered during Initial Fact-Gathering. The Parties and witnesses can expect that, in these follow-up interviews, the Investigator will seek responses to specific allegations or evidence. To the extent additional material, witnesses or evidence are identified during Rebuttal Fact-Gathering,

the Investigator will conduct additional interviews and gather additional evidence. Rebuttal Fact Gathering may be repeated as necessary to ensure a complete gathering of evidence.

Step Three: Preliminary Report

1. The Investigators will prepare a Preliminary Report. The Preliminary Report is a written summary of the evidence gathered in the course of the Preliminary Investigation.
2. The Investigators will state specific factual findings in the Preliminary Report (e.g., "Complainant was incapacitated" or "Respondent believed that Complainant was not incapacitated").
3. The standard for determining each factual finding is Preponderance of Evidence standard. This standard of proof is that the evidence presented during the investigation must be considered to be more likely than not to be factual.
4. The Investigators will not state ultimate findings as to whether the Respondent has, or has not, violated one or more of the College's policies.
5. The Investigators will attach as exhibits to the Preliminary Report all Interview Summaries and any documentary evidence gathered as part of the investigation that is directly related to the allegations in the Formal Complaint, including any evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence whether obtained from a Party or other source.
6. When the Investigators determine that the Preliminary Investigation is complete, the Investigators will submit the Preliminary Report to the Coordinator. The Coordinator may require the Investigators to conduct additional investigation; if so, the Investigators will conduct additional investigation consistent with the procedures outlined above.

Step Four: Notice of Preliminary Investigation Findings and Opportunity to Respond

1. Once the Coordinator has agreed that the Preliminary Investigation is complete, the Coordinator will provide the Preliminary Report to the Parties and Advisor, if any, for review. Neither the Complainant nor the Respondent (or their Advisors, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided.
    a. The Parties may respond to the Preliminary Report; the Parties will have ten (10) Business Days to submit any response of being notified of their

opportunity to review the report. The Parties may respond in one or both of the following ways:

i. The Parties may provide a written response to the Preliminary Report, or any portion of it, including each Interview Summary. The Investigators will consider any written response provided by the Parties in preparing the Investigative Report.

ii. The Parties may submit a written request for additional investigation. Such requests may include, but are not limited to, the following:

1. Request for follow-up interviews
2. Requests for interviews with new witnesses
3. Requests to consider new information

2. If neither of the Parties requests additional investigation, the Investigators will prepare the Final Investigative Report. If either (or both) Parties request additional investigation, the Investigators will review the request(s) in consultation with the Coordinator.
3. The Investigators will conduct the requested additional investigation if the Investigators, in consultation with the Coordinator, determine that the request(s) will assist the Investigators in completing the investigation.
4. The Investigators and Coordinator will assess whether investigation of the additional information requires a substantial deviation from the recommended timeframe for completion of the investigation. If so, the Coordinator will notify the Parties in writing with an anticipated revised timeframe.
5. If the Investigators conduct additional investigation, the Investigator will prepare an Addendum to the Preliminary Report ("Addendum").
6. The Investigators will submit the Addendum to the Coordinator. The Coordinator may require the Investigators to conduct additional investigation before the Addendum is complete.

Step Five: Final Investigative Report

1. The Investigators will prepare a Final Investigative Report. The Final Investigative Report consists of the testimonial and documentary evidence from the Preliminary Investigation, the Preliminary Report, the Addendum (if applicable), and all of the Parties' responses throughout the Formal Resolution proceeding.
2. When the Investigators are satisfied that the Final Investigative Report is complete, the Investigators will submit the Final Investigative Report including

recommended findings or recommended conclusions to the Coordinator. The decision-maker in the case is under an independent obligation to evaluate objectively all relevant evidence and not defer to any recommendations in the Final Investigative Report.

3. The Coordinator will review the Final Investigative Report.
4. The Coordinator will provide to each Party and the Party's Advisor, if any, a copy of the Final Investigative Report in an electronic or hard copy. Neither the Complainant nor the Respondent (or their Advisors, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided.
5. No sooner than 10 (ten) Business Days after sending the Final Investigative Report, the Coordinator will meet individually with the Complainant and the Respondent.

   If both Parties wish to resolve the case without an adjudication, the Coordinator can facilitate an Informal Resolution of the Formal Complaint that does not necessitate a full adjudication. The Parties must agree to this Informal Resolution in writing. [106.45(b)(9)] At the conclusion of an Informal Resolution, and upon receipt of official notification via College email, the Complainant and the Respondent have 2 (two) Business Days to change their mind about the resolution of the case. If either the Complainant or the Respondent changes their mind regarding the agreed upon resolution, they must do so in writing and submit it to the Title IX Coordinator. Should the Party's request not be received in writing (including electronically), or does not submit within 2 (two) Business Days, the informal resolution will be considered final and binding.
6. If either of the Parties do not wish to participate in the Informal Resolution prior to an adjudication by the hearing panel, the Coordinator will schedule a hearing on the case not less than 10 (ten) Business Days from the meeting to schedule the Live Hearing.

Step Six: Live Hearing

1. Live Hearings are administrative hearings.
2. Live Hearings will be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the Live Hearing virtually, with technology enabling participants simultaneously to see and hear each other.
3. The College must create an audio or audiovisual recording, or transcript, of any Live Hearing and make it available to the parties for inspection and review.

4. The Standard of Evidence is Preponderance of Evidence throughout the Title IX Process including Live Hearings.
5. Cross-examination is allowed with specific rules.
    a. At the Live Hearing, the decision-maker(s) must permit each party's Advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
    b. Such cross-examination at the Live Hearing must be conducted directly, orally, and in real time by the Party's Advisor of choice and never by a Party personally, notwithstanding the discretion of the College under Sec. 106.45 (b)(5)(iv) to otherwise restrict the extent to which Advisors may participate in the proceedings. Other than cross-examination, Advisers may not participate in the hearing and may only communicate with the Party whom they advise in the case through whispers or written word.
    c. If a Party does not have an Advisor present at the Live Hearing, the College must provide without fee or charge to that Party, an Advisor of the College's s choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party [§106.45 (b)(6) (i)]
    d. Only relevant cross-examination and other questions may be asked of a Party or witness as determined by the hearing panel chair.
    e. Before a Complainant, a Respondent, or a witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
    f. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, 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.
6. Each Party will receive written notification of the outcome of the Live Hearing. The notification will include the following elements:
    a. Determination of responsibility including identification of the allegations which constitute sexual harassment.

b. Procedural steps taken from the receipt of the Formal Complaint through the determination including notifications to the Parties, interviews with the Parties, witnesses, site visits, and methods used to gather information.

c. Findings of fact supporting the determination

d. Conclusions regarding the application of the College's code of conduct to the facts

e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant.

f. Description of permissible procedures for appeal

Order and Rules for Live Hearing

1. Introduction
    a. Introduction of all Parties, including: Complainant, Respondent, Witnesses, Advisors, Investigators, Hearing Panel, and any Title IX staff.
    b. Review of Procedures and reminders about appropriate decorum of those present
2. Presentation of the Final Investigative Report
    a. Investigator presents the Final Investigative Report
    b. Questions by Hearing Panel of the Investigator
    c. Questions by Complainant of the Investigator
    d. Questions by the Respondent of the Investigator
3. Presentation of Complainant's Case
    a. Opening Statement by Complainant
    b. Questions by the Hearing Panel of Complainant.
    c. Cross-examination of Complainant by Respondent's Advisor. All cross-examination questions must be approved by Hearing Panel chair prior to answering.
    d. Statement of Complainant's Witnesses
    e. Questions by the Hearing Panel of Complainant's Witnesses.

f. Cross-examination of witnesses by Respondent's Advisor. All cross-examination questions must be approved by Hearing Panel Chair prior to answering.

4. Presentation of Respondent's Case
    a. Opening Statement by Respondent
    b. Questions by Hearing Panel of Respondent.
    c. Cross-examination of Respondent by Complainant's Advisor. All cross-examination questions must be approved by Hearing Panel chair prior to answering.
    d. Statement of Respondent's Witnesses
    e. Questions by the Hearing Panel of Respondent's Witnesses
    f. Cross-examination of witnesses by Complainant's Advisor. All cross-examination questions must be approved by Hearing Panel Chair prior to answering.
5. Closing
    a. Each Party makes closing statements.
        i. Complainant
        ii. Respondent
    b. Final questions, if any, by the Hearing Panel.
    c. Final remarks by Hearing Panel concerning process
6. All parties except for Hearing Panel are dismissed.
7. Hearing panel deliberates in private.
8. Hearing Panel informs the Title IX Coordinator of the determination within 3 (three) Business Days and provides rationale as described above for elements required in the notification to the Parties.

Either Party may appeal the decision within 5 (five) business Days of the decision. The section below outlines the Appeals Process.

Step Seven: Appeals

Either the Complainant or the Respondent or may appeal the decision of the Hearing Panel within 5 (five) Business Days of the receipt of the decision. Appeals must be in

writing and based on one of the following grounds for appeal and the grounds for appeal must be specifically stated in the written appeal.

Grounds for Appeal:

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

An appeal is not to rehear the case, but to review whether any of the above, if present, influenced the outcome of the case.

Appeals for cases arising under this Policy will be heard by an Appeals Officer. The Coordinator will receive the written materials and appoint an Appeals Officer, either the Provost or the Vice President for Finance and Operations.

The Appeals Officer will have access to all documents including, but not limited to:

- Recordings, both audio and video
- Communications, including electronic and non-electronic written documents
- Reports
- Responses to reports
- Addenda
- Other documents associated with the case that are not made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the College obtains that Party's voluntary, written consent

If the Appeals Officer determines that a ground for appeal is substantiated, the case will be returned to the Coordinator. Otherwise, the decision of the hearing panel stands. When a case is returned to the Coordinator, the Coordinator may:

1. Decide to drop the case (e.g., based on insufficient information to believe that a policy violation may have occurred), or
2. Send the case to the original hearing panel for reconsideration, or
3. Send the case to a new hearing panel with the same or different charges, and/or (re)implement any aspect of the disciplinary process. When a case is sent back for a new hearing, it is possible that a different decision (i.e., the decision of responsibility and/or sanctions) may subsequently result.

Sanctions

The following are possible sanctions which may be assigned after a finding of Responsibility. This list is not exhaustive and may be modified to meet the particular circumstances of any given case.

1. Expulsion: Permanent severance of the student's relationship with the College. This severance includes being barred from campus.
2. Disciplinary Suspension: Temporary severance of the student's relationship with the College for a specified period of time. This may include the student being barred from campus.
3. Limited Suspension: A student may be denied certain privileges for a specified period of time. These privileges may include, but are not limited to, class attendance, housing, parking on campus, participation in extracurricular activities, ID card privileges, access to institutional facilities, and access to the campus.
4. Disciplinary Probation: Notice to the student that any further, major disciplinary violation may result in suspension. Disciplinary probation might also include one or more of the following: the setting of restrictions or the issuing of a reprimand.
5. Reprimand (either oral or written.)
6. Counseling: The committee may require that a Respondent participate in counseling with the campus counselor for issues including, but not limited to, anger management, substance abuse, and extenuating personal circumstances. The Counselor may confirm participation, but not the content of the meetings.
7. Work assignment changed
8. Referral to Human Resources or Academic Affairs for employment action

Record Keeping

Title IX Records will be maintained for 7 (seven) years [See §106.45 (b)(10)] and in accordance with the College's Records Retention Policy. Title IX records include:

1. Investigations
2. Determinations
3. Recordings
4. Transcripts
5. Sanctions
6. Remedies
7. Appeals
8. Informal Resolutions
9. Training Materials

Internal and External Resources

Young Harris College reserves the right, at any time during any stage of any process described in this Policy, to utilize the services of internal and/or external individuals to facilitate any of the processes or to serve in any role in this Policy.

Examination and Revision

The policies of Young Harris College are reviewed regularly. The Young Harris College Sexual Misconduct Policy may be revised at any time in order to comply with current applicable guidance, regulations, and laws.