



ENDICOTT COLLEGE

Non-Discrimination, Harassment, and Sexual Misconduct Policy

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1. Purpose

Endicott College is committed to providing an educational and employment environment that is free from discrimination based on protected characteristics, harassment, and retaliation for engaging in protected activity.

Endicott College values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution 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, the College has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of protected characteristic discrimination, harassment or allegations of retaliation.

2. Notice of Nondiscrimination

Endicott College seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting discrimination in post-secondary education institutions.

Endicott College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived:

- Age (40 years and over in the employment context)
- Citizenship status
- Color
- Creed
- Disability (physical or mental)
- Domestic violence victim status
- Ethnicity
- Family responsibilities
- Gender expression
- Gender identity
- Genetic information (including family medical history)
- Height
- Marital status
- National origin (including ancestry)
- Pregnancy or related conditions
- Race
- Religion
- Residence
- Sex
- Sexual orientation

- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime, or campaign badge veteran, and Armed Forces Service Medal veteran)
- or any other protected characteristic under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agency.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the Endicott College community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, and/or social access, benefits, and/or opportunities of any member of the College community, guest, or visitor on the basis of that person’s actual or perceived protected characteristic(s), is in violation of this Policy.

Endicott College will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution process in the Harassment, and Nondiscrimination Procedures.

3. Nondiscrimination Team Contacts

The College has appointed the Nondiscrimination Team, comprised of the following individual(s), to coordinate the College’s compliance with federal, state, and local civil rights laws and ordinances:

For discrimination and harassment allegations [not based on sex or disability] that involve Endicott College employees:

Policy Administrator
 Kate White
 Vice President, Human Resources
 College Hall
 (978) 232 2086
kwhite1@endicott.edu

For discrimination and harassment allegations [not based on sex or disability] where both parties are students:

Policy Administrator
 Mathew Heiser
 Associate Dean of Students
 Callahan Center 106D
 (978) 232-2206
mheiser@endicott.edu

For sex discrimination and sex-based harassment allegations:

Policy Administrator
Christy Galatis
Director of Title IX
College Hall
(978) 998 7746
cgalatis@endicott.edu

For disability-based discrimination allegations:

Policy Administrator
Katie Stango-O'Grady, Section 504 Officer
WAX 242
(978) 232 2954
kogrady@endicott.edu

These administrators will generally be referred to throughout this Policy as the Appropriate Policy Administrator¹. Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating the College's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy and related procedures to ensure an education and employment environment free from discrimination, harassment, and retaliation.

4. External Contact Information

Concerns about Endicott College's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

Office for Civil Rights (OCR)
Boston Office
Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Phone: (617) 289-0111
TDD#: (877) 521-2172
Email: OCR.Boston@ed.gov

For Complaints involving employee-on-employee conduct:

¹ Anywhere this procedure references an "Appropriate Policy Administrator," the College may substitute a trained designee.

Equal Employment Opportunity Commission (EEOC)
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Customer Service Hotline #: (800) 421-3481
TTY#: (844) 234-5122
Web: <http://www.eeoc.gov>

5. Mandated Reporting and Confidential Employees

All Endicott College faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, and/or retaliation to the Appropriate Policy Administrator² immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without the College's initiation of a formal or informal process under the procedures outlined below.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged Policy violations, and these employees will immediately pass Notice to the Appropriate Policy Administrator (and/or police, if desired by the Complainant), who will act when an incident is reported to them.

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

A. Confidential Employees

Endicott College has designated specific employees as Confidential Resources. Those designated by Endicott College as Confidential Resources are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an Endicott College official unless a Complainant has requested the information be shared.

These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability as required by Massachusetts law, or when required to disclose by other applicable law or court order.

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

² Appropriate Policy Administrators may delegate duties and obligations described by this Policy, so whenever this Policy refers, e.g., to an action that will be taken or a supportive service that will be provided by an Appropriate Policy Administrator, the term "or designee" should be read into those references as well.

Designated Confidential Employees:

Endicott College Wellness Center Staff
978-232-2104 (for appointments)

Director of Belonging and Spiritual Life
Gail Cantor
978-232-2163
gcantor@endicott.edu

Employees who have confidentiality as described above, and who receive Notice within the scope of their confidential roles will timely submit anonymous statistical information for Clergy Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

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

In addition, Complainants may speak with individuals in the following categories who are unaffiliated with Endicott College without concern that this Policy will require such individuals to disclose information to the College without the Complainant's permission:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

6. Disability-based Grievances and Complaints

Grievances related to disability status and/or provision of accommodations are addressed using the procedures in this Policy. However, students alleging discrimination on the basis of an actual or perceived disability, in which the provision of reasonable accommodations has a discriminatory effect, may be resolved informally by contacting the [Office of Accessibility Services](#) at 978-998-7769.

7. Scope

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of prohibited conduct occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available on the college's Title IX website at www.endicott.edu/title-ix.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in the Endicott College's program or activities, including education and employment.

This Policy prohibits all forms of discrimination on the basis of the protected characteristic(s) listed in the Notice of Nondiscrimination. The Harassment, and Nondiscrimination Procedures may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

8. Jurisdiction

This Policy applies to Endicott College's educational programs and activities defined as including locations, events, or circumstances in which the Endicott College exercises substantial control over both the Respondent and the context in which the conduct occurred, circumstances where the College has disciplinary authority, and to misconduct occurring within any building owned or controlled by an Endicott College-recognized student organization. [A Complainant does not have to be a member of the Endicott College community to file a Complaint, at the discretion of the Appropriate Policy Administrator.]

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to Endicott College's education program or activities. [The College may also decide in its discretion to extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial Endicott College interest.

A substantial Endicott 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 Endicott College's educational interests or mission].

For disciplinary action to be taken under this Policy, the Respondent must be an Endicott College faculty member, student, or employee at the time of the alleged incident and, in some circumstances at the time a decision regarding responsibility is made. If the Respondent is unknown or is not a member of the Endicott College community, the Appropriate Policy Administrator will offer to assist the Complainant in identifying appropriate College and local resources and support options, and will implement appropriate supportive measures and/or remedial actions (e.g., no-trespassing notices). Endicott College can also assist in contacting

local or College law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving Endicott College through third-party contracts are subject to the policies and procedures of their employers and/or to the Endicott College policies and procedures to which their employer has agreed to be bound by their contracts. Whether a vendor has expressly agreed that its employees will be bound by Endicott College policies and procedures or not, the College reserves the right to issue a no-trespass notice to any vendor's employee or any other third party, at the College's discretion.

When the Respondent is enrolled in or employed by another institution, the Appropriate Policy Administrator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Appropriate Policy Administrator 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 Endicott College where harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the appropriate policy Administrator if brought to their attention.

9. Supportive Measures

Endicott College will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and/or retaliation. Supportive measures are defined as individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to restore or preserve a party's access to the College's education program or activity, including measures that are designed to protect the safety of the Parties or the College's educational environment; or provide support during a Resolution Process conducted under this Policy. Reasonably available supportive measures may be provided by the College regardless of where the conduct at issue allegedly occurred or whether such conduct allegedly occurred outside of the College's education programs or activities, and regardless of whether a Complaint is filed under this Policy and the Procedures outlined below.

The Appropriate Policy Administrator will promptly make supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, the College will inform the Complainant, in writing, that they may file a Complaint either at that time or in the future. The Appropriate Policy Administrator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

Endicott College will maintain the confidentiality of supportive measures, provided that the confidentiality does not impair College's ability to provide those supportive measures. The College will act to ensure as minimal an academic/occupational impact on the Parties as reasonably possible. The College will implement measures in a way that does not unreasonably burden any 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
- Leaves of absence
- Issuance of no-trespass notices
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Any other actions deemed appropriate by the Appropriate Policy Administrator

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

The Parties will be provided with a timely opportunity to seek modification or reversal of an Appropriate Policy Administrator's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Appropriate Policy Administrator assigned to the Complaint. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the definition of supportive measures stated above. Endicott College will also provide the Parties with the opportunity to seek additional

modification or termination of supportive measures applicable to them if circumstances change materially.

10. Online Harassment and Misconduct

Endicott 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 the College's education program and activities, or when they involve the use of College networks, technology, or equipment. [These means may include use of the Resolution Process to address off-campus conduct whose effects "significantly contribute" to limiting or denying a person access to Endicott College's education program or activity].

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

11. Prohibited Conduct

Conduct that is Prohibited:

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under Endicott College Policy.

All offense definitions below encompass actual and/or attempted offenses.

A. Discrimination

Discrimination is different and harmful treatment with respect to an individual's employment or participation in an education program or activity of the College based, in whole or in part, upon the individual's actual or perceived protected characteristic.

Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

1) Disparate Treatment Discrimination:

- o Any intentional differential treatment of a person or persons that is based on an individual's actual or perceived protected characteristic and that:
 - Excludes an individual from participation in;
 - Denies the individual benefits of; or
 - Otherwise adversely affects a term or condition of an individual's participation in a Endicott College program or activity.

2) Disparate Impact Discrimination:

- o Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
 - Excludes an individual from participation in;
 - Denies the individual benefits of; or
 - Otherwise adversely affects a term or condition of an individual's participation in a Endicott College program or activity.

B. Discriminatory Harassment

- unwelcome conduct on the basis of actual or perceived protected characteristic(s), that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the Endicott College's education program or activity.

C. Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,³ including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity; sexual assault, dating violence, domestic violence, and stalking.

1) Quid pro quo:

- an employee agent, or other person authorized by Endicott College,
- to provide an aid, benefit, or service under the College's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2) Hostile Environment Harassment:

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the College's education program or activity.

³ Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

Endicott 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, through other Endicott College policies that address student and employee conduct.

D. Other Prohibited Conduct:

3) Sexual Assault:

Any sexual act, including Rape, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent; also unlawful sexual intercourse.⁴

a. Rape:

- The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of the Complainant,
- oral or anal sexual intercourse (i.e., penal penetration) with another person, without the consent of that person, and/or
- to use an object or instrument (both being anything other than a penis) to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person,
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

b. Fondling:

- The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent
- for the purpose of sexual gratification
- without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental incapacity or physical incapacity.

c. Incest:

⁴ This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below it.

- Non-forcible sexual intercourse between persons who are related to each other
- within the degrees wherein marriage is prohibited by the law of the state in which the conduct occurred.

d. Statutory Rape:

- Non-forcible sexual intercourse with a person
- who is under the statutory age of consent of the state in which the conduct occurred.

4) Dating Violence:

- Violence⁵ committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - length of the relationship
 - type of relationship
 - frequency of the interaction between the Parties involved in the relationship.

5) Domestic Violence:

- Felony or misdemeanor crimes committed by a person who:
 - is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the state where the conduct occurred or a person similarly situated to a spouse of the Complainant;
 - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - shares a child in common with the Complainant; **or**
 - commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of the state where the conduct occurred.

6) Stalking:

- engaging in a course of conduct⁶ on the basis of sex, that is,

⁵ For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not a violation under this Policy because the purpose is safety, not harm.

⁶ For purposes of this definition, "A 'course of conduct' requires that there be more than one incident and the conduct must be directed at a specific person.

- directed at a specific person that would cause a reasonable person⁷ to:
 - fear for the person’s safety, or
 - the safety of others; or
 - suffer substantial emotional distress.⁸

- engaging in a course of conduct not on the basis of sex, that is, directed at a specific person that would cause a reasonable person to:
 - fear for the person’s safety, or
 - the safety of others; or
 - suffer substantial emotional distress.

7) Sexual Exploitation:

- an individual taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above.
- for their own benefit or for the benefit of anyone other than the person being exploited.

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)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- 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

⁷ Reasonable person is an objective standard meaning a person having similar characteristics/demographics to the Complainant.

⁸ In the context of stalking, a Complainant is not required to obtain medical or other professional treatment and counseling is not required to show substantial emotional distress.

- 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 the Complainant to touch the Respondent's private body parts (breasts, buttocks, groin)
- 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 sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)
- Creating or disseminating images or videos of child sexual abuse material

9) Retaliation:

- Adverse action, including intimidation, threats, coercion, or discrimination, against any person,
- by Endicott College, a student, employee, or a person authorized by the College to provide aid, benefit, or service under the College's education program or activity,
- for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or

- because the person has reported information, made a Complaint, testified, assisted another in making a report, otherwise assisted,, or participated or refused to participate in any manner in an investigation or Resolution Process under the Equal Opportunity, Harassment, and Non-Discrimination Procedures, including an Informal Resolution process..

The exercise of rights protected under this policy does not constitute retaliation. It is also not retaliation for Endicott College to pursue policy violations against those who make materially false statements in bad faith in the course of a resolution under this policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

10) Unauthorized Disclosure:⁹

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the College; or
- Violating a nondisclosure agreement required reasonably by the College that does not restrict parties from exercising any right provided by this Policy or applicable law, but which prohibits unauthorized disclosure of such materials without authorization or consent.

11) Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of an appropriate policy Administrator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an agreement achieved through informal resolution
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Title IX resolution process, including but not limited to:
 - Destruction of or concealing of evidence
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

⁹ Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

E. Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

1) Consent

Consent is defined as:

- 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 during the interaction, 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. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish 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 be kissed back.

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

Silence or the absence of resistance alone should not be interpreted as 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.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed 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. If a sexual partner shares the clear expectation for the use of a condom, and those expectations are not honored, the failure to use a condom or removing a condom may constitute sexual exploitation as defined above.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on the 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.

2) Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

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.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in 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. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

3) Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person 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). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

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.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, memory blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment. Thus, for example, the intoxication of a Respondent would not be a valid excuse for their failure to perceive the incapacity of a Complainant, if a reasonable, sober person exercising sound judgment under the circumstances would have known that the Complainant was incapacitated.

12. Standard of Proof

Endicott College uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the College will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent violated the Policy prohibitions at issue.

13. Reports/Complaints of Discrimination, Harassment, and/or Retaliation

A Report provides notice to the College of an allegation or concern about discrimination, harassment, or retaliation and provides an opportunity for the Appropriate Policy Administrator to provide information, resources, and supportive measures. A Complaint provides notice to the College that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a Report and may decide at a later time to make a Complaint. Reports or Complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a Complaint with, or give verbal Notice directly to any mandatory reporter of the college. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office of the Appropriate Policy Administrator or any other mandatory reporter of the college. All mandatory reporters will ensure said reports/complaints are submitted to the Appropriate Policy Administrator.
- 2) Submit online Notice at [Online Reporting Form](#). Anonymous Notice is accepted, but the Notice may give rise to a need to try to determine the Parties' identities. Anonymous Notice typically limits the Endicott College's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous Notice.

Reporting carries no obligation to initiate a Complaint, and in most situations, Endicott College is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances where the College may need to initiate a resolution process; factors the College is likely to consider when deciding whether to initiate a process are summarized in the "Appropriate Policy Administrator Authority to Initiate a Complaint" section of the Resolution Process, below. If a Complainant does not wish to file a Complaint, the College will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the College to discuss and/or provide supportive measures, in most circumstances.

14. Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Appropriate Policy Administrator. However, if the Respondent is no longer subject to Endicott College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited.

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 Appropriate Policy Administrator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate .

15. False Allegations and Evidence

Making deliberately false and/or malicious accusations under this Policy is a serious offense that 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 determination of a Policy violation.

Additionally, witnesses and parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under other appropriate Endicott College policies.

16. Confidentiality/Privacy

Endicott College makes every effort to preserve the Parties' privacy. The College will not share with third parties the identity of any individual who has made a Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these

policies and procedures.^{10,11} Additional information regarding confidentiality and privacy can be found in [Appendix C](#).

Unauthorized Disclosure of Information

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by Endicott College through the Resolution Process, to the extent that information is the work product of the College (meaning it has been produced, compiled, or written by Endicott College and/or their designees for work product for purposes of its investigation and resolution of a Complaint). It is also a violation of Endicott College Policy for parties and/or advisors to violate a nondisclosure agreement required reasonably by the College that does not restrict parties from exercising any right provided by this Policy or applicable law, but which prohibits unauthorized disclosure of such materials publicly disclosing a party's personally identifiable information without authorization or consent.

17. Emergency Removal/Interim Actions/Administrative Leaves

Endicott College can act to remove a student Respondent accused of Sex Discrimination or Sex-based Harassment from its education program or activities, partially or entirely, on an emergency basis when the College determines through an individualized safety and risk analysis that an imminent and serious threat to the health or safety of a complainant or any students, employees or other persons arising from the allegations of prohibited conduct justifies removal. This risk analysis will be performed by the appropriate college officials, which may include the Title IX Coordinator, members of the Endicott Department of Public Safety and Police, as well as members of the CARE team.

On occasion, employees who have been alleged to have violated the terms of the College's Non-discrimination, Harassment, and Sexual Misconduct Policy are also subject to interim actions and/or administrative leaves (paid or unpaid) as determined by the Vice President of Human Resources. When considering administrative leave, the Vice President of Human Resources will consider the duration of the risk, the severity of the potential harm, and the likelihood and imminence of that harm within the context of preventing further harassment and/or discriminatory behavior. Although the final determination will be made by the Vice President of Human Resources, s/he will consult with other college officials as needed including an ECFA representative if the Respondent is a member of ECFA.

18. Federal Timely Warning Obligations

Endicott College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the Endicott College community.

¹⁰ 20 U.S.C. 1232g

¹¹ 34 C.F.R. § 99

Endicott 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.

19. Amnesty

Endicott College encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give notice to Endicott College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as policies against 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 the Endicott College community that Complainants choose to give Notice of misconduct to 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, Endicott College maintains a policy of offering Parties and witnesses amnesty from minor policy violations, such as those related to underage alcohol consumption or the use of illicit drugs, related to the incident. A reporting party or a witness who causes an investigation of sex-based harassment will not be subject to a disciplinary sanction for a violation of the College's student conduct policy related to the incident unless the College determines that the report was not made in good faith or that the violation was egregious; an egregious violation shall include, but not be limited to, taking an action that places the health or safety of another person at risk.

A. Students

Endicott College maintains an amnesty policy for students who offer help to others in need.

B. Employees

Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced for fear of getting in trouble themselves. Endicott 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.

20. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders,¹² and it is particularly time sensitive. Endicott College will inform Complainants of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest 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 a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- 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 email and social media correspondence, including notifications related to account access alerts.
- Take time stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including 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 a Complainant and the Appropriate Policy Administrator, the importance of taking these actions will be discussed, if timely.

21. Federal Statistical Reporting Obligations

¹² Parties may have a right to obtain court-issued protective order in addition to an Endicott College-issued no contact order; the College will inform Parties of related resources that may be available upon request. If a protective order for the benefit of a Party has been issued under state or federal law, the Party should inform the Title IX Coordinator of that, and provide information about the terms of the protective order so that the College can carry out any responsibilities that it may have (e.g., due to its control of College premises) to assist in the implementation of such terms.

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, sexual assault, 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) Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking¹³
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with the College’s Clery Coordinator for inclusion in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

22. Independence and Conflicts of Interest

The Appropriate Policy Administrators act with independence and authority, free from bias and conflicts of interest. The Appropriate Policy Administrators oversee all resolutions under this Policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Appropriate Policy Administrator, contact the College’s Executive Vice President. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Resolution Pool member should be raised with the Appropriate Policy Administrator.

23. Revision of this Policy

This Policy succeeds previous policies addressing discrimination, harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Appropriate Policy Administrator reviews and updates these policies and procedures regularly. Endicott College reserves the right to make

¹³ VAWA is the Violence Against Women Act, enacted in 1994 and codified in part at 42 U.S.C. sections 13701 through 14040.

changes to this document as necessary, and once those changes are posted online, they are in effect.

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

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

This Policy is effective August 1, 2024.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY AGAINST DISCRIMINATION, HARASSMENT, AND SEXUAL VIOLENCE (Hereinafter the “Resolution Process”)

1. Overview

Endicott College will act on any Notice, Complaint, or Knowledge of a potential violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy (“the Policy”) that is received by the Appropriate Policy Administrator¹⁴ or any other Mandated Reporter by applying the Resolution Process below.

The procedures below apply to all allegations of discrimination on the basis of an actual or perceived protected characteristic, harassment, related retaliation, or Other Prohibited Conduct as involving students, staff, Appropriate Policy Administrators, faculty members, or third parties.

Unionized employees and other employees whose employment relationship with the College is governed by specific contractual terms: The procedures outlined in this policy will take precedence and will govern over alternative procedures outlined in any Contractual Binding Agreement (CBA) recognized by campus unions including those included in the current ECFA faculty handbook.

2. Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Appropriate Policy Administrator will initiate a prompt initial evaluation to determine the College’s next steps. The Appropriate Policy Administrator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

3. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other Endicott College policies not incorporated into the Discrimination, Harassment, and Sexual Misconduct Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of an investigation, for which it makes sense to provide one resolution for all charges. Thus, collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Appropriate Policy Administrator may consult with Endicott College officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Appropriate Policy Administrator. All other allegations of misconduct unrelated

¹⁴ Anywhere this procedure references an “Appropriate Policy Administrator,” the College may substitute a trained designee.

to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

4. Initial Evaluation

The Appropriate Policy Administrator conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.¹⁵ The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether Endicott College has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within Endicott College jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate Endicott College office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

Helping a Complainant to Understand Options

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Appropriate Policy Administrator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
 - a supportive and remedial response, and/or

¹⁵ If circumstances require, the President Or Appropriate Policy Administrator will designate another person to oversee the Resolution Process should an allegation be made about the Appropriate Policy Administrator or the Appropriate Policy Administrator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

- o Informal Resolution, or
- o the Resolution Process described below.

The Appropriate Policy Administrator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation, as described below.

If the Complainant elects the Resolution Process below, and the Appropriate Policy Administrator has determined the Policy applies and that the Endicott College has jurisdiction, they will route the matter to the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Appropriate Policy Administrator will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Appropriate Policy Administrator), though the Complainant can elect to initiate one later, if desired.

Appropriate Policy Administrator Authority to Initiate a Complaint

If the Complainant does not wish to file a Complaint, the Appropriate Policy Administrator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and make a fact-specific determination as to whether to initiate a Complaint themselves. To make this determination, the Appropriate Policy Administrator will consider the following non-exhaustive factors to determine whether to initiate a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of discrimination would occur if a Complaint is not initiated;
- The severity of the alleged discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an Endicott College employee;
- The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-Maker in determining whether discrimination occurred;
- Whether the Endicott College could end the alleged discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Appropriate Policy Administrator may consult with appropriate Endicott College employees, and/or conduct a threat assessment to aid their determination whether to initiate a Complaint.

When the Appropriate Policy Administrator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

The College endeavors to complete the initial review process within three (3) to five (5) days of the initial meeting with the Complainant, absent extenuating circumstances.

5. Dismissal

Endicott College may dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) Endicott College is unable to identify the Respondent after taking reasonable steps to do so;
- 2) Endicott College no longer enrolls or employs the Respondent;
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Appropriate Policy Administrator declines to initiate a Complaint; and/or
- 4) Endicott College determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

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

Upon any dismissal, the College will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the College will also notify the Respondent of the dismissal.

6. Appeal of Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Appropriate Policy Administrator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Appropriate Policy Administrator must then provide the Respondent with notice of the Complaint and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, Endicott College will:

- Implement dismissal appeal procedures equally for the Parties;
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- 3) The Appropriate Policy Administrator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

Upon receipt of a dismissal appeal in writing from one or more Parties, the Appropriate Policy Administrator will share the petition with the other party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Parties, and the Appropriate Policy Administrator, who will be invited to respond in writing. At the conclusion of the response period, the Appropriate Policy Administrator will forward the appeal, as well as any response provided by the other Parties to the Dismissal Appeal Officer for consideration.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Appropriate Policy Administrator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Appropriate Policy Administrator, and the Parties will be notified of any extension.

7. Emergency Removal/Interim Suspension of a Student

Endicott College may emergency remove a student accused of sexual misconduct upon receipt of Notice/Knowledge, a Complaint, or at any time during the resolution process. Prior to an emergency removal, Endicott College will conduct an individualized safety and risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons

arising from the allegations of sex discrimination justifies such action. Students accused of other forms of discrimination (not sex) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Appropriate Policy Administrator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not to decide on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Appropriate Policy Administrator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

8. Placing a Paid Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions for interim action are typically applicable instead of the above emergency removal process. This may or may not include placing an employee on administrative leave during an investigation into allegations of a policy violation within the context of this policy. The Appropriate Policy Administrator will have the final say as to whether a leave is required.

9. Advisors in the Resolution Process (Title IX and Sexual Misconduct Grievances ONLY)

Advisor privileges pertain only to Complainants and Respondents involved in the grievance process for Sexual Misconduct in line with Federal Title IX regulations.

A. Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is willing and available to serve in that role.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Appropriate Policy Administrator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

Each party may have a single advisor participate in the grievance process, as provided in these Procedures.

B. Advisor's Role in the Resolution Process

The Parties are expected to ask and respond to questions on their own behalf throughout 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.

C. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records College shares with them, in accordance with the provisions of the Policy that address Confidentiality and Unauthorized Disclosure. Advisors may not disclose any Endicott College work product or evidence the College obtained solely through the Resolution Process for any purpose not explicitly authorized by the College.

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The College will decline to share materials with any Advisor who has not executed an NDA. The College may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College's confidentiality and non-disclosure expectations.

D. Advisor Expectations

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

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

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

E. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the College's expectations of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting and/or interview may be ended, or other appropriate measures implemented, including the College requiring the party to use a different Advisor or providing a different Endicott College-appointed Advisor, where necessary. Subsequently, the Appropriate Policy Administrator will determine how to address the Advisor's non-compliance and future role.

10. Resolution Option Overview

This Resolution Process is Endicott College's chosen approach to addressing all forms of discrimination on the basis of protected characteristics, harassment, and retaliation. The process considers the Parties' preferences but is ultimately determined at the Appropriate Policy Administrator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with Endicott College Policy.

A. Informal Resolution

To initiate an Informal Resolution, a Complainant or Respondent may make such a request to the Appropriate Policy Administrator at any time prior to a final determination, or the Appropriate Policy Administrator may offer the option to the Parties, in writing. Endicott 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.

Endicott College offers four categories of Informal Resolution:

- 1) Supportive Resolution. When the Appropriate Policy Administrator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) Educational Conversation. When the Appropriate Policy Administrator can resolve the matter informally by having a conversation with the Respondent to

discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.

- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating the Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and Endicott College are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue an Administrative Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time before an Informal Resolution agreement is signed and initiate or resume the Administrative.

If Informal Resolution is attempted but the matter is not resolved through Informal Resolution and a formal resolution process occurs thereafter, no communications made by Parties during and as part of an Informal Resolution process will be admitted as evidence in any subsequent formal process; this does not prohibit the admission in a formal process of evidence that was created before and/or independently of an Informal Resolution process.

If an investigation is already underway, the Appropriate Policy Administrator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Categories of Informal Resolution:

(1) Supportive Measures

The Appropriate Policy Administrator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to Endicott College's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Appropriate Policy Administrator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Appropriate Policy Administrator does not initiate a Complaint.

(2) Educational Conversation

The Complainant(s) may request that the Appropriate Policy Administrator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations and implement appropriate remedial actions to ensure that policies and expectations are clear. Such a conversation is non-disciplinary and non-punitive. The conversation will be documented as the Informal Resolution for the matter, if it takes place. If the Respondent decides not to attend such meeting or in any way indicates that they do not agree to the expectations of complying with the harassment and non-discrimination policy, the Appropriate Policy Administrator will end the Informal Resolution process and notify the parties that the formal grievance process will either commence or resume..

(3) Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all alleged Policy violations, the ongoing process may be paused, and the Appropriate Policy Administrator may determine whether Informal Resolution is an option.

If Informal Resolution is available, the Appropriate Policy Administrator will determine whether all Parties and the Endicott College are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Appropriate Policy Administrator will implement the accepted finding that the Respondent is in violation of Endicott College Policy, implement agreed-upon restrictions and remedies, and determine the appropriate responses in coordination with other Appropriate Policy Administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, 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.

(4) Alternative Resolution

The College offers a variety of Alternative Resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative Resolution may involve methods such as mediation, supported direct conversation or interaction with the Respondent(s); indirect action by the Appropriate Policy Administrator or other appropriate College officials; and other forms of resolution that can be tailored to the needs of the Parties. Some Alternative Resolution mechanisms will result in an

agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an Alternative Resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an Alternative Resolution process.

The Appropriate Policy Administrator 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 threat assessment analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Emotional investment/capability of the Parties
- Goals of the Parties

The Appropriate Policy Administrator has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution.

The Appropriate Policy Administrator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, the College will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

B. Administrative Resolution Process (see [Section 22](#) below)

11. Resolution Process Pool

The Resolution Process relies on a pool of Appropriate Policy Administrators ("the Pool") to carry out the process.¹⁶

¹⁶ External, trained third-party neutral professionals may also be used to serve in Pool roles.

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Appropriate Policy Administrator:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Decision-Maker
- Decision-Maker for challenges to emergency removal and supportive measures
- Decision-Maker
- Appeal of Dismissal Decision-Maker
- Appeal Decision-Maker

B. Pool Member Appointment

The Appropriate Policy Administrator, in consultation with senior Appropriate Policy Administrators as necessary, appoints the Pool, which acts with independence and impartiality.¹⁷ Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, the College can also designate regular roles for individuals in the Pool.

12. Notice of Investigation and Allegations (NOIA)

Prior to an investigation, the Appropriate policy Administrator will provide the Parties with a detailed written NOIA which will include sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute prohibited conduct, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the College, a specific statement of which College policies were allegedly violated and by what actions. 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.

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(es) of the Parties as indicated in official Endicott College records, or emailed to the Parties' Endicott College-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

¹⁷ This does not preclude the Endicott College from having all members of the Pool go through an application and/or interview/selection process.

13. Resolution Timeline

Endicott College will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which can be extended as necessary for appropriate cause by the Appropriate Policy Administrator. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, Endicott College reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

Endicott College may undertake a short delay in its investigation (e.g., several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The College will promptly resume its Resolution Process as soon as feasible. During such a delay, the College will implement and maintain supportive measures for the Parties as deemed appropriate.

A Party may concurrently utilize the College's process for investigating sex-based harassment complaints and any external civil or criminal processes available to the Party.

The Parties may request reasonable extensions for good cause of deadlines provided for in this Procedure by making a written request to the Appropriate Policy Administrator. If the Appropriate Policy Administrator grants a request for an extension for a particular deadline, they will grant a similar extension to the other Party. The College may also extend timelines and deadlines of its own accord, and if it does so, it will inform the parties of the reason for the extension of time.

14. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Appropriate Policy Administrator, Investigator(s), and Decision-Maker(s), may neither have nor demonstrate a conflict of interest or bias for Complainants or Respondents generally, or for a specific Complainant or Respondent.

The Appropriate policy Administrator will vet the assigned Investigator(s), Decision-Maker(s), and Appeals officers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Appropriate Policy Administrator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied.

15. Investigator Appointment

Once an investigation is initiated, the Appropriate Policy Administrator will appoint an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to Endicott College's community.

16. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the College's investigation and Resolution Process. Student witnesses and witnesses from outside the College community cannot be required to participate but are encouraged to cooperate with Endicott College investigations and to share what they know about a Complaint.

17. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator(s) elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

All interviews will be recorded. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose follow-up questions to each other, through procedures detailed below.

18. Evidentiary Considerations

The Investigator(s) and the Decision-Maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant evidence is that which may aid a decisionmaker in determining whether the alleged misconduct occurred.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

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

19. Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged policy violations and waive further process, the Decision-Maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process will continue to its conclusion.

20. Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all relevant Parties and witnesses and obtaining relevant evidence. With regard to sex discrimination cases, the Title IX Coordinator may act in the role of investigator.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit requested changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

Endicott College may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and 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 specific policies implicated.
- Assist the Appropriate Policy Administrator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Appropriate Policy Administrator, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended to reflect any additional or dismissed allegations.
- 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.

- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors access to review an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Appropriate Policy Administrator for their review and feedback.

21. Administrative Resolution Process

The Administrative Resolution Process is used for all Complaints of discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Behaviors (as defined in Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Administrative Resolution Process consists of a hand-off of the investigation report to a trained Decision-Maker (appointed by the Appropriate Policy Administrator) who may be internal or external to the institution. Once the Decision-Maker receives and reviews the file, they will make a finding and submit recommendations to the Appropriate Policy Administrator. This may include a recommendation regarding sanctions as appropriate.

The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Decision-Maker's receipt of the Draft Investigation Report. The Parties will be updated regularly on the timing and any significant deviation from this typical timeline.

Investigator-led Questioning Meetings

- The Appropriate Policy Administrator will provide the Draft Investigation Report to the Decision-Maker and the Parties simultaneously for review. The Decision-Maker can then provide the Investigator with a list of relevant questions to ask the Parties or any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Decision-Maker may also explore credibility.
- The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
 - All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Decision-Maker.
- The Investigator will share all party-proposed questions with the Decision-Maker, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible. The Investigator will then hold individual meetings with the Parties and witnesses to ask the relevant and not otherwise impermissible questions that the Investigator chooses to pose, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
 - For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting, or in writing (typically as an Appendix to the report).
- Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose follow-up questions to be asked by the Investigator.
- The Investigator will review the proposed questions with the Decision-Maker, to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. The expectation is that any additional questions should be minimal and not impose a significant delay in the resolution process. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings.
- The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.

- The Investigator will then share the investigation report with the Appropriate Policy Administrator for their review and approval to finalize the report.
- The Final Investigation Report and investigation file will then be provided to the Appropriate Policy Administrator for distribution to the DM.

The Decision-Maker's Determination

- The Decision-Maker will review the Final Investigation Report, all appendices, and the investigation file.
- If the record is incomplete, the Decision-Maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses to pose further questions, if needed. These meetings will be recorded and shared with the Parties.
- Upon reviewing the relevant evidence, the Decision-Maker may also choose to pose additional questions:
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the Decision-Maker may meet individually with the Parties and witnesses to question them in order to assess their credibility. These meetings will be recorded and shared with the Parties.
 - At their discretion, the Decision-Maker may also meet with any party or witness to ask additional relevant questions that will aid the Decision-Maker in making their findings. These meetings will be recorded and shared with the Parties.
- If the Decision-Maker meets with Parties and/or witnesses as contemplated by the bullet points immediately above, the Decision-Maker will provide the Parties with a reasonable opportunity to submit a written response regarding any information gathered through such meetings.
- The Decision-Maker will then apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any attendant sanctions.
- Timeline. The Decision-Maker's determination process typically takes approximately five (5) business days, but this timeframe can vary based on a number of factors and variables, including whether the Decision-Maker holds meetings with Parties and/or witnesses as outlined above. The Parties will be notified of any delays.
- For cases Involving a Title IX Policy Violation:
Prior to a determination, the Title IX Coordinator will collect a written impact and/or mitigation statement from each of the parties and hold them until after the Decision-Maker has made determinations on the allegations. If there are any findings of a Policy violation, the Decision-Maker will request the Impact Statements and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.

22. Sanctions

Factors considered by the Decision-Maker when determining sanctions and responsive actions 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 it is feasible once a determination is final, 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.

A. Student Sanctions

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

1. **Warning:** An official written reprimand for violation of specified regulations.
2. **Probation:** A period of time in which a student is expected to demonstrate positive behavioral change. Violations of the terms of student conduct probation, or any other violation of this Code during the period of probation, may result in further sanctions, including eviction from residence, suspension, or expulsion from the College.
3. **Denial of Access to Specific Areas:** Ban from areas on-campus for a specified length of time.
4. **Relocation or Removal from Residence:** Suspension or termination of the residence hall agreement and exclusion from visiting within certain or all residential facilities, as set forth in the notice of relocation or removal, for a specified period of time. A student who is removed from his or her residence arrangement is not entitled to a refund of room fees.
5. **Revocation of Privileges:** Restrictions placed on activities and/or use of College services and facilities for a specified period of time.
6. **Suspension:** Exclusion from classes and other privileges or activities, including access to College premises or College-sponsored activities off-campus, as set forth in the notice of suspension. A student who is suspended is not entitled to any tuition or fee refund and is banned from College premises for the duration of the suspension.

7. Dismissal or Expulsion: Termination of student status, and exclusion from College premises, privileges, and activities. A student who is dismissed or expelled shall not be entitled to any tuition or fee refund. In the case of expulsion, the student will be banned from College premises permanently.
8. Discretionary Sanctions: Other sanctions may be imposed instead of or in addition to those specified above. Discretionary sanctions include, but are not limited to service hours, fines, educational reflection assignments, participation in alcohol or drug awareness programs, and training, counseling, and education regarding sexual assault and misconduct.

B. 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 Training or Education
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Shift or schedule adjustments
- Reassignment
- Assignment to New Supervisor
- 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, the College may assign any other responsive actions as deemed appropriate

23. Notice of Outcome

Within five (5) business days (longer for significant extenuating circumstances) of the conclusion of the Resolution Process, the Appropriate policy Administrator will provide the Parties with a written outcome notification. The written outcome notification 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 Endicott College records, or emailed to the Parties' College-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

24. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a student Respondent decide not to participate in the Resolution Process, the process will proceed absent their participation to a reasonable resolution. If a student Respondent withdraws from the College, the Resolution Process may continue, or the Appropriate Policy Administrator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, Endicott College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and other considerations 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, Endicott 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 discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to Endicott College in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. The Registrar and Office of Admissions will be notified, accordingly.

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

B. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process will proceed absent their participation to a reasonable resolution. If an employee Respondent resigns from employment at the College with unresolved allegations pending, the Resolution Process may continue, or the Appropriate Policy Administrator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, Endicott College may still provide reasonable supportive or remedial measures as deemed necessary to address safety or other considerations and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to Endicott College in any capacity. Human resources, the registrar, and admissions will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with Endicott College. The records retained by the Appropriate Policy Administrator will reflect that status.

25. Appeal of the Determination

The Appropriate Policy Administrator will designate a single Appeals Decision-Maker chosen from the Pool, or other trained internal or external individual, to hear the appeal. No Appeal Decision-Maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure or dismissal appeal that may have been heard earlier in the process.

A. Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome
- 2) New evidence that would change the outcome and that was not reasonably available when the determination regarding responsibility or dismissal was made
- 3) The Appropriate policy Administrator, 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 would change the outcome

B. Request for Appeal

Any party may submit a written "Request for Appeal" to the Appropriate Policy Administrator within three (3) business days of the delivery of the Notice of Outcome. The Request for Appeal will be forwarded to the Decision-Maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Decision-Maker will notify all Parties and their Advisors, the Appropriate Policy Administrator, and, when appropriate, the Investigator(s) and/or the Decision-Maker with the approved grounds and then be given five (5) business days to submit a response. The Decision-Maker will forward all responses, if any, to all Parties for review and comment.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Decision-Maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

C. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-Maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-Maker or the Appropriate Policy Administrator (as in cases of bias), the Decision-Maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-Maker roles.

A Notice of Appeal Outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. In most cases, written notification will be sent via email to all parties.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five available appeal grounds.

D. Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

The College endeavors to complete any appeal process within five (5) business days of when an appeal was received, absent extenuating circumstances.

26. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Appropriate Policy Administrator may implement additional long-term remedies or actions with respect to the Parties and/or the Endicott College community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- 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.

27. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-Maker(s), including the Decision-Maker or the Informal Resolution agreement.

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 Endicott College.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

28. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, Endicott College will maintain records of all case files associated with this policy.

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

29. Disability Accommodations and Support During the Resolution Process

Endicott College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Endicott College’s Resolution Process.

Anyone needing such accommodations or support should contact the Appropriate Policy Administrator, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

Other Support

Endicott College will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

30. Revision of these Procedures

These procedures supersede any previous procedures addressing discrimination, harassment, and retaliation for incidents occurring on or after August 1, 2024. The Appropriate Policy Administrator will regularly review and update these procedures. Endicott College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing 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 governing laws or regulations or court holdings.

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

These procedures are effective as of August 1, 2024.

APPENDIX A: DEFINITIONS

The following definitions apply to the Nondiscrimination, Harassment, and Sexual Misconduct Policies and Procedures:

- Advisor. Any person chosen by a party who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- Appropriate Policy Administrator. The person with primary responsibility for overseeing and enforcing the <<Nondiscrimination Policy and Procedures>>. As used in these policies and procedures, the “Appropriate Policy Administrator” also includes their designee(s).
- Appeal Decision-Maker. The person who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s) accordingly.
- Complainant. A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to participate in Endicott College’s education program or activity at the time of the alleged discrimination, harassment or retaliation.
- Complaint. An oral or written request to the College that can objectively be understood as a request for the College to investigate and make a determination about the alleged Policy violation(s).
- Confidential Employee.
 - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - An employee whom Endicott College has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, or retaliation. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, or retaliation in connection with providing those services; or
 - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, or retaliation. The employee’s confidential status only applies with respect to information received while conducting the study.

- Day. A business day when the Endicott College is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- Decision-Maker. The person who hears evidence, determines relevance, and makes the Final Determination of whether the Policy has been violated and/or assigns sanctions.
- Education Program or Activity. Locations, events, or circumstances where Endicott College exercises substantial control over the context in which the discrimination, harassment, and/or retaliation occurs and also includes any building owned or controlled by a student organization that the College officially recognizes.
- Employee. A person employed by Endicott College either full- or part-time, including student employees when acting within the scope of their employment.
- Final Determination. A conclusion by a preponderance of the evidence that the alleged conduct did or did not violate Policy.
- Finding. A conclusion by a preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- Informal Resolution. A resolution agreed to by the Parties and approved by the Appropriate Policy Administrator that occurs prior to a Final Determination in the Resolution Process.
- Investigation Report. The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- Investigator. The person(s) authorized by Endicott College to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- Knowledge. When Endicott College receives Notice of conduct that reasonably may constitute harassment, discrimination, or retaliation in its Education Program or Activity.
- Mandated Reporter. A Endicott College employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, and/or retaliation with the Appropriate Policy Administrator.
- Nondiscrimination Team. The Appropriate Policy Administrator, any deputy coordinators, and any member of the [Resolution Process Pool](#).
- Notice. When an employee, student, or third party informs the Appropriate Policy Administrator of the alleged occurrence of discriminatory, harassing, and/or retaliatory conduct.
- Parties. The Complainant(s) and Respondent(s), collectively.
- Pregnancy or Related Conditions. Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- Protected Characteristics. Any characteristic for which a person is afforded protection against discrimination and harassment by law or Endicott College Policy.
- Relevant Evidence. Evidence that may aid a Decision-Maker in determining whether the alleged discrimination, harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.

- Remedies. Typically, post-resolution actions are directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College's Education Program and Activity.
- Resolution Process. The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution or Administrative Resolution.
- Respondent. A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy. If an allegation that a College policy or practice has the purpose or effect of discriminating on the basis of sex or another protected characteristic, the College could also be a Respondent for purposes of this Policy and the Procedures.
- Sanction. A consequence imposed on a Respondent who is found to have violated this Policy.
- Sex. Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- Student. Any person who has gained admission.
- Title IX Coordinator. At least one official designated by Endicott College to ensure ultimate oversight of compliance with Title IX and the College's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

APPENDIX B: ACADEMIC FREEDOM

Students, staff, and faculty are entitled to an employment and educational environment that is free of discrimination, harassment, and retaliation. 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. It is the policy of the College to maintain and encourage full freedom, within the law, of inquiry, teaching, research, and service. In the exercise of this freedom, the faculty member may, without limitation, discuss his/her own subject in the classroom. While the faculty member may not claim as a right the privilege of discussing controversial matter, which has no relation to the subject, it is recognized by the College in the normal course of student-faculty exchange, on rare occasions, it may be of value to discuss controversial matter that has no relation to the subject. In his/her role as citizen and in his/her role as employee of the College, every faculty member has the same personal freedom as other citizens. However, with his/her extramural utterances, the faculty member has an obligation to refrain from doing so in a manner that appears that they are speaking on behalf of the College in the role of institutional spokesperson.

It is understood that faculty members shall have the right to participate in organizations of their choice off-campus provided such participation does not interfere with the performance of their duties as a faculty member of the College.

APPENDIX C: PRIVACY, PRIVILEGE, CONFIDENTIALITY

For the purpose of this Policy, the terms privacy, confidentiality, and privilege have distinct meanings.

- **Privacy.** Means that information related to a complaint will be shared with a limited number of Endicott College employees who “need to know” in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in the College’s response to Notice under this Policy will receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.
- **Confidentiality.** Exists in the context of laws (including Title IX) or professional ethics that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by Endicott College as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Employee will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the Title IX Office can assist them. With respect to Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities, to the extent required by Massachusetts law. Non-personally-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.
- **Privilege.** Exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by a provider unless a court orders release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. The Endicott College treats employees who have the ability to have privileged communications as Confidential Employees.

Endicott College reserves the right to determine which College officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to FERPA.

Only a small group of officials who need to know will typically be told about a Complaint. Information will be shared as necessary with Investigators, Decision-Makers, Appeal Decision-Makers, witnesses, the Parties, and the Parties’ Advisors.

Endicott College may contact students' parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

APPENDIX D: NON-FRATERNIZATION POLICY

The College is committed to a policy of non-fraternization between students and employees, as well as between managers and employees. This policy is not intended to reduce or hinder social contact between students and employees, or between managers and employees, that arises as part of acceptable professional relationships or events on or off campus. This policy is aimed at individual, personal relationships. The College believes that a non-working relationship between a student and staff or between a manager and employee may be a detriment to the student's opportunity to learn or the employee's professional environment, whether direct or implied. This policy is in effect for all employees of the College as well as all contract employees and volunteers. The College does not prohibit consensual social relationships between employees, including managers and their subordinates, so long as the parties mutually and voluntarily consent to the relationship and the relationship does not affect the performance of their duties or negatively impact the College. Behavior in the workplace must be professional.

APPENDIX E: PREGNANCY, RELATED CONDITIONS, AND PARENTING POLICY

1. Non-Discrimination Statement

Endicott College does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). Endicott College prohibits all community members from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, or family status. This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

2. Definitions

- *Familial Status*. The configuration of one's family or one's role in a family
- *Marital Status*. The state of being married or unmarried
- *Parental Status*. The status of a person who is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person
- *Pregnancy and Related Conditions*. The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.[1]
- *Reasonable Modifications*. Individualized modifications to Endicott College's policies, practices, or procedures that do not fundamentally alter Endicott College's education program or activity.

3. Information Sharing Requirements

Any Endicott College employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Title IX Coordinator's contact information and communicate that the Title IX Coordinator can help take specific actions to prevent discrimination and ensure equal access to Endicott College's education program and activity. If the employee has a reasonable belief that the Title IX Coordinator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Title IX Coordinator's contact information.

Upon notification of a student's pregnancy or related condition, the Title IX Coordinator will contact the student and inform the student of Endicott College's obligations to:

- Prohibit sex discrimination.
- Provide reasonable modifications.

- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity.
- Allow a voluntary leave of absence.
- Ensure lactation space availability.
- Maintain a Resolution Process for alleged discrimination.
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Title IX Coordinator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

4. Reasonable Modifications for Students

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to Endicott College's education program and activity. Any student seeking Reasonable Modifications must contact the Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education
- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access
- A larger uniform or other required clothing or equipment

- Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and Endicott College's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator will consult with The Center for Accessibility Services to ensure the student receives reasonable accommodations for their disability as required by law.

5. Certification to Participate

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

The certified level of physical ability or health is necessary for participation;

The institution requires such certification of all students participating; and

The information obtained is not used as a basis for pregnancy-related discrimination.

6. Lactation Space Access

Endicott College provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

Employees should contact their manager for information pertaining to accessing lactation spaces on campus.

Students should work with the Title IX Coordinator for information pertaining to accessing lactation spaces on campus.

7. Leaves of Absence

A. Students

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity. [Students who elect to take leave under this policy may register under an “on leave/inactive” status to continue their eligibility for certain benefits.] While registered under that status, students who choose to take a leave of absence under this policy can elect to keep their health insurance coverage and continue residing in Recipient housing, subject to the payment of applicable fees.

To the extent possible, Endicott College will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students’ scholarships, fellowships, or similar Recipient-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar Recipient-supported funding by exercising their rights under this policy.

The Endicott College Financial Aid Office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Title IX Coordinator at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Title IX Coordinator will assist the student in completing any necessary paperwork.

B. Employees

Information on employment leave can be found in the Endicott College’s Employee Handbook.

If an employee is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.

8. Recipient Housing

A pregnant student's Recipient housing status will not be altered based on pregnancy status unless requested by the student.

9. Policy Dissemination and Training

A link to this policy will be made available to all students, faculty, and staff in the college's annual Title IX attestation email distributed no later than August 31 of each acad

[1] "[T]he Department of Education interprets 'termination of pregnancy' to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion." Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

APPENDIX F: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS POOL

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- How to conduct investigations that protect the safety of Complainants and Respondents, and promote accountability
- Issues relating to sex-based harassment and investigatory procedures to protect the safety and rights of students and promote accountability
- Disparate treatment
- Disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Fair, trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Issues of relevance of questions and evidence
- Issues of relevance and creating an investigation report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Additional Training Elements Specific to Title IX

All investigators, Decision-Makers, and other persons who are responsible for implementing Endicott College's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Nondiscrimination Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with Endicott College’s Informal Resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- Endicott College’s obligations under Title IX
- How to apply definitions used by the Endicott College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX