

## INTRODUCTION

King's College is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of sexual harassment, misconduct, and/or retaliation. Sexual harassment violates an individual's fundamental rights and personal dignity. King's College considers sexual harassment, in all its forms, to be a serious offense. This policy refers to all forms of sexual harassment, including but not limited to sexual harassment, sexual assault, and sexual violence by employees, students, or third parties.

## TITLE IX STATEMENT ON NON-DISCRIMINATION

King's College is committed to equal opportunity in the admission of students, the administration of educational programs and activities for employees and applicants for employment, without discrimination based on race, national or ethnic origin, religion, gender, gender identity, marital status, sexual orientation, age, or disability, in accordance with applicable laws.

## AUTHORITY FOR THE POLICY

This policy of King's College is intended to provide for education, prevention, assessment, and grievance procedures to address sexual harassment in compliance with Title IX, 2020 Regulations (Title 34 of the Code of Federal Regulations, Part 106 Nondiscrimination on the Basis of Sex in Education), Dear Colleague Letters from 2003, 2015, Violence Against Women Amendments of the Jeanne Clery Act, the Commonwealth of Pennsylvania laws on Sexual Assault Education, Pennsylvania Act 16 of 2019, Pennsylvania Act 55 of 2022, and Federal Educational Rights and Privacy Act (FERPA). The College changes the policy based on changes in federal and Commonwealth law and in accordance with regulations and guidance from an appropriate governmental agency, including revocation of guidance.

## PART I: TERMS, SCOPE, SUPPORTIVE MEASURES

### I. GLOSSARY

- *Advisor*: A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, advise the party on that process, and conduct cross-examinations at the hearing.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that King's College investigate the allegation.
- *Confidential Employee*: A King's College employee who has been designated as confidential under this policy for the purpose of providing services to persons related to sexual harassment. The employee's confidential status is only with respect to information received about sexual harassment in connection with providing these services.
- *Consent*: Knowing, voluntary, with explicit permission by word or action to engage in sexual activity. 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 can also be withdrawn once given and consent to some sexual activity cannot be presumed to be consent for other sexual activity. Once consent is withdrawn, sexual activity should cease.
- *Day*: A business day when King's College has normal office operations.
- *Education program or activity*: Locations, events, or circumstances where King's College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and any conduct that occurs in a setting which is subject to King's College's disciplinary authority
- *Final Determination*: A conclusion by a preponderance of the evidence, the standard of proof, 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.
- *Grievance Process*: A method of formal resolution designated by King's College to address conduct that falls within the policies included below and complies with the requirements of 34 CFR Part 106.45
- *Grievance Process Pool*: Any investigators, hearing officers, appeal officers, and advisors who may serve during the Grievance Process (though not at the same time or with respect to the same case).
- *Hearing Officer*: Those who have decision-making and sanctioning authority within the Grievance Process.
- *Hostile Environment*: Unwelcome sex-based conduct that, based on the totality of the circumstances is so severe, pervasive, and objectively offensive that it effectively denies equal access to an education program/activity.

- *Informal Resolution Process*: A method of information resolution that does not include a live hearing and must be agreed to by all parties.
- *Investigator*: The person or persons charged by King's College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter*: An employee of King's College who is obligated by policy to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator.
- *Notice*: A non-confidential employee learns of conduct that may constitute sexual harassment under this Policy.
- *Quid Pro Quo*: An employee, agent, or other person authorized by King's College to provide an aid, benefit, or service under King's College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
- *Parties*: The Complainant(s) and Respondent(s), collectively.
- *Pregnancy or related conditions*: (See **Pregnancy Policy**)
  - Pregnancy, childbirth, termination of pregnancy, or lactation
  - Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation
  - Recovery from pregnancy, childbirth, termination of pregnancy, lactation or related medical conditions
- *Recipient ("King's College")*: A postsecondary education program that is a Recipient of federal funding.
- *Relevant*: related to allegations of sexual harassment under investigation as part of the Grievance Process. Questions are relevant when they seek evidence that may aid in showing whether the alleged sexual harassment occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sexual harassment occurred.
- *Respondent*: A person who is alleged to have violated the Recipient's prohibition on sexual harassment or retaliation in violation of this policy.
- *Resolution*: The result of a Formal or Informal Grievance Process.
- *Retaliation*: Intimidation, threats, coercion, or discrimination against any person by King's College, a student, or an employee or other person authorized by King's College to provide aid, benefit or service under King's College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, participated or refused to participate in any matter in the investigation, proceeding, or hearing under the Title IX policy.
- *Sanction*: Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated King's College's prohibition on sexual harassment.
- *Sexual Exploitation*: Taking non-consensual or abusive sexual advantage of another for their benefit or the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy.
- *Sexual Harassment*: unwelcome conduct, determined by a reasonable person, to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to King's College education program or activity. Sexual harassment is the umbrella category that includes harassment on the basis of sex, including when it takes the form of:
  - Quid Pro Quo harassment
  - Hostile environment harassment
  - Specific Offenses
    - Sexual assault
    - Dating violence
    - Domestic violence
    - Stalking
- *Student*: Any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with King's College.

- *Supportive measures*: 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 that party's access to King's College's education program or activity, including measures that are designed to protect the safety of the parties or King's College's educational environment
  - Provide support during King's College's Grievance Process.
- *Title IX Coordinator* is at least one official designated by King's College to ensure compliance with Title IX and King's College's Title IX program. Throughout this policy, references to the Coordinator may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Pool*: The Title IX Coordinator and any member of the Title IX Team.

## 2. RATIONALE FOR POLICY

King's College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, King's College has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. King's College values and upholds the equal dignity of all members of its community and strives to balance the parties' rights in the grievance process during what is often a difficult time for all those involved.

## 3. APPLICABLE SCOPE

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

When the Respondent is a member of the King's College community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the King's College community. This community includes, but is not limited to, students,<sup>1</sup> student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. Additionally, the procedures below may be applied to incidents, patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

## 4. TITLE IX COORDINATOR

The Title IX Coordinator and ADA/504 Coordinator oversees the implementation of the King's College Affirmative Action and Equal Opportunity plan and King's College's policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator is primarily responsible for coordinating King's College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

### Title IX Coordinator

Regina Corchado, SHRM-SCP  
Executive Director of Human Resources  
107 North Franklin Street  
(570) 208-5968 (office)  
(570) 266-3060 (mobile)  
[reginacorchado@kings.edu](mailto:reginacorchado@kings.edu)

### Title IX Coordinator

Megan Casey  
Associate VP for Student Affairs/Dean of Students  
113 North Franklin St.  
(570) 208-5875 (office)  
[megancasey1475@kings.edu](mailto:megancasey1475@kings.edu)

## 5. INDEPENDENCE AND CONFLICT-OF-INTEREST

The Title IX Coordinator manages the Title IX Team and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. Any attempts to influence the outcome of a complaint or resolution made to an investigator or hearing officer are to be documented as part of the case file and reported to the Title IX Coordinator.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the King's College President, Rev. Thomas Looney, C.S.C., Concerns of bias or potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of harassment/misconduct or discrimination committed by the Title IX Coordinator should be reported to the King's College President, Rev. Thomas Looney, C.S.C., In addition, reports of harassment/misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

## 6. ADMINISTRATIVE CONTACT INFORMATION

Complaints or notice of alleged policy violations or inquiries about or concerns regarding this policy and procedures may be made internally to:

### **Regina Corchado, SHRM-SCP**

Executive Director of Human Resources  
107 North Franklin Street  
(570) 208-5968 (office)  
(570) 266-3060 (mobile)  
[reginacorchado@kings.edu](mailto:reginacorchado@kings.edu)

### **Megan Casey**

Associate VP for Student Affairs/Dean of Students  
113 North Franklin St.  
(570) 208-5875 (office)  
[megancasey1475@kings.edu](mailto:megancasey1475@kings.edu)

Title IX/Sexual Harassment Website: [www.kings.edu/titleix](http://www.kings.edu/titleix)

The Title IX Team, in addition to the Title IX Coordinators listed above, includes:

|                         |                      |                                                                                                                                                       |
|-------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Investigators</b>    | Stephen Kopenis      | Ryan Hall 107/108; <a href="mailto:stephenkopenis@kings.edu">stephenkopenis@kings.edu</a><br>Office: (570) 208-5965; Cell: (570) 760-0310             |
|                         | Brian McNulty        | Ryan Hall 107/108; <a href="mailto:brianmcnulty@kings.edu">brianmcnulty@kings.edu</a><br>Office: (570) 208-8450; Cell: (570) 266-9070                 |
|                         | Nicholas Gushka      | Ryan Hall 107/108;<br><a href="mailto:nicholasgushka@kings.edu">nicholasgushka@kings.edu</a><br>Office: (570) 208-5926                                |
| <b>Hearing Officers</b> | Veronica Piazza      | 107 N. Franklin St; <a href="mailto:veronicapiazza@kings.edu">veronicapiazza@kings.edu</a><br>Office: (570) 208-5902                                  |
|                         | Steven Matusiewicz   | Registrar's Office, Administration Building;<br><a href="mailto:stevenmatusiewicz@kings.edu">stevenmatusiewicz@kings.edu</a> ; Office: (570) 208-5856 |
|                         | Sean Cryan           | Campus Activities, Sheehy-Farmer Campus Center;<br><a href="mailto:seancryan@kings.edu">seancryan@kings.edu</a> ; Office: (570) 208-5802              |
| <b>Appeal Officers</b>  | Anitra McShea, Ph.D. | 113 N. Franklin Street; <a href="mailto:anitramcshea@kings.edu">anitramcshea@kings.edu</a> ;<br>Office: (570) 208-5875                                |

The College will initiate a response to receiving actual notice of sexual harassment or sexual misconduct. The following positions have the authority to institute corrective measures on behalf of the College, and to address and correct sexual harassment and retaliation:

- Title IX Coordinators and team as listed above.
- Campus Safety and Security Officers and Executive Director
- President of the College

King's College has classified all employees, except those designated as Confidential Employees, as Mandated Reporters of any knowledge they have that a community member may be experiencing sexual harassment, and/or retaliation. Employees who are mandated reporters must report an incident if they become aware of an incident to the Title IX Coordinator. The mandated reporter can keep the Complainant's name confidential upon request of the Complainant but cannot remain anonymous themselves. Mandated reporters will provide the Complainant information on how to report a Title IX offense to the Title IX Coordinator or through the anonymous reporting site. Mandated reporters are all employees who are not confidential employees.

Inquiries may be made externally to:

**Office for Civil Rights (OCR)**

U.S. Department of Education  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (800) 877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

For complaints involving employees: Equal Employment Opportunity Commission (EEOC)

## **7. NOTICE/COMPLAINTS OF DISCRIMINATION, HARASSMENT, AND/OR RETALIATION**

### **a. File a written complaint with the Title IX Coordinator or verbally request supportive measures.**

**Regina Corchado, SHRM-SCP**  
Executive Director of Human Resources  
107 North Franklin Street  
(570) 208-5968 (office)  
(570) 266-3060 (mobile)  
[reginacorchado@kings.edu](mailto:reginacorchado@kings.edu)

**Megan Casey**  
Associate VP for Student Affairs/Dean of Students  
113 North Franklin St.  
(570) 208-5875 (office)  
[megancasey1475@kings.edu](mailto:megancasey1475@kings.edu)

A report may be made at any time (including during non-business hours) using the telephone number or email address or by mail to the office address listed for the Title IX Coordinator or any other official listed. You can also email [titleix@kings.edu](mailto:titleix@kings.edu).

### **b. Report online, using the reporting form at <https://kings.guardianconduct.com/incident-reporting/new>.**

If the Respondent is a student, please use the drop-down menu to select Report Type "Sexual Harassment (Title IX) by Student." If the Respondent is an employee, please use the drop-down menu to select Report Type "Title IX Report on Employee."

Anonymous reports are accepted but limit the College's ability to respond. King's College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. King's College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, so the Complainant is largely in control and should not fear a loss of privacy by making a report that allows King's College to discuss and/or provide supportive measures. You can visit the [Confidential Reporting webpage](#) for more information,

### **c. Report to a Confidential Employee**

Under Title IX, the College has designated confidential employees who are not required to report incidents of sexual harassment and sexual misconduct without a student's consent (unless a legal exception exists). Students who wish to confidentially report instances of sexual harassment may do so with any staff member in the King's College Counseling Center, any staff member in the King's College Student Health Services, or with the Director of Campus Ministry. Referrals to off-campus agencies may also be given.

| Department              | Specified Confidential Employees | Hours of Availability          | Phone Number   | Office Location                                |
|-------------------------|----------------------------------|--------------------------------|----------------|------------------------------------------------|
| Counseling Center       | All staff                        | Monday-Friday<br>8:30am-4:30pm | (570) 208-5873 | 6 <sup>th</sup> floor,<br>Administration Bldg. |
| Student Health Services | All staff                        | Monday-Friday<br>8:30am-4:30pm | (570) 208-5852 | Andre Hall                                     |
| Campus Ministry         | Fr. Brogan Ryan,<br>C.S.C.       |                                | (570) 208-5890 | Campus Ministry<br>Center                      |

A Formal Complaint is a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that King's College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. The document must contain the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint and requests the Recipient investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## **8. SUPPORTIVE MEASURES**

King's College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to King's College's education program or activity, including measures designed to protect the safety of all parties or King's College's educational environment, and/or deter harassment, discrimination, and/or retaliation.

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

King's College will maintain the privacy of the supportive measures, including refraining from informing one party of supportive measures provided to another party, provided that privacy does not impair the College's ability to provide supportive measures or restore or preserve either party's access to the College's education program or activity. King's College will act to ensure as minimal an academic impact on the parties as possible. King's College will implement measures in a way that does not unreasonably burden the other party.

King's College may, as appropriate, modify or terminate supportive measures at the conclusion of the Grievance Process, or they may be continued beyond that point.

King's College will provide a Complainant or Respondent with the opportunity to challenge modification or reversal of King's College's decision to provide, deny, modify, or terminate supportive measures applicable to them. The challenge would be made to an appropriate and impartial employee identified by the Title IX Coordinator. The parties are permitted the opportunity to seek additional modification or termination of a supportive measure applicable to them if the circumstances change.

These actions may include, but are not limited to:

- Referral to counseling, medical and/or other healthcare services
- Referral to community-based service providers
- No contact orders between the parties
- No trespass orders to campus, or specific buildings on campus
- Safety planning, including campus safety escorts and transportation accommodations
- Academic support, extensions of deadlines or other course/program related adjustments
- Class schedule modifications, withdrawals or leaves of absence
- Altering on-campus housing assignments or providing on-campus housing assignments for an off-campus/commuter student, regardless of whether or not a comparative alternative exists.
- Altering work arrangements for employees or student-employees, regardless of whether or not a comparative alternative exists.
- Financial Aid Counseling
- Visa and immigration assistance
- Increased security and monitoring of certain areas of the campus
- Timely Warning
- Training and education to the community or community subgroup(s)
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to the appropriate student or employee conduct processes for enforcement.

## **9. EMERGENCY REMOVAL**

King's College can act to remove a Respondent entirely or partially from its education program or activity on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the CARE Team Subgroup Pool using its standard objective violence risk assessment procedures. The Title IX Coordinator will select the necessary members of the Subgroup on a case-by-case basis. The Subgroup Pool is composed of the Executive Director of Campus Safety and Security or designee, Director of the Counseling Center or counselor designee, the Director of Student Health Services, Director of Housing and Residence Life and the Associate Vice-President for Academic Success or designee.

The provision for Emergency Removal cannot be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action and the option to request to meet with the Title IX Coordinator before such action/removal is imposed or as soon after that as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

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

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

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, including expulsion.

Considering the circumstances and safety concerns, King's College will implement the least restrictive emergency actions possible. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily reassigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

## **10. PROMPTNESS**

All allegations are acted upon promptly by King's College once it has received the notice or a formal complaint. Complaints can take 60-120 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

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

## **11. PRIVACY**

Every effort is made by King's College to preserve the privacy of reports.<sup>2</sup> Accordingly, King's College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any

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<sup>2</sup> For the purpose of this policy, privacy and confidentiality have distinct meanings.

**Privacy** means that information related to a complaint will be shared with a limited number of King's College (Recipient) employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in King's College (Recipient)'s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in King's College (Recipient)'s FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers,

Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

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

Only a small group of officials who need to know will typically be told about the complaint (including but not limited to for cases where the respondent is a student) such as Campus Safety and Security, Title IX Coordinator, and other offices the complainant or respondent have used as resources or are contracted to provide supportive measures: in addition, for employees Human Resources, the employee's supervisor and vice president. Information will be shared as necessary with Investigators, Hearing officers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

King's College may contact 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 first before doing so.

## **12. JURISDICTION OF KING'S COLLEGE**

This policy applies to the education program and activities of King's College, to conduct that takes place on the campus or property owned or controlled by the College, at College-sponsored events. The College campus is in the County of Luzerne in the City and Township of Wilkes-Barre and Pittston. The College may conduct events and programs at locations outside of this area on occasion. The Respondent must be a member of King's College's community for its policies to apply.

This policy can also apply to the effects of off-campus misconduct that effectively deprive someone of access to King's College's educational program. King's College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial King's College interest. Regardless of where the conduct occurred, King's College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off campus sponsored program or activity. A substantial King's 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 or other individual.

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attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. King's College (Recipient) has designated individuals who have the ability to have privileged communications as Confidential Resources. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

3. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
4. Any situation that is detrimental to the educational interests or mission of King's College.

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

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

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

All vendors serving King's College through third-party contracts are subject to the policies and procedures of their employers.

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

Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environments external to King's College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

### **13. TIME LIMITS ON REPORTING**

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

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

When notice/complaint is affected by a significant time delay, King's College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

### **14. ONLINE HARASSMENT AND MISCONDUCT**

The policies of King's College 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 use King's College networks, technology, or equipment.

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

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

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Please see the College's **Social Media Policy**.

### **15. POLICY ON SEXUAL HARASSMENT**

Students, staff, administrators, and faculty are entitled to an employment and educational environment free of sexual harassment. King's College's harassment policy is not meant to inhibit or prohibit educational content or discussions

inside or outside of the classroom that includes germane, but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under King's College policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of King's College policy, though supportive measures will be offered to those impacted.

#### **a. Sexual Harassment**

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

King's College has adopted the following definition of Sexual Harassment to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Acts of sexual harassment can occur in-person or online, including through email, texts or messages, social media platforms, apps, or other technology.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking and is defined as conduct on the basis of sex that satisfies one or more of the following:

1. Quid Pro Quo: an employee of King's College, conditions the provision of aid, benefit, or service of King's College, on an individual's participation in unwelcome sexual conduct.
2. Hostile Environment: unwelcome conduct, determined by a reasonable person, to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to King's College education program or activity..<sup>3</sup>
3. Sexual assault is defined as:
  - a. Sex Offenses, Forcible: Any sexual act directed against another person without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
  - b. Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
  - c. Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age..<sup>4</sup> or because of temporary or permanent mental or physical incapacity.
  - d. Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent

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<sup>3</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

mental or physical incapacity.

- e. Forcible Fondling:
    - i) The intentional touching of the clothed or unclothed body parts without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
    - ii) The forced touching by the Complainant of the Respondent's clothed or unclothed body parts, without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
    - iii) This offense includes instances where the Complainant is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
  - f. Sex Offenses, Non-forcible:
    - i) Incest: Non-forcible sexual intercourse between persons related to each other within the degrees wherein marriage is prohibited by Pennsylvania law.
    - ii) Statutory Rape: Non-forcible sexual intercourse with a person under the statutory age of consent of Pennsylvania. In Pennsylvania: Children less than 13 years old cannot grant consent to sexual activity. Teens between the ages of 13 and 15 cannot consent to sexual activity with anyone who is four or more years older than them. People ages sixteen and older can legally consent to sexual activity with anyone they choose, as long as the other person does not have authority over them as defined in Pennsylvania's institutional sexual assault statute.
4. Dating Violence is defined as violence, on the basis of sex, committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
- a. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - b. Dating violence includes but is not limited to sexual or physical abuse or the threat of such abuse.
  - c. Dating violence does not include acts covered under the definition of domestic violence.
5. Domestic Violence, defined as violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the Commonwealth of Pennsylvania or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the Commonwealth of Pennsylvania.
- \*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
6. Stalking defined as engaging in the course of conduct, on the basis of sex, directed at a specific person, that:
- a. would cause a reasonable person to fear for the person's safety, or
  - b. the safety of others; or
  - c. suffer substantial emotional distress.

For the purposes of this definition:

- a. The course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. This includes stalking that occurs online or through messaging platforms.
- b. A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

- c. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

All employees are subject to the policies as published in the Employee Handbook, including but not limited to the Consensual Relationships Policy, Student Non-Fraternization Policy, and Grievance Policy. The Employee Handbook is published on the College's website under the Human Resources section.

King's College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

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

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

- **Force:** Force uses physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. The absence of resistance does not demonstrate consent. While resistance is not required or necessary, it clearly demonstrates non-consent.

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

Individuals may experience the same interaction in different ways; 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 before engaging in the activity, consent may be ratified by word or action at some point during the interaction or after that, but clear communication from the outset is strongly encouraged.

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

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

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on King's College to determine whether its policy has been violated. The existence of a 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 incident occurred and any similar, previous patterns that may be evidenced.

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

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

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

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

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

### **c. Other Civil Rights Offenses**

In addition to the forms of sexual harassment described above, Title IX, King's College additionally prohibits the following offenses as forms of discrimination outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class.

- Sexual Exploitation, defined as taking non-consensual or abusive sexual advantage of another for their benefit or the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
  - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
  - Invasion of sexual privacy.
- 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 revenge pornography, including AI-generated deepfakes.
- 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 infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity or for the purpose of making that person vulnerable to non-consensual sexual activity.
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections.
- 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, please see the Protection of Children Policy in the Student Handbook and Employee Handbook.
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person.

- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities.
- Intimidation, defined as implied threats or acts that cause unreasonable fear or harm to another.
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the King's College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity as defined further in the **Anti-Hazing Policy**.
- Bullying, defined as repeated and/or severe, aggressive behavior, likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally.

Violation of any other King's College policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from censure/reprimand through dismissal/termination.

## **16. RETALIATION**

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

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. King's College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

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

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **17. MANDATED REPORTING**

All King's College employees (faculty, staff, administrators), except those designated as Confidential Employees, are expected to report actual or suspected harassment to the Title IX Coordinators immediately. This includes employees who work for a 3rd party contracted with the College, provided that employee is responsible for providing aid, benefits, or services to students.

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

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

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

### **a. Confidential Resources**

Under Title IX, the College has designated confidential employees who are not required to report incidents of sexual harassment and sexual misconduct without a student's consent (unless a legal exception exists). Students who wish to confidentially report instances of sexual harassment may do so with any staff member in the King's College

Counseling Center, any staff member in the King's College Student Health Services, or with the Director of Campus Ministry. Confidential reporting is also available at the listed Off Campus Confidential Resources.

| <b>On Campus Confidential Resources</b>  |                                    |                                                                     |                                               |
|------------------------------------------|------------------------------------|---------------------------------------------------------------------|-----------------------------------------------|
| Counseling Center                        | All staff                          | Administration Building<br>Sixth Floor                              | (570) 208-5873                                |
| Campus Ministry                          | Rev. Brogan Ryan, C.S.C., Director | Campus Ministry Center,<br>182 N. Franklin Street                   | (570) 208-5890                                |
| Student Health<br>Services               | All staff                          | Andre Hall                                                          | (570) 208-5852                                |
| <b>Off Campus Confidential Resources</b> |                                    |                                                                     |                                               |
| Victim Resource<br>Center                |                                    | 360 East End Shopping Ctr.<br>Wilkes-Barre, PA 18702                | (570) 823-0765                                |
| 24-Hour Complainants<br>Hotline          |                                    |                                                                     | (800) 206-9050                                |
| Domestic Violence<br>Center              |                                    |                                                                     | (570) 823-7312<br>(800) 424-5600<br>(hotline) |
| Victim Connect<br>Resource Center        |                                    | <a href="https://victimconnect.org/">https://victimconnect.org/</a> | (855) 484-2846                                |

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

Campus counselors are available to help free of charge and may be consulted on an emergency basis during normal business hours.

King's College employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

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

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

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

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

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees unless the Complainant clearly indicates that they desire an investigation into the alleged conduct be undertaken by King's College.

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

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

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

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

#### **18. WHEN A COMPLAINANT DOES NOT WISH TO PROCEED**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether King's College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on the results of the violence risk assessment that show a compelling risk to health and/or safety that requires King's College to pursue formal action to protect the community.

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

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

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

When King's College proceeds, the Complainant or their Advisor may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

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

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

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right and can expect to have allegations taken seriously by King's College, and to have the incidents investigated and properly resolved through these procedures.

#### **19. FEDERAL TIMELY WARNING OBLIGATIONS**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, King's College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

King's 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 considering the potential danger.

#### **20. FALSE ALLEGATIONS AND EVIDENCE**

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with, or destroying evidence, or deliberately misleading an official investigating, can be subject to discipline under King's College policy.

#### **21. AMNESTY FOR COMPLAINANTS AND WITNESSES**

The King's College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to King's College officials or participate in grievance

processes because they fear that they may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the King's College community that Complainants choose to report misconduct to King's 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, King's College maintains a policy of offering parties and witnesses amnesty from minor policy violations such as underage consumption of alcohol or the use of illicit drugs related to the incident.

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

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

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

- **Employees:** Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to King's College officials.

King's 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.

## **22. FEDERAL STATISTICAL REPORTING OBLIGATIONS**

Certain campus 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 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. VAWA<sup>5</sup>-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
4. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

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.

## **23. PRESERVATION OF EVIDENCE**

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<sup>5</sup> VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders and particularly time sensitive. King's College will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at the hospital, ideally within 120 hours of the incident.
2. Avoid showering, bathing, washing hands or face or douching, if possible, but evidence may still be collected.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth (plastic destroys evidence) or secure evidence in a container.

Seeking medical treatment can be essential even if it is not to collect forensic evidence

#### **24. STATEMENT OF THE RIGHTS OF THE PARTIES**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or retaliation made in good faith to King's College officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s) whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by King's College officials.
- The right to have King's College policies and procedures followed without material deviation.
- The right not to be discouraged by King's College officials from reporting sexual harassment or retaliation to both on-campus and off-campus authorities.
- The right to be informed by King's College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by King's College authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by King's College officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a King's College-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of sexual harassment and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available.
- The right to have the power to make decisions affecting their medical and emotional treatment.

- The right to have King's College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair King's College's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Hearing Officer to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Hearing Officer with a list of questions that, if deemed relevant by the Investigator(s)/Hearing Officer, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to review a copy of the investigation report, including all factual, Policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, before the hearing, and the right to have at least ten (10) business days to review the report before the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, Hearing Officer, and Appeal Officer who have received relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any King's College representative in the process be recused based on disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, a preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Hearing Officer following a determination of responsibility for any allegation, but before sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision, delivered simultaneously without undue delay to the parties.
- The right to be informed in writing of when a decision by King's College is considered final and any changes to the sanction(s) that occur before the decision is finalized.

- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by King's College.
- The right to a fundamentally fair resolution as defined in these procedures.

## **PART II: GRIEVANCE PROCESS – NOTICE, INVESTIGATION, HEARING, DETERMINATION, AND APPEAL**

### **I. OVERVIEW**

King's College will act on any formal complaint or informal notice of a violation of the Sexual Misconduct and Sexual Harassment Title IX Policy ("the Policy") that is received by the Title IX Coordinator or any other Mandated Reporter by applying these procedures,

The procedures below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, administrators, or faculty members. A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations will proceed using these same grievance procedures, clarifying which policies above are applicable. While the effect of the Title IX regulations can be confusing, these grievance procedures apply to all policies above.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures elaborated in the student, faculty, and employee handbooks.

### **2. NOTICE/COMPLAINT**

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, King's College initiates a prompt initial assessment to determine the next steps King's College needs to take.

King's College will respond as follows:

1. Offering supportive measures; and/or
2. A Formal Grievance Process including an investigation and a hearing; or
3. An Informal Grievance Process, including a resolution (sometimes referred to herein as an "Informal Resolution Process."

The investigation and formal grievance process will determine whether or not the Policy has been violated. If so, King's College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects. The Informal Grievance Process can offer resolutions and remedies to both parties, without determination that the Policy has been violated. The Complainant is not obliged to accept supportive measures, nor are they obligated to participate in the Formal or Informal Grievance Processes.

### **3. INITIAL ASSESSMENT**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator<sup>6</sup> engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.

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<sup>6</sup> If circumstances require, the President or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, accesses the request, and implements it accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later if desired.
  - If a Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue based on the nature of the complaint.
    - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which other College policies may apply, and will refer the matter accordingly. *Please note:* dismissing a complaint under Title IX is just procedural and does not limit King’s College’s authority to address a complaint with another appropriate process and remedies provided for elsewhere in King’s College policies.

#### **a. Violence Risk Assessment**

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by a subgroup of the Care Team consisting of the Director of the Counseling Center or counselor designee, the Executive Director of Campus Safety and Security or designee, Associate Vice President for Academic Success or designee, Director of the Student Health Center and Director of Housing and Residence Life or designee as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of the immediate threat to physical health/safety.
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant.
- Whether to put the investigation as an incident and/or pattern and/or climate.
- To help identify potential predatory conduct.
- To help assess/identify grooming behaviors.
- Whether to permit a voluntary withdrawal by the Respondent.
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning or No Trespass is needed.

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

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other Care Team subgroup. A VRA authorized by the Title IX Coordinator should occur in collaboration with the Care Team subgroup. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply with the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 202, 302), nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

#### **b. Dismissal (Mandatory and Discretionary)**

King’s College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy hereinabove, even if proved; and/or
2. The conduct did not occur in an educational program or activity controlled by King’s College (including buildings or property controlled by recognized student organizations), and/or King’s College does not have

control of the Respondent; and/or

3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing a formal complaint, a complainant is not participating in the education program or activity of King's College.
5. The Respondent cannot be identified by King's College or the Complainant.

King's College may dismiss a formal complaint or any allegations therein if at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein: or
2. The respondent is not or no longer participating in King's College's education program or activity and is not or no longer employed by King's College; or
3. Specific circumstances prevent King's College from gathering sufficient evidence to reach a determination as to the formal complaint or allegations therein. This is not a request to dismiss because there is not sufficient information to find a party responsible for the alleged violation.

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

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

- The parties will be notified of the decision issued by the Title IX Coordinator on the request for dismissal.
- A party who disagrees with a case dismissal or a decision issued will have three business days to file an appeal to the Title IX Coordinator.
- The appeal will be assigned for determination to the Title IX Appeal Officer for determination.
- The Appeal Officer will provide a copy of the appeal, the original decision by the Title IX Hearing officer, to the parties.
- If the non-appealing party files a response, the Title IX Hearing Officer will review the appeal and the response and issue a final determination within three days of receiving the response.
- The Title IX Hearing Officer has the direction to hold or delay the investigation or hearing while the appeal is being determined.

#### **4. INFORMAL RESOLUTION**

In lieu of resolving a complaint through King's College's Title IX Formal Grievance Process, the parties may elect to participate in an Informal Resolution process. King's College does not offer informal resolution in any cases that involve behaviors of sexual harassment unless all parties (Complainant, Respondent, and Title IX Coordinator) agree to it. The College will consider all circumstances when assessing whether informal resolution is appropriate and reserves the right to refuse to implement an Informal Resolution Process. The informal resolution process will not be used to resolve a complaint when such a process would conflict with Federal, State, or Local law. The Parties are not obligated to participate in the Informal Resolution Process, and King's College cannot force them to engage in this process.

King's College will inform the parties in writing of any Informal Resolution Process it offers and determines is appropriate. Before the initiation of an Informal Resolution Process, King's College will explain, in writing:

- The allegations
- The requirements of the Informal Resolution Process
- That any party has the right to withdraw from the informal resolution process and initiate or resume the Formal Grievance Process at any time prior to agreeing to a resolution

- That if the parties agree to a resolution at the end of the Informal Resolution Process, they cannot initiate or resume the Formal Grievance Process for the same allegations
- The potential terms that may be requested or offered in an information resolution agreement, including notice that an informal resolution agreement is binding only on the parties

King's College will maintain any information produced during the Informal Resolution Process and will determine whether/how King's College could disclose such information for use in the Formal Grievance Process if the Process is initiated or resumed.

## **5. COUNTERCLAIMS**

King's College is obligated to ensure that the grievance process is not abused for retaliatory purposes. Accordingly, King's College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

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

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

## **6. PROVIDING FALSE OR MISLEADING STATEMENTS,**

**It is prohibited for students to** provide false or inaccurate information intentionally or records to College or local authorities and/or knowingly providing false statements, evidence, or testimony during an investigation or College proceeding. The intentional omission of information during an investigation, hearing, interview, or College proceeding is providing inaccurate information (Student Code of Conduct, Regulation VI).

## **7. RIGHT TO AN ADVISOR**

The parties may each have an Advisor...<sup>7</sup> of their choice present with them for all meetings and interviews within the resolution process if they so choose. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available...<sup>8</sup>

Advisors may not act in place of the party in submitting the complaint, responding to the investigative report, appeal or in any other matter. Communication in the case is between the parties and the College. Parties may share information with their advisor as they choose. King's College will not accept correspondence from the advisor, as all communication must come from the parties.

Choosing an Advisor who is also a witness in the process creates the potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing officer.

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<sup>7</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally), but sometimes King's College may permit more than one advisor per party. If King's College (Recipient) allows more than one Advisor for one party, it shall do so for all parties.

<sup>8</sup> "Available" means the party cannot insist on an Advisor who simply does not have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

King's College will permit parties to have one Advisor and one person for emotional support.

**a. Who Can Serve as an Advisor**

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

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from King's College, the Advisor will be trained by King's College and be familiar with King's College's resolution process.

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

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to the start of a hearing.

**b. Advisors in Hearings/King's College-Appointed Advisor**

In compliance with controlling law, cross-examination (indirect questioning format) is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to cross-examine each other or any witnesses directly. If a party does not have an Advisor for a hearing, King's College will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, King's College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Hearing Officer during the hearing.

The Recipient cannot guarantee equal Advisors, meaning that if one party selects an Advisor who is an attorney, but that other party does not, or cannot afford an attorney, the Recipient is not obligated to provide an attorney.

**c. Advisor's Role**

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

The primary role of the advisor is to conduct cross examination of the parties and witnesses during the hearing.

Advisors may not present opening or closing statements, make statements or arguments during the hearing, The advisor does not present for the party in the process including interviews, meetings and hearing.

King's College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, King's College (Recipient) is not obligated to provide an attorney.

**d. Pre-Interview Meetings**

Advisors with their party may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and King's College's policies and procedures.

**e. Advisor Violations of King's College Policy**

All Advisors are subject to the same King's College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors will not address King's College officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Hearing Officer except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may

consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for a private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role in the process.

**f. Sharing Information with the Advisor**

King's College expects that the parties may wish to have King's College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

King's College also provides a consent form that authorizes King's College to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to the release of information to the Advisor before King's College can share records with an Advisor.

If a party requests that all communication be made through their attorney-Advisor, King's College will not comply with that request.

**g. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by King's College. King's College will restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by King's College's privacy expectations. This includes the protection of any information that is learned through the Grievance Process.

The parties, their advisor, the investigator, hearing officer, appeal officer, advisor to the hearing officer, and Title IX Coordinator will access the case records. The College usually uses a file-sharing system to which the parties and advisors will have access to view the information but may not print, download, photograph/video or otherwise copy the materials. The parties' emotional support person will not have access to the case records/file-sharing site. Parties and advisors access the case records/files within three days of the appeal date or appeal decision being issued.

**h. Expectations of an Advisor**

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

King's College may also make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Advisors are to perform their responsibilities acting respectfully and appropriately with all of the parties, other advisors, and College staff. Attempts to intimidate or threaten any party, advisor, or College employee during this process may result in the removal of the Advisor by the Title IX Coordinator.

**i. Rules of Decorum for Parties, Witnesses, and Advisors**

The following Rules of Decorum are to be observed in all meetings, communication, hearing, and appeal equally by all parties (meaning the Complainant and Respondent) and Advisors.

1. Questions must be conveyed in a neutral tone.
2. Parties and Advisors will refer to other parties, witnesses, advisors, and College staff using the name and gender used by the person, not intentionally mis-name or mis-gender that person in communication or questioning.
3. No party may act abusively or disrespectfully during any meeting, communication, or hearing toward any other party, witnesses, advisors, or decision-makers.

4. While an advisor may be an attorney, no duty of zealous advocacy should be informed or enforced within the forum.
5. The advisor may not yell, scream, badger, or physically "lean in" to a party or witness's personal space. In addition, advisors may not approach the other party or witnesses without permission from the decision-maker.
6. The advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witnesses. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the questions.
7. The advisor may not ask repetitive questions. This includes questions the decision-maker has already asked, the advisor asked in cross-examination or direct testimony. The advisor must move on when the decision maker determines that a question has been "asked and answered" or is otherwise not relevant.
8. Parties and advisors may take no action at the hearing that a reasonable person determines would intimidate that person (whether a party, witness or official) into not participating in the process or meaningfully modifying their participation in the process.
9. When communicating verbally or in writing, parties and advisors must do so respectfully and not use language to incite, intimidate, or be abusive to any party, advisor, witness, or College staff.

**j. Expectations of the Parties with respect to Advisors**

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

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

**k. Assistance in Securing an Advisor**

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

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

Complainants may wish to contact organizations such as:

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

**8. GRIEVANCE PROCESS POOL**

The Formal Grievance Process relies on a pool of administrators (the "Pool") to carry out the process. Members of the Pool are announced in an annual posting of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

The list of Pool members and a description of the Pool can be found at [www.kings.edu/TitleIX](http://www.kings.edu/TitleIX).

**a. Pool Member Roles**

Members of the Pool are trained annually and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide an appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties

- To Investigate complaints
- To serve as a Hearing Officer regarding the complaint
- To serve as an Appeal Hearing Officer

#### **b. Pool Member Appointment**

The Title IX Coordinator appoints pool members. The Title IX Coordinator may appoint a trained external hearing officer or appeal officer at their discretion. The parties will be notified when a hearing officer or appeal officer is assigned to their case.

|                         |                                                                                                                                                            |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Investigators</b>    | Stephen Kopenis<br>Nicholas Gushka<br>Brian McNulty                                                                                                        |
| <b>Hearing Officers</b> | Veronica Piazza<br>Steven Matusiewicz<br>Sean Cryan                                                                                                        |
| <b>Appeal Officers</b>  | Anitra McShea, Ph.D.                                                                                                                                       |
| <b>Advisors</b>         | Br. Jimmy Henke, C.S.C., Interim Director of Housing and Residence Life<br>Elena Borschevsky, Coordinator of NCAA Compliance and Student Engagement<br>TBD |

The Title IX Coordinator acts with independence and impartiality. 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 cases, King's College can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

#### **c. Pool Member Training**

The Pool members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of King's College's Discrimination and Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias
- Disparate treatment and 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, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct the questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by King's College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to investigate and participate in the grievance process, including hearings and appeals.
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing.
- Issues of the relevance of questions and evidence
- Issues of relevance to creating an investigation report that fairly summarizes relevant evidence.
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations

Specific training is also provided for Appeal Hearing Officers, Advisors (who are King's College employees) and Hearing Officers. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted on the web site.

## **9. FORMAL GRIEVANCE PROCESS: NOTICE OF INVESTIGATION AND ALLEGATIONS**

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

The NOIA will include:

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

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

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

## **10. RESOLUTION TIMELINE**

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

## **11. APPOINTMENT OF INVESTIGATORS**

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

## **12. ENSURING IMPARTIALITY**

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Hearing Officer may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator 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. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President of the College.

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

King's College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by a preponderance of the evidence.

### **13. INVESTIGATION TIMELINE**

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

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

### **14. DELAYS IN THE INVESTIGATION PROCESS AND INTERACTIONS WITH LAW ENFORCEMENT**

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

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

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

### **15. STEPS IN THE INVESTIGATION PROCESS**

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

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

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

- Determine the identity and contact information of the Complainant.
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures.
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all the specific policies implicated.
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations.
  - The notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the

party.

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

## **16. ROLE AND PARTICIPATION OF WITNESSES IN THE INVESTIGATION**

Witnesses (as distinguished from the parties) who are employees of King's College are expected to cooperate with and participate in King's College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

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

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross-examination at a hearing, their written statement may not be used as evidence.

## **17. RECORDING OF INTERVIEWS**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

## **18. EVIDENTIARY CONSIDERATIONS IN THE INVESTIGATION**

The investigation does not consider:

1. incidents not directly related to the possible violation, unless they evidence a pattern.
2. the character of the parties.
3. questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## **19. REFERRAL FOR HEARING**

Once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

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

The Title IX Coordinator will select an appropriate Hearing Officer, depending on the context and nature of the alleged misconduct.

## **20. HEARING OFFICER**

King's College will designate a single Hearing Officer at the discretion of the Title IX Coordinator. The single Hearing Officer will conduct the hearing. The Hearing Officer may have an advisor of their choosing.

The Title IX Coordinator may appoint a trained external hearing officer or appeal officer at their discretion. The parties will be notified when a hearing officer is assigned to their case

The Hearing Officer will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Hearing Officers. Those who are serving as Advisors for any party may not serve as Hearing Officer in that matter.

The Title IX Coordinator may not serve as a Hearing Officer in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will be convened at a time determined by the Hearing Officer or designee.

## **21. EVIDENTIARY CONSIDERATIONS IN THE HEARING**

Any evidence that the Hearing Officer determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that

someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming King's College uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Hearing Officer at the sanction stage of the process after a determination of responsibility is reached.

After post-hearing deliberation, the Hearing Officer renders a determination based on the preponderance of the evidence, whether it is more likely than not that the Respondent violated the Policy as alleged.

## **22. NOTICE OF HEARING**

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

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Officer and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Hearing Officer on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Hearing Officer. For compelling reasons, the Hearing Officer may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and King's College will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Hearing Officer about the matter unless they have been provided already. The materials will be available on a file-sharing site (One Hub) to view but cannot be copied or printed.
- An invitation to each party to submit to the Hearing Officer an impact statement pre-hearing that the Hearing Officer will review during any sanction determination.

- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Parties must provide to the Hearing Officer a list of anticipated questions for cross-examination at least two business days prior to the hearing. The Hearing Officer will review the questions for relevance and avoid repetition of questions.
- Whether parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of the term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by King's College and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

### **23. ALTERNATIVE HEARING PARTICIPATION OPTIONS (ZOOM OR OTHER TECHNOLOGY)**

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

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

### **24. PRE-HEARING PREPARATION**

The Hearing Officer, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

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

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

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

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

Parties must provide the Hearing Officer a list of anticipated questions for cross-examination at least two business days prior to the hearing. The Hearing Officer will review the questions for relevance and avoid repetition of questions.

### **25. PRE-HEARING MEETINGS**

The Hearing Officer may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics the parties and/or their Advisors wish to ask or discuss at the hearing so that the Hearing Officer can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for reconsideration based on any new information or testimony offered at the hearing. The Hearing Officer must document and share with each party their rationale for any exclusion or inclusion at this pre-hearing meeting.

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

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

The pre-hearing meeting(s) will not be recorded.

## **26. HEARING PROCEDURES**

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

Participants at the hearing will include the Hearing Officer, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, an advisor to the Hearing Officer and anyone providing authorized accommodations or assistive services. The Title IX Coordinator may be present at the hearing or will be available to the Hearing Officer for consultation on the hearing procedures.

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

The Hearing Officer will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Hearing Officer and the parties and will then be excused.

## **27. JOINT HEARINGS**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

## **28. THE ORDER OF THE HEARING – INTRODUCTIONS AND EXPLANATION OF PROCEDURE**

The Hearing Officer explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Hearing Officer on the basis of bias or conflict of interest. The Hearing Officer will rule on any such challenge unless the Hearing Officer is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Hearing Officer then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The Hearing Officer may attend to logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

## **29. INVESTIGATOR PRESENTS THE FINAL INVESTIGATION REPORT**

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

Neither the parties nor the Hearing Officer should ask the Investigator(s) their opinions on recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Hearing Officer will direct that it be disregarded.

### **30. TESTIMONY AND QUESTIONING**

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Hearing Officer. The parties/witnesses will submit to questioning by the Hearing Officer and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Hearing Officer. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Hearing Officer upon request or agreed to by the parties and the Hearing Officer), the proceeding will pause to allow the Hearing Officer to consider it, and the Hearing Officer will determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Officer may explore arguments regarding relevance with the Advisors if the Hearing Officer so chooses. The Hearing Officer will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Hearing Officer will explain any decision to exclude a question as not relevant or to reframe it for relevance.

The Hearing Officer will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Hearing Officer has the final say on all questions and determinations of relevance, subject to any appeal. The Hearing Officer may consult with legal counsel on any questions of admissibility. The Hearing Officer may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Hearing Officer has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Hearing Officer at the hearing, the Hearing Officer may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator /or preserve them for appeal. If bias is not an issue at the hearing, the Hearing Officer should not permit irrelevant questions that probe for bias.

### **31. REFUSAL TO SUBMIT TO CROSS-EXAMINATION AND INFERENCES**

Any party or witness may choose not to offer evidence or answer questions at the hearing, whether by not attending the hearing or by attending but declining to participate in some or all questioning. The Hearing Officer may rely on relevant evidence available through the investigation and hearing when making the ultimate determination of responsibility. The Hearing Officer may not draw any inference solely from a party or witness’ absence from the hearing, refusal to submit to cross-examination, or refusal to answer other questions.

Statements made by the parties or witnesses during the investigation, emails or texts exchanges between the parties leading up to the alleged sexual harassment, statements made in police reports, statements contained in Sexual Assault Nurse Examiner (SANE) reports, and statements in medical reports may be considered by the Hearing Officer in their decision making regardless of whether a party or witness does not appear at a hearing or refuses to submit to cross examination (DOE letter August 24, 2021).

Police reports, reports from the police of the results of a rape kit, DNA or alcohol/drug substance, reports from SANE nurse or physician, medical records are admissible without testimony from the author, police or medical authority. The Title IX Hearing Officer will determine the relevance of the reports.

The Decision-maker may use text messages, email, or video even though only one party in the message or video presents testimony or witness statement.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Hearing Officer may consider all evidence it deems relevant and may rely on any relevant statements when making a decision.

If a party’s Advisor of choice refuses to comply with King’s College’s established rules of decorum for the hearing, King’s College may require the party to use a different Advisor. If a King’s College-provided Advisor refuses to comply with the rules of decorum, King’s College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

### **32. RECORDING HEARINGS**

Hearings (but not deliberations) are recorded by King's College for purposes of review in the event of an appeal. The parties may not record the proceedings, and no other unauthorized recordings are permitted. The College may but is not required to produce a transcript which the parties may review.

The Hearing Officer, the parties, their Advisors, and appropriate administrators of King's College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without the permission of the Title IX Coordinator.

### **33. DELIBERATION, DECISION-MAKING, AND STANDARD OF PROOF**

The Hearing Officer will deliberate to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Hearing Officer may then consider the previously submitted party impact statements in determining the appropriate sanction(s). The Hearing Officer will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party. The Hearing Officer may – at their discretion – consider the statements, but they are not binding. The Hearing Officer will review the statements and any pertinent conduct history provided by Title IX Coordinator and will determine the appropriate sanction(s) in consultation with other appropriate administrators.

The Hearing Officer will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **34. NOTICE OF OUTCOME**

Using the deliberation statement, the Title IX Coordinator will work with the Hearing Officer to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five business days of receiving the Hearing Officer's deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official King's College records, or emailed to the parties' King's College-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The Notice of Outcome will identify the specific policy reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by King's College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent King's College is permitted to share such information under state or federal law; any sanctions issued which King's College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to King's College's educational or employment program or activity, to the extent King's College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by King's College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

### **35. SANCTIONS**

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

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct.

- 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 discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Hearing Officer.

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

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

#### **a. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations individually or in combination

- Censure/Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any King's College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- Monetary fines
- Restitution for damages
- Housing Suspension
- Restricted from living off-campus
- Required Counseling: A mandate to meet with and engage in either King's College-sponsored or external counseling to better comprehend the misconduct and its effects.
- Probation: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions if the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- Parental Notification: if the student is placed on probation, suspended, or dismissed.
- Suspension: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at King's College.
- Dismissal: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend King's College-sponsored events.
- Other Actions: In addition to or in place of the above sanctions, King's College may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions**

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

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation

- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, King's College may assign any other sanctions as deemed appropriate.

### **36. WITHDRAWAL OR RESIGNATION WHILE CHARGES PENDING**

#### **a. Students**

If a student has an allegation pending for violation of the Policy on Equal Opportunity, Harassment, and Nondiscrimination, King's College may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from King's College, the resolution process ends, as King's College no longer has disciplinary jurisdiction over the withdrawn student.

However, King's College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to King's College. Such exclusion applies to all campuses of King's College. A hold will be placed on their ability to be readmitted. They may also be barred from King's College property and/or events.

If the student Respondent only withdraws or takes a leave of absence for a specified period of time (e.g., one semester or term), the resolution process may continue remotely, and that student is not permitted to return to King's College unless and until all sanctions have been satisfied.

During the resolution process, King's College may put a hold on a responding student's transcript or place a notation on a responding student's transcript or dean's disciplinary certification that a disciplinary matter is pending.

#### **b. Employees**

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the King's College no longer has disciplinary jurisdiction over the resigned employee.

However, King's College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with King's College or any campus of King's College, and the records retained by the Title IX Coordinator will reflect that status.

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

### **37. APPEALS**

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within five days of the delivery of the Notice of Outcome.

The Appeal Officer will be appointed by the Title IX Coordinator from the Title IX staff pool, or an external appeal officer who is trained in the Title IX process may be appointed.

A single Appeal Officer will hear the appeal. No Appeal Officer will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Officer for consideration to determine if the request meets the grounds for appeal (a "Review for Standing").

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

1. Procedural irregularity affected the outcome of the matter. A procedural irregularity is an error in the process that was not followed that impacted the outcome of the hearing.
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

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

Appeals on the grounds that the party disagree with the decision of the Hearing Officer on determination of responsibility or sanction will not be considered.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Officer will notify the other party and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Officer.

The other party and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Officer will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given five business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Officer to all parties for review and comment.

The non-appealing party (if any) may also choose to raise new grounds for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s), and/or original Hearing Officer, as necessary, who will submit their responses in five business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time. The Appeal Officer will collect any additional information needed, and all documentation regarding the approved grounds and the subsequent responses and the Hearing Officer will render a decision in no more than five business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

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

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

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

King's College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

#### **c. Appeal Considerations**

- Appeal decisions are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do

so.

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Officers to substitute their judgment for that of the original Hearing Officer merely because they disagree with the finding and/or sanction(s).
- The Appeal Officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultations will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Hearing Officer for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured by the original Hearing Officer (as in cases of bias), the appeal may order a new hearing with a new Hearing Officer.
- The results of a remand to a Hearing Officer cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to King's College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **38. LONG-TERM REMEDIES/OTHER ACTIONS**

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

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties, even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by King's College to the Respondent to ensure no effective denial of educational access.

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

### **39. FAILURE TO COMPLY WITH SANCTIONS AND/OR INTERIM AND LONG-TERM REMEDIES AND/OR RESPONSIVE ACTIONS**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Hearing Officer, including the Appeal Hearing Officer.

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 the King's College and may be noted on a student's official transcript.

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

#### **40. RECORDKEEPING**

King's College will maintain for a period of seven years records of:

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

King's College will also maintain any and all records in accordance with state and federal laws.

#### **41. DISABILITIES ACCOMMODATIONS IN THE RESOLUTION PROCESS**

King's College is committed to providing reasonable accommodation and support to qualified students, employees, or others with disabilities to ensure equal access to King's College's resolution process.

Anyone needing such accommodations or support should contact the Director of the Academic Skills Center and Disability Services Coordinator or Human Resources if employee, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

#### **42. REVISION OF THIS POLICY AND PROCEDURES**

This Policy and procedures supersede any previous policy addressing harassment, sexual harassment/misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. King's College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

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

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

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

This Policy and procedures are effective March 17, 2025.

## **PART III: RESOURCES, EDUCATION, AND ASSESSMENT**

### **COUNSELING, MEDICAL, AND SUPPORT SERVICES**

#### **Counseling Center**

Administration Building Room 620  
(570) 208-5873

Students may contact a member of the King's College Counseling Center during regular office hours, Monday - Friday, 8:30 a.m. - 4:30 p.m., or by visiting the Counseling Center located on the sixth floor of the Administration building. After normal operating hours, call the switchboard (570) 208-5900 for assistance, who will then contact a College counselor. The Counseling Center at King's College can provide safe, confidential support during this difficult period. They can discuss coping methods that may be of assistance immediately following an assault or later. They can also provide pertinent referral resources and services where students can also seek further assistance and support.

#### **Student Health Services**

Andre Hall  
(570) 208-5852

Students may contact the Student Health Center during regular office hours Monday-Friday, 8:30a.m.-4:30p.m., or by visiting the Student Health Center in Andre Hall. Outside of regular business hours, students can call the switchboard for assistance (570) 208-5890 for assistance or seek treatment at a local emergency room. Student Health Services can provide medical support and guidance, as well as referrals to off-campus providers and resources.

#### **Off-Campus Assistance**

Luzerne County offers several resources to complainants of sexual assaults, rapes, domestic violence, stalking, etc. King's College works closely and cooperatively with these agencies to bring our students awareness, education, and supportive services. Below are offices that are available to students:

The Luzerne County Victim Resource Center (VRC) provides a wide range of services to adults and children who are complainants of crime. These services include a 24-hour hotline, support groups, counseling, and advocacy for complainants. The Victim Resource Center provides medical and legal accompaniment and offers support groups for complainants of rape, incest, and other forms of sexual abuse. The agency also provides numerous educational programs for students of all ages, professionals, and community groups. The Victim Resource Center is private, confidential, and its services are free. Victim Resource Center can be reached by calling (570) 823-0765.

Domestic Violence Service Center (DVSC) is another local resource that may be reached by phone at 1-800-424-5600. DVSC offers a wide range of free and confidential services, including a 24-hour hotline for information and referral, crisis intervention, supportive counseling, or a sympathetic shoulder to cry on. Other free services include counseling, individual and group counseling for residents and non-residents, advocacy, court advocacy and accompaniment related to Protection from Abuse Orders, community outreach and education, life skills and parenting training, medical and mental health advocacy, and training for professionals.

Luzerne County also maintains a Protection from Abuse Office through which complainants can obtain protection in certain domestic violence situations. Information on this service is available from the Victim Resource Center, the College's Student Affairs Office, or the Executive Director of Campus Safety and Security.

### **EDUCATIONAL PROGRAMMING AND PREVENTION**

#### **Commonwealth of Pennsylvania law requires that educational programming in higher education includes**

(P.L.1383, No.180) the following: (1) A discussion of sexual violence. (2) A discussion of consent, including an explanation that the complainant is not at fault. (3) A discussion of drug and alcohol-facilitated sexual violence. (4) Information relating to risk education and personal protection. (5) Information on where and how to get assistance, including the importance of medical treatment and evidence collection, and how to report sexual violence to campus authorities and local law enforcement. (6) The possibility of pregnancy and transmission of sexual diseases. (7) Introduction of members of the educational community from (i) Campus police or security and local law enforcement. (ii) The student health center, women's center, and rape crisis center. (iii) Campus counseling service or any service responsible for psychological counseling and student affairs. (8) A promise of discretion and dignity. (9) A promise of confidentiality for complainants of sexual assault.

Because King's College recognizes sexual harassment/misconduct as an important issue, the College offers educational programming in several ways to several groups on campus such as campus personnel (Campus Safety, Residence Life, faculty, and staff); incoming students; resident and off-campus students; and members of student organizations. Campus efforts are to tailor programming to address primary prevention, ongoing prevention, ongoing awareness, risk reduction, and bystander intervention. Each of these types of efforts is defined below:

**Awareness Programs** – community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

**Bystander Intervention** - safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

**Ongoing Prevention and Awareness Campaigns** - programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of methods with audiences throughout the institution. (VAWA/Clery)

**Primary Prevention** – programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

**Risk Reduction** - Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for complainants to promote safety and to help individuals and communities address conditions that facilitate violence.

Annually, incoming students are required to attend a program during orientation weekend. The program includes a keynote speaker that discusses sexual assault, sexual harassment/misconduct, consent requirements, the impact of drug and alcohol on consent, bystander intervention, etc. Along with the speakers, the students are introduced to staff from King's College Counseling Center and community agencies Complainant's Resource Center, and other participants. The program works in conjunction with topics that are discussed in HCE 101: Holy Cross Experience, a one-credit course that all first-year students take. Also, the program bridges into a required part of HCE 101, where all incoming students take complete computer modules that include sections on drugs and alcohol and a dedicated section on sexual harassment/misconduct. Other ongoing programming offerings are presented to the campus-wide community on a regular and consistent basis. Programming is typically organized and coordinated by Student Affairs or by other pertinent on-campus departments.

## RESOURCES

The resources listed below are a compilation of resources from both on and off campus. For the listing on confidential resources, please refer to Part I, section 7 or Part II, section 17a.

|                                                           |                                                      |                                                  |                                                                                                       |
|-----------------------------------------------------------|------------------------------------------------------|--------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| <b>Student Health Center</b>                              | <b>Andre Hall</b>                                    | <b>Monday – Friday<br/>8:30 a.m. – 4:30 p.m.</b> | <b>(570) 208-5852</b>                                                                                 |
| <b>Wilkes-Barre General Hospital Emergency Department</b> | 575 North River Street<br>Wilkes-Barre, PA 18764     | 24 hours                                         | (570) 829-8111                                                                                        |
| <b>Geisinger Wyoming Valley</b>                           | 1000 East Mountain Blvd.<br>Wilkes-Barre, PA 18711   | 24 hours                                         | (570) 808-7300                                                                                        |
| <b>King's College</b>                                     | Campus Safety and Security Department                | 24 hours                                         | Switchboard<br>(570) 208-5900<br><br>Executive Director's Office<br>(570) 208-8103<br>(non-emergency) |
| <b>Wilkes-Barre Police</b>                                | 15 North Washington Street<br>Wilkes-Barre, PA 18701 | 24 hours                                         | 911                                                                                                   |

|                                           |                                                                     |                                                                    |                                            |
|-------------------------------------------|---------------------------------------------------------------------|--------------------------------------------------------------------|--------------------------------------------|
| <b>Counseling Center</b>                  | Administration Building<br>Sixth Floor                              | Monday – Friday<br>8:30 a.m. – 4:30<br>p.m.<br>After hours on call | (570) 208-5873                             |
| <b>Residence Life Staff</b>               | Sheehy-Farmer Campus<br>Center<br>Office of Residence Life          | Monday – Friday<br>8:30 a.m. – 4:30<br>p.m.<br>After hours on call | (570) 208-5856                             |
| <b>Campus Ministry</b>                    | Campus Ministry Center<br>182 N. Franklin Street                    | Monday – Friday<br>8:30 a.m. – 4:30<br>p.m.                        | (570) 208-5890                             |
| <b>Victim Resource Center</b>             | 360 East End Shopping Center<br>Wilkes-Barre, PA 18702              |                                                                    | (570) 823-0765                             |
| <b>24-Hour Complainants<br/>Hotline</b>   |                                                                     | 24 hours                                                           | (800) 206-9050                             |
| <b>Domestic Violence Center</b>           |                                                                     |                                                                    | (570) 823-7312<br>(800) 424-5600 (hotline) |
| <b>Victim Connect Resource<br/>Center</b> | <a href="https://victimconnect.org/">https://victimconnect.org/</a> | 24 hours                                                           | (855) 484-2846                             |