

## HARASSMENT AND DISCRIMINATION POLICY

### STATEMENT OF NON-DISCRIMINATION

Ursuline College strives to provide an environment that promotes the worth and dignity of each individual. The College supports the principle of diversity and believes it is the responsibility of every member of the Ursuline College community to conduct themselves professionally at all times and to cooperate in maintaining a work and academic environment free from unlawful harassment and discrimination. Accordingly, Ursuline College prohibits harassment and discrimination on the basis of certain characteristics, including race, color, national origin, religion, age, ancestry, sex, pregnancy, gender identity or expression, sexual orientation, disability, genetic information, military or veteran status, or any other basis prohibited by federal, state, or local laws. These characteristics are also referred to as a person's "**Protected Status**" or "**Protected Class.**" The College does not tolerate conduct that violates this policy and makes every effort to maintain a work and academic environment free from unlawful harassment and discrimination. The College responds to harassment and discrimination complaints with measures designed to immediately stop and eliminate the prohibited conduct, prevent the recurrence of the prohibited conduct, and remediate any adverse effects of such conduct on campus or in College-related programs or activities. Thus, all forms of prohibited conduct under this policy are considered serious offenses, and violations will result in discipline, up to and including possible suspension, expulsion, dismissal, termination, or removal and exclusion from the College.

### SCOPE OF POLICY

This policy applies to all members of the Ursuline College community, including, but not limited to, Ursuline students, faculty, staff, alumnae/alumni, third-party vendors, contractors, guests, and all other visitors to the Ursuline College campus or any other property owned or controlled by the College. This policy also applies to all acts of prohibited harassment and discrimination committed by or against any member of the Ursuline College community (as defined above) if:

- The prohibited conduct occurs on property owned or controlled by Ursuline College or on property immediately adjacent and contiguous to property owned by Ursuline College; or
- The prohibited conduct is directly related to or occurs in the context of College employment or an education program or activity of the College, including, but not limited to: College-sponsored research, study abroad, work study, internship/externship programs, independent study, on-line courses, volunteer activities, work-related travel, training, attendance at seminars or conferences, participation in athletics, student organizations, or any other extra-curricular activity.
- The Prohibited Conduct is directly related to or occurs while using property or resources owned, controlled, or provided by Ursuline College, including, but not limited to: College-owned vehicles, laptops, mobile devices, computer systems and networks, email accounts, telephone and voice mail systems; or
- The Prohibited Conduct has continuing adverse effects on a member of the Ursuline College community (as defined above) as it relates to an education program or activity of the College or College employment.

This particular policy is not intended to address all forms of harassment in the work or educational setting; it is intended to address only harassment of a *discriminatory nature* that is directed at an individual because of his/her Protected Status. Non-discriminatory forms of harassment in the work or educational setting are addressed in other areas of the Student Handbook, the Faculty Handbook, and the Employee Manual.

Ursuline College also administers and enforces policies and procedures that prohibit sexual misconduct, including: sexual assault, domestic and dating violence, and stalking. See the Policy on Sexual Misconduct at [here](#), which is applicable to all members of the Ursuline College community. In the event of any conflict or inconsistency between the provisions and requirements of this Harassment and Discrimination Policy and any other Ursuline College policy regulating the conduct of any member of the Ursuline College community or setting forth procedures governing the suspension, expulsion, dismissal, termination, or removal and exclusion from Ursuline College property of any member of the Ursuline College community, the provisions and requirements of the most current version of this Policy shall prevail and govern, except with respect to the Policy on Sexual Misconduct. Where prohibited conduct violates both this Harassment and Discrimination Policy and any other Ursuline College policy regulating the conduct of any member of the Ursuline College community, the College's response will be governed by the provisions and procedures outlined in the most current version of this Policy, except with respect to violations of the Policy on Sexual Misconduct.

Please note that religiously sponsored organizations, such as Ursuline College, are exempt from certain aspects of Title IX of the Education Amendments Act, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and other federal, state, and local laws. Nothing in this policy should be read or interpreted as a waiver of the College's exemptions under these or other federal, state or local laws.

## **PROHIBITED CONDUCT**

Unlawful discrimination and harassment on the basis of a person's protected status is prohibited under this policy.

### **Discrimination**

The actions of others that deny, exclude, or limit a person's ability to benefit from and/or fully participate in employment opportunities or educational programs or activities of the College because of that person's protected status amount to discrimination. Examples of discriminatory conduct may include, but are not limited to: significant changes in a person's academic or employment status, such as loss of privileges, academic probation, course failure, dismissal from program, termination of employment, demotion, failure to promote, suspension, expulsion, significant change in benefits, or removal and exclusion from Ursuline College property.

### **Harassment**

Another way in which prohibited discrimination can be carried out is through *harassment*. In general, harassment consists of any form of verbal, non-verbal, or physical conduct that is sufficiently severe and/or pervasive enough to have the purpose or effect of unreasonably interfering with an individual's work performance or participation in an educational program or activity by creating an intimidating, hostile, or offensive academic or work environment.

For purposes of this policy, verbal, non-verbal, and physical harassment include, but are not limited to, the following types of conduct directed at an individual because of the person's protected status:

1. **Verbal Harassment:** graphic, suggestive, offensive or derogatory comments, jokes, slurs, threats of physical harm or other statements regarding a person's gender, race, religion, disability, age, marital status, veteran status, or ethnic or national origin.
2. **Non-Verbal Harassment:** gestures, leers, or other suggestive behaviors, or the display or distribution of written materials, offensive signs, photographs, pictures, or other graphic materials having such effects.
3. **Physical Harassment:** touching, hitting, pushing or other suggestive or aggressive physical contact, or threats of same.

The standard for determining whether verbal, non-verbal, or physical conduct relating to a person's protected class is sufficiently severe or pervasive enough to create a hostile academic or work environment depends on whether the complainant *subjectively* perceives the conduct to be intimidating, hostile or abusive and whether an *objectively reasonable* person in the same or similar circumstances would also find the conduct to be intimidating, hostile or abusive. Whether an environment is "hostile" is based on the totality of circumstances. These circumstances could include, but are not limited to:

- the frequency of the conduct;
- the nature and severity of the conduct;
- whether the conduct was physically threatening;
- whether the conduct was humiliating;
- whether the conduct was directed at more than one person;
- whether the conduct was committed by more than one person;
- whether the conduct arose in the context of other discriminatory conduct;
- whether the conduct unreasonably interfered with the complainant's educational or work performance;
- the effect of the conduct on the complainant's mental or emotional state;
- whether the statement is a utterance or an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness;
- whether the speech or conduct deserves the protections of freedom of expression or academic freedom; or

- the relationship between the alleged harasser and subject of the alleged harassment.

As an institution of higher education, Ursuline College has a compelling interest in assuring an environment in which learning is embraced. Such an environment requires free and reasonably unfettered discussion of the widest possible nature, encouraging legitimate expression of all points of view. Thus, speech or conduct that could be viewed as potentially harassing must be evaluated in light of the principles underlying academic freedom and freedom of expression. While the College attaches great value to freedom of expression and vigorous debate, it also attaches great importance to mutual respect, and denounces expressions of hatred levied at individuals because of their protected status.

### **Sexual Harassment**

Sexual harassment consists of nonconsensual or unwelcome sexual attention or advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of instruction, employment, or participation in any College program or activity; or
- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment or participation in any College program or activity; or
- Such conduct is sufficiently severe and/or pervasive enough to have the purpose or effect of unreasonably interfering with an individual's work performance or participation in an educational program or activity by creating an intimidating, hostile, or offensive academic or work environment.

Sexual harassment demeans both the complainant and the harasser and undermines the philosophy and mission of Ursuline College. Sexual harassment may take on many forms, some of which are overt and unambiguous, while others are more subtle and indirect. Some examples of sexual harassment include:

- Threatening or taking adverse academic or employment action if sexual favors are not granted;
- Demands for sexual favors in exchange for favorable or preferential treatment;
- Unwelcome and repeated flirtations, propositions, or advances;
- Unwelcome physical touching;
- Whistling, leering, improper gestures, or offensive remarks;
- Unwelcome comments about appearance, sexual jokes, slurs, e-mails, or the use of sexually explicit, derogatory, or otherwise offensive language;
- Sexually-suggestive objects or pictures displayed in the workplace that use gender-based stereotypes in a derogatory manner.

Even if behavior is not sexual in nature, behavior that displays aggression, intimidation, or hostility based on sex or sex-stereotyping is also considered sexual harassment. Sexual harassment is prohibited regardless of the sex of the harasser or the person harassed, and applies to harassment of members of the same-sex.

Faculty and staff members and other persons of authority should be sensitive to questions about mutuality of consent that may be raised and to conflict of interests that are inherent in personal relationships that result from professional and educational interactions. Thus, romantic relationships that might be appropriate in other contexts may, within the institution, create the appearance of abuse of power or undue influence or advantage. Moreover, even when both parties have consented at the outset to a romantic involvement, such consent does not preclude a subsequent charge of sexual harassment in the future.

Although harassment often takes place when the alleged harasser is in a position of authority or influence over the individual allegedly being harassed (e.g., faculty to student, supervisor to subordinate, etc.), individuals in positions of lesser or equal authority or influence over others also can be found responsible for engaging in prohibited harassment.

### **RETALIATION IS PROHIBITED**

Ursuline College does not tolerate retaliatory conduct and strictly prohibits retaliation aimed at a person because that person complained of harassment/discrimination, testified, provided information, assisted or participated in any manner in a

harassment or discrimination investigation, proceeding, or hearing under Ursuline College policies or the law. Therefore, any intimidation, threats, coercion, or other retaliatory conduct against such persons will be addressed by the College in the most serious manner, and individuals who engage in such actions will be subject to disciplinary action that may include suspension, expulsion, dismissal, termination, or removal and exclusion from the College. Anyone who is aware of possible retaliation or has other concerns regarding the response to a complaint of harassment or discrimination should report such concerns to the Director of Compliance/Title IX & Disability Coordinator, Deborah L. Kamat, who will take appropriate action to address such conduct in a prompt and equitable manner.

**DIRECTOR OF COMPLIANCE/TITLE IX & DISABILITY COORDINATOR**

Ursuline College has designated the following College official to coordinate and oversee its civil rights compliance efforts and to investigate and resolve all complaints of harassment, discrimination, and retaliation brought under this policy.

Deborah L. Kamat  
Director of Compliance/Title IX & Disability Coordinator  
Office Location: Mullen 155  
Telephone: (440) 484-7027  
Email: [deborah.kamat@ursuline.edu](mailto:deborah.kamat@ursuline.edu)

**CIVIL RIGHTS INVESTIGATORS**

The College may also designate other qualified and trained staff and faculty members to assist the Director of Compliance with investigations or to review and decide appeals. These individuals are referred to internally as the College’s Civil Rights Investigators. The following individuals have been trained and designated to serve as Civil Rights Investigators for Ursuline College.

Deanne Hurley  
Vice President of Student Affairs Office  
Location: Pilla 205  
Telephone: (440) 646-8320  
Email: [dhurley@ursuline.edu](mailto:dhurley@ursuline.edu)

Anne Murphy Brown  
Associate Professor & Director of Legal Studies  
Office Location: Pilla 219  
Telephone: (440) 449-5403  
Email: [amurphybrown@ursuline.edu](mailto:amurphybrown@ursuline.edu)

Pamela Hasan  
Supervisor of Administrative Services  
Facilities Operations  
Office Location: Mullen 230  
Telephone: 440-684-6029  
Email: [phasan@ursuline.edu](mailto:phasan@ursuline.edu)

Kelli Knaus  
Director of Human Resources Office  
Location: Mullen 235  
Telephone: (440) 646-8316  
Email: [kknaus@ursuline.edu](mailto:kknaus@ursuline.edu)

Gina Demart-Kraus  
Director of Housing and Resident Life  
Office Location: GH 132  
Telephone: 440-646-8334  
Email: [gdemart@ursuline.edu](mailto:gdemart@ursuline.edu)

**Please Note:** The Director of Compliance and the Civil Rights Investigators are not confidential reporting resources. While they will address your complaint with sensitivity and keep your information as private as possible, confidentiality cannot be guaranteed. Please see below for more information on confidential reporting options.

**MANDATORY REPORTERS AND CONFIDENTIAL REPORTING OPTIONS**

A “**responsible employee**” (oftentimes referred to as a mandatory reporter) is a College employee who has the authority to take action to redress harassment/discrimination or has been given the duty to report incidents of harassment/discrimination to the appropriate College official. At Ursuline, **all** College employees are considered responsible employees and are required to report all incidences of harassment and/or discrimination to the Director of Compliance, unless such employees are specifically designated as confidential reporting resources, as further explained below.

When a complainant tells a responsible employee that s/he has been subjected to harassment and/or discrimination, the complainant should anticipate and expect that the responsible employee will convey this information to the appropriate College official. Upon learning of a complaint of harassment and/or discrimination, the College will take immediate and

appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A responsible employee must report to the Director of Compliance all relevant details of the harassing or discriminatory conduct that s/he is aware of – including the names of the harasser(s) and the person(s) being harassed, the name(s) of any witness(es), and any other relevant facts that might be helpful to the investigation. To the extent possible, information reported to a responsible employee will be shared only with those officials responsible for handling the College’s response to the report.

Before a complainant reveals any information to a responsible employee, the employee should ensure that the complainant understands the employee’s reporting obligations and, if the complainant wants to ensure that confidentiality is maintained, the complainant should be directed to one of the confidential resources identified below. If the complainant still seeks confidentiality but chooses to disclose what happened to the responsible employee despite the warning, the employee should remind the complainant that the College will consider the request, but cannot guarantee confidentiality. In reporting the matter to the Director of Compliance, the responsible employee should also inform the Director of Compliance of the complainant’s request for confidentiality.

If a complainant makes a report of harassment or discrimination to a responsible employee but wishes to maintain confidentiality or requests that no investigation is conducted or no disciplinary action is taken, the College must weigh that request against the College’s legal obligation to provide a safe, non-discriminatory environment for all students and employees, including the complainant. If the College honors the request for confidentiality, a complainant must understand that the College’s ability to meaningfully investigate the matter and pursue disciplinary action against the alleged harasser(s) may be limited. Sometimes, the College will not be able to honor a complainant’s request because of the need to provide a safe, non-discriminatory environment for all students and employees.

When weighing a complainant’s request for confidentiality or that no investigation or discipline be pursued, the Director of Compliance and/or Civil Rights Investigators may consider a range of factors, including, but not limited to the following:

- the increased risk that the alleged offender will continue to engage in harassment and/or discrimination, such as:
  - whether there have been other harassment/discrimination complaints against the same alleged offender;
  - whether the alleged offender has a history of harassing or inappropriate conduct from a prior school or employer;
  - whether the alleged offender threatened further acts of harassment or discrimination against the complainant or others;
  - whether the harassing or discriminatory conduct was committed by multiple offenders or against multiple complainants;
- whether the harassing or discriminatory conduct was perpetrated with a weapon;
- whether the harassment/discrimination occurred on campus or other property owned or controlled by the College;
- whether the complainant is a minor;
- whether the offender is a member of the Ursuline College community;
- whether the College possesses other means to obtain relevant evidence of the alleged harassment/discrimination (e.g., security cameras or personnel, audio recordings, physical evidence).

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action against the alleged offender, despite the complainant’s request.

If the College determines that it cannot honor a complainant’s request for confidentiality or that no investigation or discipline be pursued, the College will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with officials responsible for handling the College’s response. The College will remain ever mindful of the complainant’s well-being and will take ongoing steps to protect the complainant from further harassment/discrimination. Retaliation against the complainant, whether by students or College employees, will not be tolerated.

**Pastoral and licensed professional counselors, when acting in their professional capacity,** are not considered responsible

employees and are not required to report any information to the Director of Compliance regarding complaints of harassment or discrimination. Reports made to these counselors are **strictly confidential**. These counselors include: the Campus Minister, **Paula Fitzgerald**; the College Psychologist, **Anita Culbertson**; and all other licensed professional counselors in the Office of Counseling and Career Services who provide mental health counseling to members of the College Community, including **Jennifer Mooney**. As a matter of policy, pastoral and licensed professional counselors are encouraged – if and when they deem it appropriate – to inform persons being counseled of the procedures for filing a formal or informal complaint with the College. Upon request, these counselors will assist the complainant in filing a complaint.

A complainant who speaks to a pastoral or licensed professional counselor must understand that if the complainant wants to maintain confidentiality, the College may not be able to conduct an investigation into the particular incident or pursue disciplinary action against the alleged offender. Even so, these counselors will still assist the complainant in receiving other necessary support, such as victim advocacy services and referrals to mental health professionals.

### **OPTIONS FOR ADDRESSING HARASSMENT AND DISCRIMINATION**

Ursuline College strongly encourages all members of the College community to promptly report all conduct amounting to unlawful harassment or discrimination on the basis of a Protected Class. The College takes all complaints of harassment and discrimination seriously and will work to reach a prompt, impartial, and equitable resolution of the matter.

If you believe you are being harassed and/or discriminated against or you have observed others being harassed and/or discriminated against, you can address the matter in several different ways:

1. Ask the person harassing you or treating you in a discriminatory manner to STOP. In our diverse community, disagreements and conflicts of varying degrees of seriousness are inevitable. Many issues are best resolved informally by direct communication (in person or in writing) between the individuals involved. However, Ursuline College recognizes that in some instances such action may not be appropriate or advisable. In those instances, you may want to pursue one of the following options below.

2. Talk to a confidential resource. You may want to discuss the matter with the Campus Minister or one of the College's licensed professional counselors (see above). These individuals are confidential resources and are not required to convey your complaint or concerns to other College officials. If after speaking with a confidential resource you do not wish to initiate a formal or informal complaint, the confidential resource will take no further action, unless you are seeking support services. If you do wish to make a formal or informal complaint, the confidential resource can assist you with the process and will put you in touch with the appropriate College official.

3. File a written complaint with the Director of Compliance. A member of the Ursuline College community may choose to file a written complaint with the College. Complaints of harassment and/or discrimination should be made to the Director of Compliance. If for any reason you are uncomfortable contacting the Director of Compliance directly to file your complaint, you can always make an initial report to your professor, designated academic advisor, residential hall director or resident assistants, director of student life, assistant dean, supervisor, dean, department head or department chair. Any of these individuals can assist by forwarding your complaint to the Director of Compliance on your behalf or by putting you in touch with an appropriate College official. Once you have officially notified the College's Director of Compliance of your concerns, you will be given the option to pursue either an informal resolution to your complaint or a formal investigation. Please note that the Director of Compliance may decide that the seriousness of an alleged offense makes it necessary to pursue a formal investigation on behalf of the College, even though the complainant may prefer to pursue informal resolution of the matter. For employees, both the alleged offender and the alleged offender's supervisor will be notified of the complaint.

a. *Informal Resolution* – Some disputes in the residential halls, academic setting, or the workplace are best resolved informally with the assistance of a resolution facilitator or mediator. To pursue informal resolution through mediation or some other agreed upon method, all necessary parties must agree to participate in the process. The goal of informal resolution is to resolve the matter at the lowest possible level and with the least amount of disruption for all parties involved. Oftentimes, mediations are conducted by the Assistant Dean of Diversity, Yolanda King. The College also utilizes other resolution facilitators or mediators to assist the parties in reaching an informal resolution of the complaint. Informal resolutions may also involve the Director of Compliance and/or Civil Rights Investigators (i) advising the complainant about how to communicate the unwelcome nature of the alleged offender's behavior; or (ii) advising the alleged offender that her/his behavior is inappropriate and must stop.

b. *Formal Investigation* – If the matter cannot be resolved through one of the above approaches or the complainant chooses not to pursue one of the above methods, s/he may seek resolution of the matter through a

formal investigation. Please note that it is not necessary for a person to go through the informal resolution process first in order to move forward with a formal investigation. Also, a person who initiates a formal investigation may later choose to pursue informal resolution of her/his complaint. See below for procedures used in conducting formal investigations.

#### **ANONYMOUS COMPLAINTS**

Anonymous complaints will be accepted; however, the College's ability to obtain necessary and additional information may be compromised and the ability to investigate or resolve anonymous complaints may be limited.

#### **BAD FAITH COMPLAINTS**

This policy shall not be used to bring frivolous or malicious complaints against members of the Ursuline College community. If the College's investigation reveals that a complaint is made in bad faith or is knowingly false, such complaint shall be dismissed and the person who filed the bad faith complaint may be subject to disciplinary action. A complaint, however, will not be considered false, frivolous or in bad faith solely because it cannot be corroborated.

#### **ACADEMIC/WORK ACCOMMODATIONS AND INTERIM MEASURES**

Upon receipt of a harassment or discrimination complaint, the College may implement academic or work accommodations and other interim measures as may be appropriate for the individuals involved or the Ursuline College community at large. Such accommodations and interim measures may be implemented at any time (before or after receiving a complaint, during the investigation, or upon resolution of the matter) and may include among other things: separation of the parties and/or witnesses, no-contact orders, modified work or class schedules, alternative housing arrangements for students, providing the complainant with an escort to ensure the safe travel between buildings and classes on campus, restrictions on team activities and participation in campus life, a requested leave of absence, interim suspension of the accused pending resolution of the complaint, and any other measures that may be deemed appropriate under the specific circumstances at issue. Interim measures may also become permanent depending upon the outcome of an investigation. The College will attempt to minimize any adverse effects on the complainant when implementing interim measures.

#### **PROCEDURES FOR RESOLVING COMPLAINTS**

Upon notification of a formal complaint alleging a violation of this Harassment and Discrimination Policy, an investigation into the matter will be conducted in a prompt, fair, thorough, and impartial manner by the Director of Compliance and/or one or more of the College's Civil Rights Investigators, who shall have adequate knowledge and training on how to conduct proper civil rights investigations. The designated investigator(s) shall serve both as the fact-finder and decision-maker. The objectives of the investigation and decision-making process is to: (1) determine whether the alleged conduct occurred; (2) if yes, determine if the conduct constitutes a violation of this policy; (3) if yes, determine what sanctions should be imposed and what actions will be taken to end the harassing or discriminatory conduct and prevent its recurrence.

If the complainant or the respondent has a concern about the conduct of any investigator or believes that an investigator has a conflict of interest that may impair the investigator's ability to be fair and impartial, the complainant/respondent should immediately put her/his concerns in writing and submit them to the President of the College for review. The President of the College or the President's designee (if so appointed) will promptly review the matter and issue a timely, written decision.

#### **COOPERATION WITH INVESTIGATION AND DISCIPLINARY PROCEDURES**

Ursuline College expects all members of the College community to cooperate fully in the investigation and disciplinary procedures. The College recognizes that an individual may be reluctant to participate in the process; nevertheless, any student or member of the faculty or staff who refuses to cooperate in an investigation may be subject to discipline, depending on the particular circumstances.

The College also understands that there may be circumstances in which a complainant wishes to limit her/his participation in an investigation. The complainant retains this right and typically will not be subject to discipline for failure to participate. However, the designated investigator(s) may be required to move forward with an investigation, absent the complainant's participation in the process. In such situations, it may be difficult to ascertain the facts and evidence necessary to reach a just resolution.



If a respondent chooses not to answer any or all questions in an investigation or refuses to participate for any reason, s/he may choose to do so. However, the designated investigator(s) will continue with the investigation process, findings will be reached with respect to the alleged conduct, and the College will issue sanctions, if appropriate.

In order to protect the integrity of the investigation and disciplinary processes, all parties and witnesses are expected to maintain the confidentiality of information shared, received, disclosed or revealed during the overall process. However, confidentiality is not required if disclosure is mandated by law, or if disclosure is necessary to report a crime or violation of law, or to engage in concerted activity regarding the terms or conditions of employment, or in relation to the right of a student respondent or complainant to re-disclose the outcome of an investigation under FERPA and/or the Campus Crime Statistics Act (the Clery Act).

#### **INITIAL ASSESSMENT OF COMPLAINT/REPORT**

The investigative process is initiated when the Director of Compliance receives a complaint or a report of a violation of this policy. The Director of Compliance and/or one or more of the College's Civil Rights Investigators will conduct an initial assessment of the complaint/report to determine the next steps. Following the initial assessment, one or more of the following actions will be taken:

- If it is determined that the complaint/report, even if substantiated, is outside the scope of this policy or would not rise to the level of a policy violation, the complaint/report may be dismissed or addressed pursuant to another policy (if applicable), or referred to another office or College official for appropriate review and resolution.
- If it is determined that the complaint/report, if substantiated, would constitute a violation of this policy, the appropriate interim measures will be determined and a formal investigation will be initiated, unless the parties have agreed to seek informal resolution of the dispute through mediation or some other agreed upon method.

#### **FORMAL INVESTIGATION**

The following procedures shall apply during a formal investigation:

1. Initial statements (preferably written) describing the incident(s) in question shall be obtained from both the complainant and the respondent and, upon request, each party's statement (or summary thereof prepared by the investigator) shall be shared with the other party, except to the extent any statement contains privileged, confidential, or FERPA-protected information, which shall be determined solely by the College.
2. Both the complainant and the respondent to the complaint will have an equal opportunity to provide evidence and to identify any witnesses that support their position.
3. Interviews shall be conducted of the complainant, the respondent, any witnesses identified by the parties as relevant and necessary to the matter, and any witnesses determined by the investigator(s) to be relevant to the matter. If any witnesses identified by the parties as relevant and necessary to the matter are not interviewed, then the investigator(s) will state, in the written response to the parties, the reason(s) for not conducting the additional interviews.
4. Parties and witnesses may be interviewed more than once in order to gather all relevant information and evidence.
5. All relevant documents and evidence shall be gathered and reviewed by the investigator(s) and, upon request, made available for review by the parties, except to the extent that such documents and/or evidence contain privileged, confidential, or FERPA-protected information, which shall be determined solely by the College.
6. All investigations will be conducted under a preponderance of the evidence standard, meaning, the investigator(s) will determine whether it is more likely than not that the respondent violated the Harassment and Discrimination Policy.
7. Both the complainant and the respondent may have a single advisor/support person of their choice present during any meetings with the investigator(s). The advisor/support person may not actively participate during any meetings or ask or answer any questions during the meetings. They may advise the parties privately but may not confer with them while the meeting is in progress. The investigator(s) may remove any advisor/support person who distracts or disrupts the investigatory or decision-making processes. While individuals are free to seek legal counsel, attorneys are not permitted to participate in the investigation process or attend meetings as the advisor/support person for the complainant or the respondent.

8. The investigator(s) may record by electronic, stenographic, or other means any meeting, to the extent permitted by law. Other than the official recording made by the investigator(s), no photographs, tape recordings, videotapes, stenographic records, or other recordings of proceedings under this policy may be made by any person. If an official recording has been made, the parties may request permission to listen to the recording at the conclusion of the investigation and prior to filing an appeal. The initial investigator(s) will determine the conditions under which persons will have access to the recording in order to preserve confidentiality. At no point will either party be given a copy of the recording.
9. The investigator(s)' written notes shall not be accessible to either party and shall be deemed confidential.
10. The investigation shall be completed as promptly as possible. Generally, investigations will be completed within 60 days of receipt of the complaint. However, complicated cases, absence of witness, school closings, or other factors may result in longer investigations. If the investigation will exceed 60 days, the investigator(s) will notify the complainant and the respondent.
11. Once the investigation has been completed, the investigator(s) will issue a written report detailing the results of the investigation and whether any sanctions or other corrective measures will be imposed, as appropriate and in compliance with FERPA. The respondent shall not be informed of all remedies offered to the complainant unless they specifically relate to the respondent, such as a no contact order or no trespass order.
12. The complainant and the respondent shall be informed in writing of the results of the investigation at the same time. For employees, the respondent's supervisor also will be notified of the results of the investigation.

#### **SANCTIONS**

A complaint alleging harassment and/or discrimination does not alone constitute proof of prohibited conduct. As such, the fact that a complaint has been filed against an individual in the past shall not be taken into consideration when evaluating or making decisions regarding the academic or employment status of such individual, unless the previous or current investigation results in a finding of a policy violation.

Persons found to be in violation of this policy will be subject to immediate and appropriate disciplinary action, proportional to the seriousness of the offense. Possible sanctions include, but are not limited to: oral or written warning/reprimand, loss of privileges, mandatory training or counseling, disciplinary probation, performance improvement plan, last chance agreement, College or social probation, expulsion from school, reassignment, fine, restitution, no-contact order, restriction from specific College programs or activities, housing restriction/relocation, restriction from College employment, demotion, involuntary leave of absence, suspension or termination of employment or contractual status, revocation of tenure, and/or removal and exclusion from Ursuline College property.

#### **APPEAL PROCEDURES**

Upon receipt of the investigator(s)' final written report, each party shall have fourteen (14) consecutive days within which to file a written appeal of the decision with the President of Ursuline College. The President shall then assign the appeal to one or more of the College's Civil Rights Investigators for review. The person(s) reviewing the appeal (the "Appeal Panel") shall not be the same person(s) who issued the final written report and/or investigated the complaint. The Appeal Panel's job shall be to review the pertinent evidence presented and to determine whether the decision initially reached by the investigator(s) was arbitrary and capricious. The Appeal Panel's determination shall be final and binding.

#### **TRAINING**

All individuals designated to serve as investigators and appeal panelists under Ursuline College's harassment/ discrimination, sexual misconduct, and bullying policies (including the College's Director of Compliance / Title IX and Disability Coordinator) receive annual training and education regarding these policies and are trained on how to conduct proper investigations in a prompt, thorough, and impartial manner. Training and certification is conducted by the Office of the General Counsel / Legal Department and by other properly licensed and trained professionals such as Squire Patton Boggs and the Association of Title IX Administrators (ATIXA).