WAUBONSEE COMMUNITY COLLEGE

Sexual Misconduct Prevention and Response Guide

In accordance with state and federal laws preventing sexual violence in higher education, Waubonsee Community College prohibits all forms of sexual misconduct (e.g., sexual assault, sexual violence, sexual harassment), including relationship violence (e.g., dating and domestic violence) and stalking. These offenses are illegal and will not be tolerated at Waubonsee. This *Sexual Misconduct Prevention and Response Guide* is a comprehensive document that explains how Waubonsee encourages students, employees, and board members to prevent or respond to these types of crimes.

Definitions and Examples

Sexual Misconduct* encompasses all forms of unwelcome, non-consensual sexual behavior, including rape, sexual assault, sexual abuse, dating violence, domestic violence, stalking or gender-based harassment or discrimination.

Sexual Harassment: Unwelcome conduct of a sexual nature, including sexual advances, requests for sexual favors or other verbal, nonverbal or physical conduct of a sexual nature. The behaviors become harassing when submitting to such conduct is made either explicitly or implicitly a condition of a person's educational progress or employment. This can include unwelcome comments about a person's physical appearance, sex-based jokes, gender-specific putdowns or other language that has the impact of being demeaning or threatening.

Sexual Assault: Any involuntary sexual act in which a person is coerced or physically forced to engage against their will, or any non-consensual sexual touching of a person. Examples include sexual fondling, penetration or touching of intimate body parts without consent.

Retaliation: against anyone reporting, participating in, or thought to have reported or participated in an allegation or investigation regarding sexual misconduct, sexual harassment, relationship violence (dating violence, domestic violence) or stalking is also prohibited. As of July 1, 2015, non-consensual dissemination of private sexual images, photos, videos (sometimes referred to as "revenge porn") is a Class 4 felony (720 ILCS 5/11-23.5).

Sexual Assault Emergency Action Steps

- Get to a safe place as soon as possible.
- Call **911 for immediate** help.
- Call Mutual Ground's Sexual Assault Hotline at (630) 897-8383 to request support from a trained advocate.
- Seek immediate medical attention, preferably at a hospital emergency room accompanied by a Mutual Ground advocate and/or a trusted friend. Medical personnel are trained to perform an optional "SANE" exam. The SANE exam serves two purposes: to address immediate medical needs and injuries and to systematically collect potential forensic evidence. This specialized approach ensures that survivors receive expert, sensitive care while gathering evidence for your case. Partial physical evidence can be collected up to 7 days after the incident.
- If you choose not to report to the police right now, it's still important to get a medical examination to ensure your health. The tests can check for injuries, pregnancy, and sexually transmitted infections (STIs). All procedures are performed only with your consent and are free of charge.
- It's best not to shower, change clothes, or clean up before going to the hospital, but even if you have done those things, it's still important to seek medical attention.

Relationship Violence: Includes any form of domestic or dating violence between two or more individuals that are, or were, in a relationship. **Domestic violence** specifically includes asserted violent misdemeanor and felony offenses committed by a person's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law. **Dating violence** means violence in a romantic or intimate relationship. Whether there was such relationship is gauged by its length, type, and frequency of interaction.

> **Warning signs of domestic and dating violence**: Abusive behaviors are typically repetitive and used to maintain power and control over an intimate partner. These behaviors include belittling, humiliating, arousing fear, forcibly blocking or preventing a partner, and physical harm. For more information about signs of unhealthy relationships or examples of warning signs of relationship violence, please visit www.thehotline.org.

Stalking: A repeated course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress. Stalking and cyberstalking are crimes. A stalker can be someone known or unknown. More often than not, it is someone a person has former involvement with or dated. Most reported stalking cases involve men stalking women, but any gender can experience stalking.

> **Warning signs of stalking:** Stalkers may call and hang-up, call excessively, follow you, appear unexpectedly, send unwanted texts, and leave unwanted messages, letters, or gifts. They may use hidden cameras, GPS systems, phones, and social media to track your location.
>
> If you suspect you are being stalked, call 911 or contact Campus Police (630-466-2552). Mutual Ground or other crisis or domestic violence support programs (see last page for list of resources) can help you create a safety plan or secure a court order of protection. Remember to keep any evidence of the stalking (dates, times, places, texts, social media, etc.) and don't communicate with the stalker or respond to attempts to contact you.

Consent: is a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission does not constitute consent. Additionally, according to Illinois law, a person under the age of 17 cannot give consent legally.

> **Affirmative Consent:** expresses the value that all persons have the right to feel respected, acknowledged, and safe during sexual interactions. Consent to sexual activities must be freely given, must be clearly and unambiguously expressed by words or actions, and must pertain to each specific sexual activity and ongoing throughout. Verbally, this is communicated with words like, "yes," "do that," or "that feels good, keep going." **Consent may be revoked at any time. •** Verbally, revoking consent can be communicated with "no," "stop," "back off," "I don't want to do this anymore." A verbal "no" constitutes lack of consent. Physically, revoking consent can be communicated by pushing away, turning away, and no movement at all.

Consent is: active …verbal … mutual … freely given every time … revocable.



Bystander: A witness to an occurrence of violence, threat, or potential misconduct. A common misconception can occur when a group of people witnesses an event: they often assume someone else will contact the authorities, report it, or intervene. Don't make this assumption. Call 911, submit an online report, and/or talk to someone at the college.

Bystander intervention can prevent violence! Step Up. Just Act. Do something. Watch out for your friends and classmates. If you come across someone who looks like they are in trouble, check in with them and make sure they are ok. If you see someone doing something sketchy, say something. Three common ways to intervene:

- Direct approach – If you feel comfortable, make your presence known. "Hey, I'm concerned for your safety; do you need help?" or "Hey, are you okay?" or "You know what, it's time for us to go."
- Distracting approach – Make something up to either get the person to safety (e.g., "Your sister is on the phone for you") or to get the aggressor to leave the situation. For example, "Hey, buddy, your car is being towed," or "I dropped my phone; can you help me move this couch?"
- Delegation approach – Locate the person's friends or the Police to have them intervene. Ask others to take certain actions, for example, ask them not to leave the person out of their sight.

Survivors' Rights and Options

If you are a Survivor, Witness, Bystander, or Third-Party to sexual misconduct:

1. You have the right to report *or not report* the incident to the college, to law enforcement, or both.
2. You have the right to privacy in reporting. Reporting the incident to the college's confidential advisor (Mutual Ground) and/or a college counselor is recommended for survivors who wish to maintain the highest level of confidentiality allowable by law. Title IX and law enforcement officials have additional legal reporting obligations and cannot guarantee full confidentiality.
3. You have the right to request and receive assistance from college employees in notifying law enforcement.
4. You have the right to request and receive assistance from Waubonsee in accessing campus and local health and mental health services, counseling and advocacy services. *
5. You have the right to request interim protective measures and supportive measures from the college. *
6. You have the right to file a complaint and seek resolution if you believe that the college has violated any of its policies.

***Assistance** is available to both the complainant and the respondent regardless of whether a person chooses to report.

Assistance may include, but is not limited to:

- providing on-campus counseling and direct support with referrals
- adjusting class schedules or on-campus work schedules
- ensuring security before or after a class session
- providing information regarding "no contact orders" and orders of protection
- working with other institutions if an employee or student from another institution is involved
- providing information regarding financial aid or other support as needed

Sexual Assault Emergency Action Steps:

- Get to a safe place as soon as possible and call 911 for immediate help.
- Call Mutual Ground's Sexual Assault Hotline at (630) 897-8383 and request support from a trained advocate.
- Seek immediate medical attention, preferably at a hospital emergency room accompanied by a Mutual Ground advocate and/or a trusted friend. Medical personnel are trained to perform an optional "rape kit" exam, where they can gather evidence for your case. Partial physical evidence can be collected up to 7 days after the incident.
- If you do not want to report to the police now, it is still important to have a medical exam to make sure things are okay. They can test you for injuries, pregnancy, and sexually transmitted infections (STI's), each step only with your consent, at no cost to you.
- For optimal evidence recovery, it's best not to shower, change clothes, or clean up in any way before going to the hospital, but you should still seek services even if you have showered.

Reporting

Survivors of sexual misconduct, sexual violence, sexual assault, sexual harassment, dating violence, domestic violence, or stalking are encouraged to report these incidents to Campus Police (630-466-2552), or the community police by dialing 911, or to seek immediate assistance by going to the emergency room. It is always the survivor's choice whether to make a report.

Students, faculty and staff are encouraged to reach out to the campus contact list or Mutual Ground or other community resources, and to report incidents by submitting a Waubonsee Intervention Form (WIF), available at www.waubonsee.edu/titleix.

Faculty, staff and board members who have been informed of potential harassment, discrimination or sexual misconduct should report such conduct to the Title IX Coordinator, Jami Hinshaw (Student Center Room 209, 630-466-5748, jhinshaw@waubonsee.edu).[1]

Any supervisor, manager or administrator who becomes aware of potential violations of Board Policy 3.170.01, Harassment, Discrimination and Sexual Misconduct, in the context of their role, is required to immediately contact the Title IX Coordinator, Jami Hinshaw (Student Center Room 209, 630-466-5748, jhinshaw@waubonsee.edu) or one of the Deputy Title IX Coordinators (see Resources). These provisions apply regardless of whether the alleged offender is not a college student or employee.[2]

Confidentiality for all reporting will be honored to the fullest extent possible so long as the safety of the survivor, other students, or the campus community is not compromised. Reporting the incident to the college's confidential advisor (Mutual Ground) and/or a college counselor is recommended for survivors who wish to maintain the highest level of confidentiality allowable by law. A person who chooses to request the strictest of confidentiality should understand that it may compromise the ability of the investigation team to fully gain information regarding the case from witnesses or the alleged offender.

College and Community Resources*

College Resources

WCC Campus Police
630-466-2552

Robert Cook, Ed.D – Deputy Title IX Coord.
TRIO / Upward Bound Manager
(630) 466-6800

Allison Durand – Deputy Title IX Coord.
Conduct and Education Coordinator
(630) 466-2430

Jami Hinshaw – Title IX Coordinator.
Dean for Student Engagement
(630) 466-5748

Counseling, Advising & Transfer Center*
(630) 466-2361
www.waubonsee.edu/counseling

*Visit www.waubonsee.edu/counseling (personal counseling) for additional student and community resources...

Community Resources

Police: Dial 911 from any location

Mutual Ground/Confidential Advisors
Hotline (630) 897-0080
www.mutualground.org

The Crisis Line of the Fox Valley
(630) 906-0516

National Domestic Violence Hotline
1-800-799-7233
www.thehotline.org

Kane County Child Advocacy Center
(630) 208-5160
https://sao.kanecountyil.gov/Pages/CrimesAgainstChildren.aspx
DCFS: 1-800-252-2873

National Sexual Assault Hotline
1-800-656-4673
www.rainn.org/get-help

Survivors of Incest Anonymous
877-742-9761
www.siawso.org

WCC Board Policy and Procedures: Harassment, Discrimination and Sexual Misconduct

Board Policy 3.170.01

I. General Objective

A. All college employees and board members are responsible to address and report any knowledge of harassment, discrimination or sexual misconduct. Employees and board members who have been put on notice of potential harassment, discrimination or sexual misconduct should report such conduct to the Title IX Coordinator, Jami Hinshaw (Student Center Room 209, 630-466-5748 or 630-466-6686 jhinshaw@waubonsee.edu) or the Deputy Title IX Coordinator, Allison Durand (Student Center Room 209, 630-466-2430, adurand@waubonsee.edu).

Reports of sexual misconduct may also be reported to the Campus Police Department (Dickson Center Room 165, 630-466-2552). Reports of sexual misconduct may be reported to confidential advisors at Mutual Ground of Aurora (418 Oak Avenue, Aurora, Illinois 60506; 630-897-0084). Emergency and ongoing support for survivors of sexual violence is available through Mutual Ground of Aurora's Sexual Assault Hotline (630-897-8383) and/or Domestic Violence Hotline (630-897-0080).

Additional avenues of reporting are identified in Section V.D. of these Complaint Procedures.

B. Any supervisor, manager or administrator who becomes aware of potential violations of Board Policy 3.170.01, Harassment, Discrimination and Sexual Misconduct, in the context of his/her role, is required to immediately contact the Title IX Coordinator. These provisions apply whether the harassment, discrimination or sexual misconduct has taken place in another department or by an individual who is not a college student or employee.

II. Process for Addressing Complaints of Harassment, Discrimination, Sexual Misconduct

A. Waubonsee Community College has adopted the following definition as a guide to consent:

Consent is defined as a freely given agreement to sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission resulting from the use of force or threat of force shall not constitute consent. Consent to past sexual activity does not constitute consent to future sexual activity and consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person's manner of dress does not constitute consent. Consent can be revoked or withdrawn at any time. Consent to sexual activity cannot be made or assumed if the person is unable to understand the nature of the activity or give knowing consent due to circumstances including, but not limited to, the following:

- The person is incapacitated due to the use or influence of alcohol or drugs;
- The person is asleep or unconscious; The person is under age; or
- The person is incapacitated due to a mental disability.

B. Waubonsee Community College will act on any formal or informal complaint or notice of violation of the policy on harassment, discrimination or sexual misconduct that is received by the Title IX Coordinator, Jami Hinshaw, the Deputy TIX Coordinator, Allison Durand, a member of the Hearing Committee or a member of the administration.

The procedures described below will apply to all reports involving board members, employees, and students. Redress and requests for corrective actions for reports brought against non-members of the campus community are also covered by these procedures.

III. Process for Resolving Complaints of Harassment, Discrimination, Sexual Misconduct

1. Hearing Committee

The President, in consultation with the Title IX Coordinator, appoints the Hearing Committee, which reports to the Title IX Coordinator. Members of the Hearing Committee are announced in an annual notification of this Policy and procedures to the campus community. Members of the Hearing Committee are trained in all aspects of the complaint procedures and can serve in any of the following roles at the direction of the Title IX Coordinator:

- To provide sensitive intake and process guidance of complaints.
- To serve in a mediation role in conflict resolution.
- To investigate complaints.
- To act as advisors to those involved in complaints.
- To serve on hearing panels for complaints.
- To serve on appeal panels for complaints.

Hearing Committee members also recommend proactive policies and serve in an educational role for the campus community. Hearing Committee members receive annual training organized by the Title IX Coordinator and/or Deputy Coordinator, including a review of Waubonsee Community College policies and procedures, so that they are able to provide accurate information to members of the campus community. All Hearing Committee members are required to attend this annual training.

The Hearing Committee includes:

- Two Co-chairs: one representative from HR and one from Student Development
- One Administrative Hearing Officer who is an ex officio member and serves as Chair of the Hearing Panel for student parties
- At least three members of the faculty
- At least three members of the administration
- At least three members of the staff
- At least one representative from Emergency Management and Safety

In the event of a conflict or vacancy on the Hearing Committee, the President, in consultation with the Title IX Coordinator, will appoint an alternate designee.

2. Filing a Report

Any board member, employee, student, guest or visitor who believes that the Policy has been violated should contact the Title IX Coordinator, Deputy Coordinator or a member of the Hearing Committee. It is also possible for employees to notify a supervisor, or for students to notify an administrator or faculty member, or any member of the campus community to contact Campus Police. These individuals will in turn notify the Title IX Coordinator. The College website also includes a reporting form at www.waubonsee.edu/ReportingForm, which may serve to initiate a report.

All employees receiving reports of a potential violation of the Policy are expected to promptly contact the Title IX Coordinator within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy: specific information on any complaints received by any party will be reported to the Title IX Coordinator, but, subject to the College's obligation to redress violations, every effort will be made to maintain the privacy of those initiating a report of a complaint. In all cases, Waubonsee Community College will give consideration to the reporting party with respect to how the report is pursued but reserves the right when necessary to protect the campus community and to investigate and pursue a resolution when a reporting party chooses not to initiate or participate in a formal investigation.

2. Report Intake

Following receipt of notice or a report, the Title IX Coordinator or designee will inform the reporting party of his/her right to an advisor of his/her choice, who may be present at all meetings.

The Title IX Coordinator or designee will make an initial determination whether a policy violation may have occurred and/or whether conflict resolution may be appropriate. The report does not proceed to investigation if the reported incident does not appear to violate the policy or if conflict resolution is desired by the reporting party and appears appropriate given the nature of the alleged behavior. A full investigation will be pursued if there is an alleged policy violation or if there is evidence of a pattern of misconduct or a perceived threat of further harm to the campus community or any of its members.

3. Investigation

If a reporting party wishes to pursue a formal report or if the College, based on the alleged policy violation, wishes to pursue a formal investigation, then the Title IX

Coordinator or designee appoints Hearing Committee members to conduct the investigation. The Title IX Coordinator or designee reserves the right to appoint an external party or agency to conduct the investigation, in consultation with the President. Investigation of reports brought directly by those alleging harm will be completed expeditiously. Investigation may take longer when initial reports fail to provide direct first-hand information. The College may undertake a short delay to allow evidence collection when criminal charges on the basis of the same behaviors that invoke this process are being investigated. College action will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough, reliable and impartial and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary. The College aims to complete all investigations within a 60 business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator or designee with notice to the parties.

4. Interim Remedies

If, in the judgment of the Title IX Coordinator or designee, the safety or well-being of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question, the Title IX Coordinator or designee may provide interim remedies intended to address the short-term effects of harassment, discrimination, sexual misconduct and/or retaliation, i.e., to redress harm to the reporting party/injured individual and the campus community and to prevent further violations. These remedies may include referral to counseling or to the Employee Assistance Program, education to the campus community, altering the class schedule of a student responding party (or the student reporting party, if desired), altering work arrangements for employees, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc.

The College may do an interim suspension on a student, employee or organization pending the completion of a Hearing Committee investigation. In all cases in which an interim suspension is imposed, the student, employee or organization will be given the opportunity to meet with the Title IX Coordinator or designee prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator or designee has sole discretion to implement or stay an interim suspension under the Policy, and to determine its conditions and duration. Violation of an interim suspension under this Policy will be grounds for expulsion or termination.

During an interim suspension, a student or employee may be denied access to Waubonsee Community College campus, facilities and/or events. As determined by the Title IX Coordinator or designee, this restriction includes classes and/or all other Waubonsee Community College activities or privileges for which the student or employee might otherwise be eligible. At the discretion of the Title IX Coordinator or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the student responding party.

5. Resolution

During or upon the completion of the investigation, the investigator(s) will meet with the Title IX Coordinator or designee. Based on that meeting, the Title IX Coordinator, or designee will make a decision on whether there is reasonable cause to proceed with the investigation. If the Title IX Coordinator or designee decides that no policy violation has occurred or that the preponderance of evidence (i.e., whether it is more likely than not that the

responding party committed each alleged violation) does not support a finding of a policy violation, then the process will end unless the reporting party requests that the Title IX Coordinator or designee makes an extraordinary determination to re-open the investigation or to forward the matter for a hearing. This decision lies in the sole discretion of the Title IX Coordinator or designee. If there is reasonable cause, the Title IX Coordinator or designee will direct the investigation to continue, or if there is a preponderance of evidence of a violation, then the Title IX Coordinator or designee may recommend conflict resolution, a resolution without a hearing or a formal hearing, based on the following criteria:

a. Conflict Resolution Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator or designee will determine if conflict resolution is appropriate based on the willingness of the parties and the nature of the conduct at issue. In a conflict resolution meeting, a Hearing Committee member will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator or designee will keep records of any resolution that is reached and failure to abide by the resolution can result in appropriate corrective actions.

Conflict resolution will not be the primary resolution mechanism used to address complaints of sexual misconduct or violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator or designee believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to make a formal Hearing Committee report and anyone participating in conflict resolution can stop that process at any time and request a formal hearing, if deemed necessary.

b. Resolution Without a Hearing

Resolution without a hearing can be pursued for any behavior that falls within the Policy at any time during the process. The Title IX Coordinator or designee will provide written notification of a report to any member of the Waubonsee Community College community who is accused of an offense of harassment, discrimination, sexual misconduct or retaliation. The responding party may choose to admit responsibility for all or part of the alleged policy violation(s) at any point in the process. If such admission is made, the Title IX Coordinator or designee will render a finding that the responding party is in violation of Waubonsee Community College policy for the admitted conduct, and will normally proceed to convene a formal hearing on any remaining disputed violation(s). For admitted violations, the appropriate Co-chair of the Hearing Committee will recommend an appropriate sanction or corrective action in consultation with the Title IX Coordinator or designee. If the sanction or corrective action is accepted by both parties, the Title IX Coordinator or designee will implement it and act promptly and effectively to remedy the effects of the admitted conduct upon the injured individual and the campus community. If either party rejects the sanction or corrective action, a hearing will be held on the sanction/corrective action only, according to the following Hearing Committee procedures:

c. Formal Hearing

For any reports that are not appropriate for conflict resolution or which are not resolved through conflict resolution or are without a hearing, the Title IX Coordinator or designee will initiate a formal hearing or for individuals for whom no hearing process is available, will refer his/her findings to an appropriate Title IX designee.

7. Formal Hearing Committee Procedure

a. Hearing Panels

The Title IX Coordinator or designee will appoint a non-voting Hearing Panel Chair and three members of the Hearing Committee to the Hearing Panel, none of whom have been previously involved with the report. Hearing Committee members who served as investigators will be witnesses in the hearing of the report and therefore may not serve as Hearing Panel members.

b. Notification of Charges

At least one week prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Hearing Panel Chair will send written notification to the parties with the following information. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a description of the applicable procedures and a statement of the potential sanctions or corrective actions that could result.
- The time, date and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Co-chair may reschedule the hearing.

c. Hearing Procedures Hearing Panel hearings will be convened, usually within one to two weeks after the completion of the investigation, and will be conducted in private. Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or on any work day, Monday through Friday, when the college is open to meet the resolution timeline followed by the College and remain within the 60-day goal for resolution.

The Hearing Panel has the authority to hear all collateral misconduct, meaning that it hears all allegations of harassment, discrimination, sexual misconduct and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment, sexual misconduct or retaliation, even though those collateral allegations may not specifically fall within Hearing Committee jurisdiction. Accordingly, investigations should be conducted with as wide a scope as necessary.

Participants in the hearing will include the Chair (or Co-Chairs), or in case of student reports the ex officio Chair, the three members of the Hearing Panel, the investigator(s) who conducted the investigation of the report, the reporting party and responding party (or three organizational representatives in a case where an organization is charged), advisors to the parties and any called witnesses. The Chair will exchange the names of witnesses the College intends to call, all pertinent documentary evidence and any written findings from the investigators between the parties at least two business days prior to the hearing. In addition, the parties will be given a list of the names of each of the Hearing Panel members at least two business days in advance of the hearing. Should (any) party object to any Panel member, he/she must raise all objections, in writing, to the Chair immediately. Panel members will only be unseated if the Chair concludes that their bias precludes an impartial hearing of the report. Additionally, any Panel member or Chair who feels he/she cannot make an objective determination must recuse himself or herself from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing.

The Chair, in consultation with the parties and investigator(s), may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) during the hearing. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross examination is not used between the parties. If alternative questioning mechanisms are desired (screens, Skype, questions directed through the Chair, etc.), the parties should request the alternate mechanism from the Chair at least two business days prior to the hearing.

Once the procedures are explained and the participants are introduced, the investigator(s) will present the report of the investigation first, and be subject to questioning by the parties and the Hearing Panel. The investigator(s) will be present during the entire hearing process, but will only be present during deliberations at the request of the Chair. The findings of the investigation are not binding on the Panel, though any undisputed conclusions of the investigation report will not be revisited, except as necessary to determine sanctions/corrective actions. Once the investigator(s) is/are questioned, the Hearing Panel will permit questioning of and by the parties and of any present witness. Questions may be directed through the Panel at the discretion of the Chair.

Formal rules of evidence will not apply. Any evidence that the Panel believes is relevant and credible may be considered, including history and pattern evidence. The Chair will address any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence and may ask the Panel to disregard evidence lacking in credibility. The Chair will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on his/her own behalf.

The parties may have the assistance of an advisor at the hearing. Typically advisors are members of the campus community. However, the Title IX Coordinator or designee may grant permission for an outside advisor upon request. The parties to the hearing are expected to ask and respond to questions on their own behalf, without representation by their advisor. The advisor may consult with the advisee quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the advisee to the panel.

Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they show a pattern, or (2) the sexual history of or the character of the reporting or responding party.

There will be no observers in the hearing. The Chair may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Panel or the parties involved. The Panel does not hear from character witnesses.

In hearings involving more than one responding party or in which more than one report has accused the same individual of substantially similar conduct, the standard procedure will be to hear the reports jointly. However, the Title IX Coordinator or designee may permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings, subject to Waubonsee Community College consequences for failure to do so. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

Hearings are recorded for purposes of review in the event of an appeal. Hearing Committee members, the parties and/or the persons who initiated the action and appropriate administrator of the College will be allowed to listen to the recording in a location determined by the Title IX Coordinator or designee. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator or designee. Persons given access to the recording will be required to sign an agreement confirming that he/she will protect the privacy of the information contained in the recording.

d. Decisions

The Hearing Panel will deliberate in closed session to determine whether the responding party is responsible or not responsible for the violation(s) in question. The Hearing Panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed each alleged

violation). If a responding party or organization is found responsible by a majority of the Panel, the Panel will recommend appropriate sanctions to the Title IX Coordinator or designee.

The Hearing Panel Chair will prepare a written deliberation report and deliver it to the Title IX Coordinator or designee detailing the finding, the rationale cited by the Panel in support of its determination and any information the Hearing Panel excluded from its consideration and why. The report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the Title IX Coordinator or designation within two (2) days of the end of deliberations.

The Title IX Coordinator or designee will inform the reporting party and the responding party of the final determination within three (3) business days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official Waubonsee Community College records; or emailed to the parties' college-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

e. Sanctions

Sanctions or corrective actions will be recommended by the Hearing Panel. Factors considered when determining a sanction or corrective action may include:

- The nature, severity of and circumstances surrounding the violation;
- An individual's disciplinary history;
- Previous reports or allegations involving similar conduct;
- Any other information deemed relevant by the Hearing Panel;
- The need for sanctions/corrective actions to bring an end to the harassment, discrimination, sexual misconduct and/or retaliation; The need for sanctions or corrective actions to prevent the future recurrence of harassment, discrimination, sexual misconduct and/or retaliation; The need to remedy the effects of the harassment, discrimination, sexual misconduct and/or retaliation on the reporting party and the campus community.

i. Student Sanctions Corrective actions for a student who has engaged in harassment, discrimination, sexual misconduct and/or retaliation may include, but are not limited to, probation, suspension, expulsion or any other sanction as deemed appropriate by the college. Student sanctions are described in more detail in the Code of Student Conduct found online or in the Student Handbook at www.waubonsee.edu/Student_Handbook.

ii. Employee Sanctions Corrective actions for an employee who has engaged in harassment, discrimination, sexual misconduct and/or retaliation may include, but are not limited to, disciplinary warning, required counseling or training, demotion, suspension with pay, suspension without pay and termination of employment.

f. Withdrawal or Resignation While Charges Pending

Students: The College does not permit a student to officially withdraw if that student has a charge pending for violation of the Policy. Should a student decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Waubonsee Community College unless all sanctions have been satisfied.

Employees: Should an employee resign while charges are pending, the records of the Title IX Coordinator or designee will reflect that status. The process will nonetheless proceed without the employee's participation to resolution. In the event the employee is found in violation, the Title IX Coordinator or designee will act to promptly and effectively remedy the effects of the conduct upon the injured individual and the campus community.

g. Appeals An appeal will be limited to procedural review except when substantive evidence is presented or when the determination involves suspension or expulsion. All requests for appeal considerations must be submitted in writing to the Title IX Coordinator or designee within three (3) business days of the delivery of the written finding of the Hearing Committee.

The Title IX Coordinator or designee will appoint a three-member Appeals Panel from the Hearing Committee, none of whom have been previously involved with the report or the investigation to consider all appeal requests. Any party may appeal, but appeals are limited to the following:

- If a procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

The Appeals Panel will review the appeal request(s). The original finding and sanction or corrective actions will stand if the appeal is not timely or is not based on the grounds listed above, and such decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party requesting appeal must show that the grounds for an appeal request have been met and the other party or parties may show the grounds have not been met or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately.

For reports in which the Appeals Panel finds that at least one of the grounds is met, and proceeds, additional principles governing the hearing of appeals include the following:

- Decisions by the Appeals Panel are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction/corrective action only if there is a compelling justification to do so. Appeals are not intended to be full re-hearings of the report and investigation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original Hearing Panel for reconsideration. Other appeals may be remanded to the original Hearing Panel at the discretion of the Title IX Coordinator or designee.
- Sanctions imposed are implemented as soon as practicable unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal. Sanctions involving termination of an employee are subject to approval by the Board of Trustees.
- The Title IX Coordinator or designee will normally, after conferring with the Appeals Panel, render a written decision on the appeal to all parties within three (3) business days from hearing of the appeal.
- All parties should be informed whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, the outcome is final. Further appeals are not permitted.

h. Failure to Complete Sanctions/Comply with Corrective Actions All parties are expected to comply with sanctions/corrective actions within the time frame specified by the Title IX Coordinator or designee. Failure to follow through on sanctions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/corrective actions, suspension, expulsion and/or termination from the college and may be noted on a student's official transcript or an employee's official personnel file. A student suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator or designee. Sanctions involving suspension or termination of an employee are subject to the provisions of the appropriate college procedure, collective bargaining agreement, approval by the Board of Trustees and/or state and federal law.

i. Records. In implementing this policy, records of all reports, resolutions and hearings will be kept by the Title IX Coordinator or designee indefinitely.

j. Statement of Reporting Party's Rights

- To be treated with respect by Waubonsee Community College officials.
- To take advantage of campus support resources (Waubonsee Community College Counseling Services and other services such as the Student Talk Line for students or Employee Assistant Program for employees).
- To experience a safe educational and work environment.
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have reports heard in substantial accordance with these procedures.
- To full participation of the injured party in any Hearing Committee process whether the injured party is serving as the reporting party or the College is serving as reporting party.
- To be informed in writing of the outcome/resolution of the report, sanctions/corrective actions where permissible and the rationale for the outcome where permissible.
- To be referred to law enforcement and have appropriate assistance.

k. Statement of Responding Party's Rights

- To be treated with respect by Waubonsee Community College officials.
- To take advantage of campus support resources (Waubonsee Community College Counseling Services and other services such as the Student Talk Line for students or Employee Assistant Program for employees).
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have reports heard in substantial accordance with these procedures.
- To be informed in writing of the outcome/resolution of the report and the rationale for the outcome.

IV. Implementation of the Complaint Procedures

A. Board Policy 3.170.01 The Complaint Procedures are directly applicable to and are to be administered in accordance with Board Policy 3.170.01: Harassment, Discrimination and Sexual Misconduct, which Policy is incorporated by reference herein, as if set forth in its entirety.

B. Training In keeping with the General Objective set forth in Section I of these Complaint Procedures, every College employee is required to annually complete online sexual harassment training, which encompasses the objectives set forth in Board Policy 3.170.01 and these related Complaint Procedures.

C. Prohibition of Retaliation In compliance with Board Policy 3.170.01 and these related Complaint Procedures, as well as federal and state laws, retaliation is prohibited against any individual who, in good faith, reports, files a complaint, testifies in support of a complaint or participates in any way to oppose suspected or alleged unlawful discrimination, harassment or sexual misconduct that is related to the College in any way. Any individual making a

good-faith claim or report of alleged unlawful harassment, discrimination or sexual misconduct is protected from retaliation under Board Policy 3.170.01 and these related Complaint Procedures; the Illinois Whistleblower's Act, 740 ILCS 174/1 et seq.; and the Illinois Human Rights Act, 775 ILCS 5/6-101. To reinforce this prohibition, the College has an additional Board Policy, Whistleblower and Fraud Reporting Protection Policy 6.200.05, that provides protection from reprisal to individuals who make a good faith disclosure of suspected wrongful conduct.

D. Additional Avenues of Reporting Individuals may report or claim alleged unlawful harassment, discrimination or sexual misconduct, pursuant to Board Policy 3.170.01, through the avenues listed below or those identified in Section I.A. of these Complaint Procedures.

a. Individuals may report or claim alleged unlawful sexual harassment to the College Ethics Officer, Dr. Anthony Ramos, Vice President of Talent and Culture and Chief Diversity Officer (Student Center Room, 630-466-6805, aramos@waubonsee.edu).

b. An individual is not required by law to utilize the college's internal complaint process for sexual harassment. Off-campus reporting avenues are also available. Individuals may report or claim alleged unlawful sexual harassment through the Illinois Department of Human Rights, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601 (312-814-6200), which investigates charges of sexual harassment and the Illinois Human Rights Commission, 100 West Randolph Street, Suite 5-100, Chicago, Illinois 60601, (312-814-6269), which processes complaints of sexual harassment. The Illinois Department of Human Rights has a Hotline, pursuant to the provisions set forth at 775 ILCS 5/2-107 of the Illinois Human Rights Act, as authorized by Section 25 of Illinois Public Act 100-0554.

c. Individuals may also report or claim alleged unlawful sexual harassment through the Office of the Illinois Executive Inspector General (OIEG), 69 West Washington Street, Suite 340, Chicago, Illinois 60602 (312-814-5600), which also has a Hotline that may serve as a resource for initiating a report or complaint of sexual harassment.

E. FALSE CLAIMS

False and frivolous complaints are subject to sanctions. False and frivolous complaints refer to cases in which the accuser is using a harassment, discrimination or sexual misconduct complaint to accomplish some end other than stopping harassment or discrimination. Charges made in good faith, which result in unproven results, do not qualify as false or frivolous. Given the seriousness of the consequences for an individual accused of false or frivolous conduct, a complaining party who makes a false or frivolous complaint will be charged with this offense, which is subject to disciplinary action, in accordance with the sanctions set forth in Section III, 7. E.i.and ii. of these Complaint Procedures.

V. Compliance with Legal Mandates Requiring Procedural Modifications

A. Revision These procedures will be updated by the Title IX Coordinator or designee at any time in accordance with federal and state of Illinois law. The Title IX Coordinator or designee may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. However, the Title IX Coordinator or designee may also vary procedures with notice (on the institutional website with appropriate date of effect identified) upon determining that changes to law or regulation require alterations not reflected in the current procedure. Procedures in effect at the time of its implementation will apply. Policy in effect at the time of the offense will apply even if the Policy is changed subsequently, unless the parties consent to be bound by the current Policy. Any revisions will be noted in the online version of the Policy and procedures will include the date of revision and will highlight the specific revisions for three months following the date of the revision.