

## Aquinas College Title IX Policy

### **A. Rationale for Policy**

Aquinas College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from sexual harassment as defined in this policy ("Sexual Harassment") and retaliation ("Retaliation"). This policy is intended to ensure compliance with federal and state civil rights laws and regulations, and to affirm the College's commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity.

Aquinas College has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of Sexual Harassment or Retaliation. Aquinas values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

### **B. Definitions**

This section defines various terms used/referenced in this policy.

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *College Community* means any student, prospective student, volunteer, member of the faculty, staff, or administration, or a participant in a camp or other educational activity facilitated by the College.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment based on a protected class; or Retaliation for engaging in a protected activity.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment and/or Retaliation (irrespective of Clery Act Campus Security Authority status).
- *Consent* means agreement to engage in sexual activity as defined at Section D.
- *Determination of Responsibility*: A conclusion by the preponderance of the evidence (is it more likely than not) that the alleged conduct did or did not violate the College's Policy.
- *Education Program or Activity* means locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the College. Education program or activity also encompasses the College's computer and internet networks, digital platforms, and computer hardware or software owned or operated by the College.
- *Employee* means any person who is in an employment relationship with the College as defined by Michigan law. This includes temporary employees, part-time and full-time employees, and tenured and non-tenured faculty members.
- *Factual Finding*: A conclusion by the preponderance of the evidence (is it more likely than not) that the alleged factual conduct did or did not occur as alleged.

## Aquinas College Title IX Policy

- *Formal Complaint* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment or Retaliation for engaging in a protected activity against a Respondent and requesting that the Recipient investigate the allegation.
- *Formal Title IX Grievance Process ("Formal Grievance Process")* means a method of formal resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- *Hearing Decision-Maker (or Hearing Panel)* refers to those who have decision-making and sanctioning authority within the College's Formal Grievance process. Hearing Decision Makers are selected by the College, are trained regarding Title IX and hearing procedures, and may be either internal personnel or external resources at the College's election.
- *Investigator* means the person or persons charged by the 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* means an employee of the College who is obligated by this Policy to share knowledge, notice, and/or reports of Sexual Harassment and/or Retaliation with the Title IX Coordinator.
- *Notice of Outcome* means a written decision prepared and issued at the conclusion of the Formal Grievance Process, as described in the Procedural Guidelines for the Formal Grievance Process.
- *Notice to the College of Sexual Harassment or Retaliation* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct, harassment and/or Retaliation.
- *Official with Authority ("OWA")* means an employee of the Recipient explicitly vested with the responsibility to implement corrective measures for Sexual Harassment and/or Retaliation on behalf of the College. The Title IX Coordinator, the President, the Provost, and, with respect to athletic programming, the Athletic Director serve in this capacity at the College.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Preponderance of the Evidence* is the standard used to determine if a policy violation occurred, and means that the information/evidence demonstrates that it is "more likely than not" the alleged conduct or policy violation has occurred.
- *Remedies* are final actions determined and implemented by the College to address safety, prevent recurrence, and restore access to the Recipient's educational program, and may include Sanctions, Supportive Measures, or other actions. Except for Supportive Measures, which may be implemented at any time, or Remedies that do not negatively impact any party, Remedies are issued as applicable only following completion of the Formal Grievance Process.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment or Retaliation for engaging in a protected activity.

## **Aquinas College Title IX Policy**

- *Resolution* means the result that brings closure to a complaint under this Policy, through the Formal Grievance Process or through an informal process.
- *Retaliation* means conduct described in Section R.
- *Sanction* means a disciplinary action or other consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Section H of this policy for detailed definitions of the offenses that fall under Sexual Harassment.
- *Student* is any person participating in, or attempting to participate in, the College's education programs or activities. For example, a student includes anyone 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 the College.
- *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 the College's education program or activity, including measures designed to protect the safety of all parties or the educational environment, and/or deter Sexual Harassment and/or Retaliation.
- *Title IX Coordinator* is at least one official designated by the College to ensure compliance with Title IX and the Recipient's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

### **C. Aquinas College Nondiscrimination Statement**

It is the policy of Aquinas College that no person on the basis of race, color, religion, ethnic origin, age, sex, sexual orientation, marital status, or disability shall be discriminated against, excluded from participation or employment in, or be otherwise subjected to discrimination under any program or activity for which Aquinas College is responsible. Prohibited discrimination on the basis of sex includes Sexual Harassment as defined in this Title IX Policy.

### **D. Scope of Policy**

The core purpose of the Title IX Policy is the prohibition of Sexual Harassment as defined by Title IX. Sometimes Sexual Harassment involves exclusion from activities, such as admission, athletics, or employment. Other times, that harassment can encompass a hostile environment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to resolution under this process, where appropriate, as determined by the Title IX Coordinator, and as detailed below.

At the time of filing a Formal Complaint, a Complainant ordinarily must be participating or attempting to participate in the education program or activity of the College. However, when the Respondent is a member of the College community, a Formal Grievance Process may, as determined by the College based on its assessment of the safety considerations to the College Community, be instituted regardless of the status of the Complainant, who may or may not be a member of the College Community.

## **Aquinas College Title IX Policy**

The procedures described in the Policy may apply to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

### **E. Title IX Coordinator**

The Title IX Coordinator oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent Sexual Harassment and Retaliation prohibited under this policy.

### **F. Independence and Conflict of Interest**

The Title IX Coordinator manages the individuals that may assist with various aspects of administering the Title IX policy ("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.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact Lynda Group, Director of Human Resources, at 616-632-2498 or lkg001@aquinas.edu. Concerns of bias or a potential conflict of interest by any other Title IX team member should be raised with the Title IX Coordinator.

### **G. 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:

Michael Szydowski, Title IX Coordinator  
Office: Academic Building (AB), Room 107  
Phone: (616) 632-2439  
E-Mail: titleix@aquinas.edu

Lynda Group, Director of Human Resources  
Deputy Title IX Coordinator  
Office: Holmdene, Room 215  
Phone: (616) 632-2498  
E-Mail: lkg001@aquinas.edu

The College has also classified most employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing Sexual Harassment and/or Retaliation. Policy Section K.2, titled "Mandated Reporters," details which employees have this responsibility and their duties, accordingly.

Inquiries concerning any alleged policy violations may be made externally to:

Office for Civil Rights ("OCR")  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481

## Aquinas College Title IX Policy

Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
E-Mail: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Office of Civil Rights ("OCR") – Regional Office  
U.S. Department of Education  
1350 Euclid Avenue, Suite 325  
Cleveland, OH 44115  
Phone: (216) 522-4970  
Facsimile: (216) 522-2573  
E-Mail: [OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov)

For complaints involving employees, inquiries may also be made to: [Equal Employment Opportunity Commission](#) ("EEOC"):

EEOC – Headquarters  
131 M Street, NE  
Washington, DC 20507  
Phone: (202) 663-4900

EEOC – Detroit Field Office  
Patrick V. McNamara Building  
477 Michigan Avenue, Room 865  
Detroit, MI 48226  
Phone: (800) 669-4000  
Facsimile: (313) 226-4610

### **H. What is Sexual Harassment under the Policy?**

The Department of Education's Office for Civil Rights ("OCR"), the Equal Employment Opportunity Commission ("EEOC"), and the State of Michigan regard Sexual Harassment as an unlawful discriminatory practice.

Aquinas College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community. The conduct set forth below is prohibited by or against members of the College Community in connection with the College's educational programming as set forth in Section I below. The 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 committed by a member of the College 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.

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

## Aquinas College Title IX Policy

1. Quid Pro Quo Sexual Harassment:
  - A. An employee of the College,
  - B. conditions the provision of an aid, benefit, or service of the College,
  - C. on an individual's participation in unwelcome sexual conduct.
  
2. Hostile Environment Sexual Harassment:
  - A. Unwelcome conduct, that is
  - B. sexual or based on sex, and
  - C. determined by a reasonable person,
  - D. to be so severe, and
  - E. pervasive, and,
  - F. objectively offensive,
  - G. that it effectively denies a person equal access to the College's education program or activity.
  
3. Sexual assault, as defined in 20 U.S.C. 1092(f)(6)(A)(v), meaning an offense classified as forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, and further defined as:
  - A. Sex Offenses, Forcible:
    1. Any sexual act directed against another person
    2. without consent of the Complainant,
    3. including instances in which the Complainant is incapable of giving consent.
      - a. Forcible Rape:
        - i. Penetration, no matter how slight,
        - ii. of the vagina or anus with any body part or object, or
        - iii. oral penetration by a sex organ of another person, iv. without consent of the Complainant.
      - b. Forcible Sodomy
        - i. Oral or anal sexual intercourse with another person, ii. forcibly,
        - iii. and/or against that person's will (non-consensually), or
        - iv. 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 mental or physical incapacity.
      - c. Sexual Assault with an Object
        - i. The use of an object or instrument to penetrate, ii. however slightly,
        - iii. the genital or anal opening of the body of another person,
        - iv. forcibly,

## Aquinas College Title IX Policy

- v. and/or against that person's will (non-consensually),
      - vi. 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 mental or physical incapacity.
    - d. Forcible Fondling
      - i. The touching of the private body parts of another person (buttocks, groin, breasts),
      - ii. for the purpose of sexual gratification, iii. forcibly,
      - iv. and/or against that person's will (non-consensually),
      - v. 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 mental or physical incapacity.
- B. Sex Offenses, Non-Forcible:
  - 1. Unlawful
  - 2. non-forcible
  - 3. sexual intercourse, including the following two types:
    - a. Incest:
      - i. Non-forcible sexual intercourse,
      - ii. between persons who are related to each other, iii. within the degrees wherein marriage is prohibited by Michigan law.
    - b. Statutory Rape:
      - i. Non-forcible sexual intercourse,
      - ii. with a person who is under the statutory age of consent of 16.
- 4. Dating Violence, defined in 34 U.S.C. 12291(a)(10) as:
  - A. Violence,
  - B. on the basis of sex,
  - C. committed by a person,
  - D. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - 1. 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—
    - 2. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

## Aquinas College Title IX Policy

3. Dating violence does not include acts covered under the definition of domestic violence.
  
5. Domestic Violence, defined in 34 U.S.C. 12291(a)(8) as:
  - A. Violence,
  - B. on the basis of sex,
  - C. committed by a current or former spouse or intimate partner of the Complainant,
  - D. by a person with whom the Complainant shares a child in common, or
  - E. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - F. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan, or
  - G. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Michigan.

\* 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 in 34 U.S.C. 12291 (a)(30) as:
  - A. Engaging in a course of conduct,
  - B. on the basis of sex,
  - C. directed at a specific person, that
    1. would cause a reasonable person to fear for the person's safety, or
    2. the safety of others; or
    3. Suffer substantial emotional distress.

For the purposes of this definition—

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

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

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want."). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.



## Aquinas College Title IX Policy

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

**Consent is:**

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

Consent for sexual activity is clear indication, either through verbal or physical actions, that parties are willing and active participants in the sexual activity. Such authorization must be free of force, threat, intimidation or coercion, and must be given actively and knowingly in a state of mind that is conscious and rational and not compromised by alcohol and/or drug incapacitation. Only a person of legal age can consent (age of consent in Michigan is 16).

Consent may be withdrawn by either party at any time. Once consent is withdrawn, the sexual activity must cease immediately, and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Consent cannot be assumed because of the existence of a dating relationship between the parties or due to the existence of a previous sexual relationship/encounter between parties.

Silence, cannot, in and of itself, be interpreted as consent.

Incapacitation due to alcohol or drugs is where an individual cannot make an informed and rational decision to engage in sexual activity because he/she lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if he/she is asleep, unconscious or otherwise unaware that sexual activity is occurring.

**Incapacity/Incapacitation:** 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). A person cannot consent if he/she is 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 he/she engages in sexual activity with someone who is incapable of giving consent.

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. Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other

## **Aquinas College Title IX Policy**

drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness or emotional volatility.

Evaluating incapacitation also requires an assessment of whether a Respondent should have been aware of the Complainant's incapacitation based on objectivity and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

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

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.

### **I. What is the Jurisdiction of the Policy?**

This policy applies to the education program and activities of the College, to conduct that takes place on the campus or on property owned or controlled by the College, at College-sponsored events, or in buildings owned or controlled by the College's recognized student organizations, by or toward a member of the College Community. This policy also applies to activities on the College's computer and internet networks, digital platforms, and computer hardware or software owned or operated by the College.

Off-Campus Conduct: This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program. The College may also extend jurisdiction to off-campus locations and activities when the Title IX Coordinator determines that the conduct meets the definition of Sexual Harassment or Retaliation and affects a substantial College interest.

A substantial 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;
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 the College.

Regardless of where the conduct occurred, the College will address reports/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.

Unless otherwise determined by the College in its discretion, the Respondent must be a member of the College's community in order for the Formal Grievance Process to apply. However, irrespective of whether the Respondent is known or is a member of the Aquinas College Community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support

## **Aquinas College Title IX Policy**

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 College community, Supportive Measures, Remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator. In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events.

The scope of Title IX does not extend to activities occurring outside the United States. However, conduct that occurs abroad in connection with the College's educational programming and meets the definition of Sexual Harassment under this policy is still separately prohibited by the College even if not within the Scope of Title IX law and regulations. Such conduct may be reported as set forth in this policy. A Respondent within the jurisdiction of the College who is found to have engaged in such conduct will be subject to the same range of disciplinary actions or other consequences as are set forth in this policy.

When a situation involves both conduct alleged to violate this policy and conduct alleged to have violated one or more other rules or policies of the College, the College may, at its discretion and with notice to the parties, elect to utilize the Formal Grievance Process to consider and address all such allegations in one proceeding.

### **J. How Does the Policy Apply to Online Behavior?**

The policies of Aquinas 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 the College networks, technology, or equipment.

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

Members of the College 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 Aquinas College community.

### **K. Who Can I Talk With about a Potential Concern Under the Policy?**

The College has various persons who can provide support and information to individuals who believe they have experienced or observed a violation of this policy. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting such resources. On campus, some resources are permitted to maintain confidentiality and are not required to report actual or suspected Sexual Harassment or Retaliation further, providing a confidential resource to a reporting individual if desired. 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. Other individuals are considered "Mandated Reporters," and have an obligation to notify the Title IX Coordinator when they receive a report of Sexual Harassment or Retaliation.

#### **1. Confidential Resources**

If any individual wants to discuss an issue of potential Sexual Harassment and/or Retaliation and would like the details of an incident to be kept confidential, they may speak with:

## **Aquinas College Title IX Policy**

- Counseling, Health, and Wellness Services  
Office: Lower level Donnelly  
E-Mail: [chws@aquinas.edu](mailto:chws@aquinas.edu)  
Phone: (616) 632-2905  
(CHWS counselors are confidential resources)
  
- Metro Student Health Center  
Office: Lower level Wege (across from Bookstore)  
Phone: (616)-632-2969  
(The Health Center is a confidential resource)
  
- Father Stan Drongowski, College Chaplain  
Office: 2<sup>nd</sup> floor, Wege (across from dining hall)  
E-Mail: [sad004@aquinas.edu](mailto:sad004@aquinas.edu)  
Phone: (616) 632-2491  
(Father Stan is a confidential resource)
  
- Father Bob Keller, College Chaplain  
Office: TBD  
E-Mail: [rk0003@aquinas.edu](mailto:rk0003@aquinas.edu)  
Phone: TBD  
(Father Bob is a confidential resource)

### **Off-Campus Resources – Local, State, National**

- YWCA West Central Michigan  
25 Sheldon Blvd SE, Grand Rapids, MI 49503  
24/7 Confidential Crisis Hotline: (616) 776-7273  
(The YWCA is a confidential resource)
  
- State of Michigan Sexual Assault Hotline: (855) VOICES4 (864-2374), 24/7 ○ The hotline is for anyone who is a survivor, is working with a survivor, supporting a survivor, or who is seeking information on sexual assault services.
  - Website: <https://www.michigan.gov/voices4/>
  
- RAINN: National Sexual Assault Hotline: (800) 656-HOPE (4673), 24/7 Website: <https://www.rainn.org/>
  
- National Domestic Violence Hotline: (800) 799-SAFE (7233), 24/7 Website: <https://www.thehotline.org/>

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

## **2. Mandated Reporters**

## **Aquinas College Title IX Policy**

Except for Confidential Resources as described above, College employees (faculty, staff, administrators) are considered Mandated Reporters and are expected to report actual or suspected Sexual Harassment or Retaliation to the Title IX Coordinator immediately. Mandated Reporters must make a report to the Title IX Coordinator any time they reasonably suspect a violation of this policy has occurred, including occasions when they overhear statements made in public areas, in addition to occasions when reports of concerns are made to them.

If a Complainant expects formal action in response to his/her 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 take action when an incident is reported to them.

### **L. Reporting a Potential Violation to the College**

Reports of behavior an individual believes may constitute Sexual Harassment and/or Retaliation may be made using any of the following options:

1. File a complaint with, or give verbal notice to, the Title IX Coordinator. Such a report may be made at any time (including during non-business hours) by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
2. Report online, using the reporting form posted at:  
[https://cm.maxient.com/reportingform.php?AquinasCollege&layout\\_id=2](https://cm.maxient.com/reportingform.php?AquinasCollege&layout_id=2)
3. Anonymous reports can be made through any of the means listed above. Individuals who are considering making an anonymous report should be aware of the following:
  - Information contained in anonymous reports may give rise to a need to investigate. Without a known Complainant, the College may be limited in its ability to obtain follow-up information and appropriately respond to the Complainant.
  - The College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report.
  - The act of reporting carries no obligation to initiate a formal response. The College seeks to respect Complainants' requests regarding complaints.

Discussing a concern of a potential violation with a person who is a Mandated Reporter will also result in the concern being reported to the Title IX Coordinator.

Following the report of a concern, the College will contact the Complainant to discuss the availability of Supportive Measures and explain the process for filing a Formal Complaint. Supportive Measures are available whether or not the Complainant chooses to file a Formal Complaint.

### **M. Privacy of Reports**

Every effort is made to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of Sexual Harassment or Retaliation; any Complainant, any individual who has been reported to be the perpetrator of Sexual Harassment or Retaliation, 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.

## **Aquinas College Title IX Policy**

### **N. Supportive Measures**

The College will offer and implement appropriate and reasonable Supportive Measures to the Complainant upon report or notice of alleged Sexual Harassment and/or Retaliation as outlined below.

At the time Supportive Measures are offered, the College will inform the Complainant, in writing, that he/she may file a Formal Complaint with the College either at that time or in the future, if he/she has not done so already.

The Title IX Coordinator works with the Complainant to ensure that his/her wishes are taken into account with respect to the supportive measures that are planned and implemented.

The Title IX Coordinator also promptly makes Supportive Measures available to all parties upon receiving a Formal Complaint, or when it is aware of the Respondent otherwise being notified of a concern being raised about the Respondent under the Policy.

The College will maintain the privacy of the Supportive Measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic/occupational impact on the parties as possible.

The College will implement measures in a way that does not unreasonably burden the other party. Supportive Measures may include, but are not limited to:

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

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

## **Aquinas College Title IX Policy**

### **O. Pursuing a Formal Grievance Process**

#### **1. Filing a Formal Complaint**

When a Complainant desires to pursue, or the College otherwise determines a concern of Sexual Harassment or Retaliation should be processed through, the Formal Grievance Process, a reported concern will be documented in a Formal Complaint. A Formal Complaint is a document filed and/or signed by the Complainant or, in the case of a Formal Complaint initiated by the College, signed by the Title IX Coordinator, alleging a policy violation by a Respondent and requesting that Aquinas College investigate the allegation(s). A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information provided in this document.

A Formal Complaint will contain a Complainant's or the Title IX Coordinator's digital or physical signature, or otherwise indicate who is filing the Formal Complaint. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to verify his/her intent to file a Formal Complaint and ensure that it is filed correctly. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or party.

#### **2. 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 the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Action on reports /complaints that are significantly impacted by the passage of time (including, but not limited to, situations in which the applicable policy has been revised or rescinded) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or other non-punitive Remedies, and/or engage in informal or formal action, as appropriate.

#### **3. 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 the 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 shall be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the 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. The College may also be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

## **Aquinas College Title IX Policy**

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

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

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the 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 the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer Supportive Measures, but will not otherwise pursue formal action.

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

In certain cases, Informal Resolution options may exist, as discussed further in Section P., below.

### **4. Interim/Emergency Actions**

When a Formal Complaint has been initiated or is under active consideration, the College may take temporary, non-punitive interim actions as determined necessary to protect the safety of the parties and the College Community.

The College can further act to remove a student Respondent entirely or partially from its education program or activities 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 Behavioral Intervention Team, using its standard objective violence risk assessment procedures. The Respondent will have notice and an opportunity to challenge the decision immediately following removal. The College has the authority and discretion to place an employee on administrative leave during the pendency of an investigation, even where the requirements for an emergency removal are not met.

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

### **5. Right to an Advisor**



## **Aquinas College Title IX Policy**

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

Choosing an Advisor who is also a witness in the process creates 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 Decision-maker(s).

The College may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

### *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 Aquinas 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 the College, the Advisor will be trained by the College and be familiar with the College's resolution process.

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

Right NOT to have an Advisor: Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. At a hearing, Parties must have an Advisor to facilitate cross-examination, as described in the Procedural Guidelines for the Formal Grievance Process set forth in this Policy. If a Party does not have an Advisor for a hearing, the Title IX Coordinator or designee will appoint an Advisor for the limited purpose of conducting any cross-examination.

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

### *b. The Advisor's Role in Meetings and Interviews*

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

### *c. Advisors in Hearings/College-Appointed Advisor*

Under U.S. Department of Education regulations under Title IX, the opportunity for each party to engage in a form of questioning of the other party and the other party's witness(es) ("cross examination") is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint an Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

## **Aquinas College Title IX Policy**

### *d. Advisor Expectations*

All Advisors are subject to the same Aquinas College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors are not present in a hearing to present statements or arguments or to facilitate direct examination of their own advisee or their advisee's witnesses. The Advisor may consult with their advisee, either privately as needed or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

### *e. Sharing Information with the Advisor*

The College expects that the parties may wish to have Aquinas 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.

The College also provides a consent form that authorizes the 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 a release of information to the Advisor before Aquinas is able to share records with an Advisor. Advisors are expected to maintain the privacy of any documentation, exhibits or other shared with them.

### *f. Expectations of the Parties with Respect to Advisors*

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) 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.

## **6. Promptness**

All allegations are acted upon promptly by the College once it has received a report of concern or a Formal Complaint. Complaints can take 60-90 business days to resolve from the date of filing of a Formal Complaint, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College seeks to avoid all undue delays within its control. Any time the general timeframes for resolution outlined in Title IX 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.

## **7. Amnesty for Complainants and Witnesses**

## **Aquinas College Title IX Policy**

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

It is in the best interests of the College community that all individuals who may be involved in a situation or proceeding under this Policy be forthcoming during the process. To encourage reporting and participation in the process, the 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.

### **8. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation may be subject to discipline under College policy.

### **9. Counterclaims**

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The 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 a 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 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.

### **10. Dismissal of Complaint**

**Mandatory Dismissal:** A complaint is outside the jurisdiction of Title IX, and must be dismissed as an alleged Title IX violation, if any time during the investigation or hearing it is determined that:

- a) The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined above, even if proved; and/or

## **Aquinas College Title IX Policy**

- b) The conduct did not occur in an educational program or activity controlled by the College, and/or the College does not have jurisdiction over the Respondent; and/or
- c) The conduct did not occur against a person in the United States; and/or
- d) At the time of filing a Formal Complaint, the Complainant is not participating in or attempting to participate in the education program or activity of the Recipient, except for instances in which the College determines a Formal Complaint is appropriate due to the current status of the Respondent and campus safety considerations.

Where a complaint is dismissed as a Title IX Complaint under any of the above criteria, but the alleged conduct would violate another College policy or rule if established to have occurred, it may be referred for handling under separate applicable procedures of the College. Alternatively, at the College's election the College may continue to utilize the Formal Grievance Procedure as set forth in this Policy as a mechanism to investigate and adjudicate the allegations of such a matter. Conduct between members of the College Community that occurs outside of the United States as part of a study-abroad program is one example of a situation in which this could occur.

Discretionary Dismissal: Dismissal of the Title IX complaint is discretionary if, at any time during the investigation or hearing:

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

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

The College's decision to dismiss or not to dismiss is appealable by either Party under the procedures for appeal below.

### **P. Informal Resolution Options**

In some cases, where desired by all parties and determined appropriate by the College, an Informal Resolution process can be considered as an alternative to the Formal Grievance Process. Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through an alternate resolution mechanism, such as mediation, before a formal investigation takes place.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation).

To initiate Informal Resolution, a Complainant needs to submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

## **Aquinas College Title IX Policy**

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

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

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

### **Q. Privacy of Resolution Processes (Informal and Formal)**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy.

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

### **R. 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. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to Retaliation.

Aquinas College and any member of the College's community are prohibited from taking 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.

### **S. Federal Timely Warning and Statistical Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the federal Clery Act, the 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. The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes under the Clery Act:

## **Aquinas College Title IX Policy**

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. Violence Against Women Act-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 shared with Campus Safety 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 safety staff, 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.

### **PROCEDURAL GUIDELINES FOR THE FORMAL GRIEVANCE PROCESS (Title IX)**

#### **A. Report and Complaint**

Upon receipt of a report or complaint to the Title IX Coordinator of an alleged violation of the policy, the College will initiate a prompt initial assessment to determine the next steps the College needs to take.

The initial assessment will involve:

- 1) Title IX Coordinator determines if Complainant wishes to make a Formal Complaint, and assists him/her in doing so if desired.
- 2) If there is no Formal Complaint filed by the Complainant, Title IX Coordinator determines if there is an institutional risk to health, safety sufficient for the Title IX Coordinator to sign the Formal Complaint.
- 3) Title IX Coordinator offers Supportive Measures to the Complainant and notifies him/her of his/her right to have an Advisor as part of the process.

The initial assessment will conclude in at least one of the following responses:

- 1) The offer of Supportive Measures; and/or
- 2) Proceeding with an Informal Resolution if a Formal Complaint has been filed and such informal resolution process is desired by the parties and approved by the College; and/or
- 3) Proceeding with a Formal Grievance Process
  - a. If the Complainant wishes to proceed with a Formal Grievance Process, the Title IX Coordinator will determine if the alleged Sexual Harassment falls within the scope of the Title IX Policy.
  - b. If it does not fall within the scope of the Title IX Policy, the Title IX Coordinator will dismiss the Title IX complaint, and offer any other policy options to the Complainant that may be available.

## **Aquinas College Title IX Policy**

- c. If the actions alleged fall within the scope of the Title IX Policy, the Title IX Coordinator will initiate (or designate an Investigator to initiate) an investigation of whether the alleged Sexual Harassment violates the College's Title IX Policy.

### **B. 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 him/her. 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 allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the 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 the 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 or information about relevant community or college resources, including mental health resources,
- The name(s) of the external Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- 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.

### **C. Delivery of the Notice of Investigation and Allegations**

The NOIA 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 College records,

## **Aquinas College Title IX Policy**

or e-mailed to the parties' College-issued e-mail or designated accounts. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

### **D. Appointment of Investigator**

Once the decision to commence a formal investigation is made, the Title IX Coordinator facilitates the assignment of an Investigator(s). The Investigator(s) may be a trained College official such as a qualified Campus Safety officer, or other person, or may be a qualified external investigator.

### **E. Timing of the Initiation of the Investigation Process and Interactions with Law Enforcement**

The College may undertake a short delay in its investigation (several days to a few weeks) 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.

The 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. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

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

### **F. Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; gathering information to obtain 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):

- 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.
- 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.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide regular status updates to the Title IX Coordinator throughout the investigation, who will then update the parties.



## **Aquinas College Title IX Policy**

- Write a comprehensive draft investigation report fully summarizing the investigation, all witness interviews, and addressing all evidence identified as relevant. Appendices including relevant physical or documentary evidence will be included.
- Parties and their respective Advisors (if so desired by the parties) will receive a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the 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.
- The Investigator(s) will consider any responses submitted by the parties as a result of such review, incorporate relevant elements of the parties' written responses into the finalized investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- The finalized investigation report is then shared with the Title IX Coordinator, who will share it with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The investigator also provides the Title IX Coordinator with a file of any directly related evidence that was not included in the report, which will be shared with the parties and Advisors for their use as desired in connection with preparation for the hearing.
- The Investigator's report shall summarize the relevant evidence gathered in the investigation. The report will not include Factual Findings or a Determination of Responsibility, as those matters will be determined by the Hearing Decisionmaker(s).

### **G. Evidentiary Considerations in the Investigation**

#### **1. The Scope of the Evidence Gathered in the Investigation.**

The investigation is intended to identify evidence that is relevant to the ultimate Factual Finding(s) and/or Determination(s), through a process that involves receiving information "directly related" to the allegation(s), as that term is described in the Title IX regulations. In this context, "directly related" evidence may be a broader category of evidence than the evidence ultimately determined to be "relevant" to a Factual Finding or Determination of Responsibility. "Directly related" evidence essentially consists of evidence having any bearing on the issues in the case. "Directly related" evidence includes information regarding the events in an incident, and, under applicable regulatory guidance, may also extend to encompass character evidence or evidence of prior bad acts, even when such evidence may be negative or "prejudicial" to a party, when such evidence could bear upon a determination of what occurred in the alleged incident. "Directly related" evidence does not encompass information protected by a legally recognized privilege and does not include a party's health treatment records if the party has not given written consent for the disclosure of such records.

#### **2. The Scope of Evidence Included in the Investigation Report.**

Once the investigation is complete, including the review of the evidence by the parties and the consideration of any comments provided as a result of such review, the Investigator will prepare a final written investigation report that will summarize that portion of the evidence determined by the Investigator to be "relevant" to the Hearing Decision-maker(s) ultimate Factual Finding as to whether

## **Aquinas College Title IX Policy**

conduct occurred, and/or a Determination of Responsibility as to whether a violation of the Policy occurred. “Relevance” generally be construed consistent with the Federal Rules of Evidence as evidence that tends to make a fact that is necessary to the matter (“fact of consequence”) more or less probable than it would be without the evidence, but shall exclude any evidence that is excluded from the scope of “directly related” evidence as set forth in Section G.1.. Evidence about the Complainant’s sexual predisposition is not relevant, nor is evidence about prior instances of the Complainant’s prior sexual behavior, unless offered to prove that a person other than the Respondent committed the conduct alleged by the Complainant, or unless such instances pertain to conduct with the Respondent and are offered to prove consent.

### **H. Referral for Hearing**

Once the final investigation report is shared with the parties, the matter will proceed to 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 unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will appoint appropriate Decision-makers depending on whether the Respondent is an employee or a student.

### **I. Hearing Decision-Maker Selection**

The College may designate a single Hearing Decision-maker or a three-member Hearing Decision-maker panel at the discretion of the Title IX Coordinator. The single Hearing Decision-maker, or, in the case of a panel, one of the three members, will serve as Chair. The Hearing Decision-maker(s) will be trained regarding Title IX requirements and hearing procedures.

The Decision-maker(s) will not have had any previous involvement with the investigation, or a conflict of interest in performance of their role in the case.

The Title IX Coordinator 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.

### **J. Notice of Hearing**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator will send notice of the hearing to the parties. Once mailed, e-mailed, 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.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those invited to attend the hearing.

## **Aquinas College Title IX Policy**

- Information on how the hearing will be recorded and on access to the recording for the parties after 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 the Recipient will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker 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.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the 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).

### **K. Alternatives to In-Person Hearing Participation**

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 at least five (5) business days prior to the hearing.

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

### **L. Pre-Hearing Preparation**

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 Decision-maker(s) at the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s). Any evidence offered at the hearing must have been submitted to investigator(s) during the investigation.

### **M. Hearing Procedures**

At the hearing, the Decision-maker(s) will have the authority to hear and make Factual Findings and Determinations of Responsibility on all alleged policy violations, including those that have occurred in concert with the alleged sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the policy, with appropriate notice to the parties.

## **Aquinas College Title IX Policy**

Participants at the hearing will include the Hearing Decision-maker(s), the hearing facilitator, the parties, Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

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

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

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

The Chair conducts the hearing according to the hearing script. The hearing script will be provided to the Parties in advance of the hearing.

### **O. Evidentiary Considerations at the Hearing**

Any evidence that the Decision-maker(s) determine(s) is relevant, in accordance with the parameters outlined in G.2. of these procedures, and with appropriate reference to Federal Rules of Evidence when instructive and consistent with such parameters, may be considered. The Hearing Decision-maker(s) may determine duplicative evidence not to be relevant. The Hearing Decision-makers(s) may exclude evidence from the hearing that is determined not to be relevant.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the Remedy/Sanction stage of the process if a determination of responsibility is reached.

### **P. Testimony and Questioning at Hearing**

#### **1. Generally**

In advance of the hearing, the Hearing Decision-makers will have reviewed the Investigative Report and any relevant supporting evidence referenced in such report. At the hearing, the parties will, additionally, have an equal opportunity to refer to the evidence presented in the Investigation Report, as well as any of the additional investigation evidence provided for their review at the investigation phase, including for purposes of cross-examination, subject to a determination by the Hearing Decision-makers that such evidence is relevant.

The Hearing Decision-makers may request information from the parties and witnesses, and the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

#### **2. Cross-Examination**

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

## **Aquinas College Title IX Policy**

been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

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

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair 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 Chair has ruled on a question.

Parties and witnesses will submit to indirect questioning by the Decision-makers and then by the parties through their Advisors. All questions are subject to a relevance determination by the Chair. Any party or witness may choose not to answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility.

The Decision-makers may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer questions.

### **Q. 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.

### **R. Recording Hearings**

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

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the 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 permission of the Title IX Coordinator.

### **S. Deliberation, Decision-Making, and Standard of Proof**

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote of the panel of Decision-makers is required to determine the finding.

## **Aquinas College Title IX Policy**

After post-hearing deliberation, the Decision-maker 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. The Chair 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, and credibility assessments.

### **T. Remedies/Sanctions**

If a determination is made that a Respondent has violated the Policy, the Decision-maker(s) will deliberate and determine appropriate Remedies, which may include 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 Sexual Harassment and/or Retaliation;
- The need for sanctions/responsive actions to prevent the future recurrence of Sexual Harassment and/or Retaliation;
- The need to remedy the effects of the Sexual Harassment and/or Retaliation on the Complainant and the community.

For student Respondents: Sanctions for students can include, but are not be limited to: a verbal or written warning, probation, suspension or expulsion from Aquinas College. Other forms of sanctions may be issued as appropriate for the circumstances of the case.

For employee Respondents: Sanctions can include, but are not limited to: a verbal or written warning, a performance improvement plan, suspension, or termination from Aquinas College. Other forms of sanctions may be issued as appropriate for the circumstances of the case.

### **U. Notice of Outcome**

The Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the Notice of Outcome with the parties and their Advisors, simultaneously.

The Notice of Outcome 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 College records, or e-mailed to the parties' College-issued e-mail or otherwise approved account. Once mailed, e-mailed, and/or received in person, notice will be presumptively delivered.

The Notice of Outcome will include:

- Identification of the allegations potentially constituting Sexual Harassment or Retaliation, including the applicable policy provisions;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- The Factual Findings regarding each alleged Policy violation;
- The Determination of Responsibility regarding each alleged Policy violation;
- A statement of, and rationale for, the result as to each alleged Policy Violation;

## **Aquinas College Title IX Policy**

- Any Sanctions and/or other Remedies to the extent such measures are permitted to be disclosed;
- The Procedures and permissible bases for Appeal.

### **V. Withdrawal or Resignation While Charges Pending**

#### **1. Students**

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 Aquinas College, the Formal Resolution Process ends as the College no longer has disciplinary jurisdiction over the withdrawn student. A hold may be placed on the student's ability to return, pending resolution of the process. The Respondent may also be barred from college property and/or events. Aquinas will continue to address and remedy any systemic issues, ongoing effects of the alleged Sexual Harassment.

#### **2. Employees**

Should an employee Respondent resign with unresolved allegations pending, Aquinas College may dismiss the formal complaint or any allegations therein, at any time during the investigation or hearing.

Aquinas College will continue to address and remedy any systemic issues, ongoing effects of alleged Sexual Harassment.

### **W. Appeals**

Either party may file a request for appeal. Requests must be submitted in writing to the Title IX Coordinator five (5) business days of the delivery of the Notice of Outcome. The Title IX Coordinator will appoint an Appeal Chair to review the request.

The Request for Appeal will be forwarded to the Appeal Chair 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.

#### **1. Grounds for Appeal**

Appeals are limited to the following grounds:

- i. A procedural irregularity that affected the outcome of the matter;
- ii. 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
- iii. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complaint or Respondent that affected the outcome of the matter.

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

## **Aquinas College Title IX Policy**

If any of the grounds in the Request for Appeal meet the grounds in this policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, e-mailed, and/or provided a hard copy of the request with the approved grounds and then be given five (3) 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 Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appellate 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 Decision-maker(s), as necessary, who will submit their responses in five (3) business days, which will be circulated for review and comment by all parties.

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 the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.

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.

### **X. 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 Decision-maker(s) (including the Appellate 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 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.

### **Y. Recordkeeping**

Aquinas College will maintain records of the complaints, policies and processes set forth in this Title IX policy pursuant to institutional and legal requirement.

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

This policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or Retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The 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.



## **Aquinas College Title IX Policy**

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 which frame such policies and codes, generally.

## **Aquinas College Title IX Policy**

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