



## **Simpson College Title IX Full Policy**

### **PURPOSE AND INTENT**

This policy is intended to address certain concerns relating to unwelcome conduct of a sexual nature when alleged to have been committed by or directed toward a current or prospective student or employee or any other individual participating in or seeking to participate in a Simpson College educational program or activity. Acts of sexual misconduct, described below, may occur in a variety of settings which may be subject to different regulations. It is the intent of Simpson College that this policy will apply to the following:

- Allegations of sexual harassment (including sexual assault and dating/relationship violence) within the scope of Title IX (described below)
- Allegations of sexual harassment, sexual assault, dating violence, domestic violence, and stalking involving members or prospective members of the College community that may fall outside the scope of Title IX because the alleged incidents occurred outside of the United States, or occurred outside the context of a Simpson College program or activity.

Many other behaviors and conduct that is not subject to the Sexual Misconduct Policy may be prohibited under other Simpson College policies available here:

- **Student Handbook**
- **Faculty Handbook**
- **Staff Handbook**

If you have a question about whether certain conduct is subject to the Sexual Misconduct Policy or another college policy, please contact the Title IX Coordinator, Director of Human Resources, Dean of Students, or Academic Dean.

Through this Policy the College intends to:

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- Inform faculty, staff, and students of this Sexual Misconduct Policy and the procedures for reporting sexual misconduct within the College.
- Encourage faculty, staff, and students to report sexual misconduct that constitutes a crime to the appropriate law enforcement authorities.
- Educate College personnel about their responsibilities, the laws, and potential liabilities when sexual misconduct occurs.
- Inform faculty, staff, and students of the services available to victims of sexual misconduct.
- Educate faculty, staff, and students to demonstrate respect for limits expressed or implied by their partners in sexual contacts.
- Reduce incidents of sexual misconduct and educate faculty, staff, and students regarding their rights should such misconduct occur.

This policy includes definitions of terms, prevention information, procedures, and available resources in the event an individual experiences sexual misconduct.

## **JURISDICTION AND SCOPE**

Under Title IX, the College has jurisdiction over incidents that occur on campus, during an official college program or activity (regardless of location), or off-campus in an environment that is subject to Simpson College's substantial control, such as locations or events sponsored by Simpson College or a student group officially recognized by Simpson College. Title IX only applies to incidents that occur within the United States.

Under this policy, the College also has jurisdiction over instances of sexual harassment, sexual assault, dating violence, domestic violence, and stalking involving members or prospective members of our campus community that may fall outside the scope of Title IX because the alleged incidents occurred outside of the United States, or occurred outside the context of a Simpson College program or activity.

Other misconduct that does not meet the definition of sexual misconduct described herein may be subject to other misconduct policies and procedures at Simpson College, available here:

- **Student Handbook**
- **Faculty Handbook**
- **Staff Handbook**

This policy is not intended to create a contract, and is not to be construed to constitute any kind of contractual obligation between Simpson College and any Simpson College student, prospective student, employee, or prospective employee. Simpson College may update, amend, supplement, rescind, or deviate from these policies as it deems appropriate. The policy will take effect when it is approved by administration and distributed by official notice. The version of the policy in effect at the time a Formal Complaint is filed will apply.

## **RELATED STATEMENTS**

### **Non-Discrimination Statement**

Simpson admits qualified persons without regard to age, ancestry, color, disability, gender identity, national origin, race, religion, sex, sexual orientation, gender, gender identity, veteran's status, or genetic information to all the rights, privileges, programs, and activities generally accorded or made available to individuals at Simpson. The College does not discriminate in its educational or admissions policies, scholarships, loan programs, athletic programs, and/or other school-administered programs, and does not discriminate in employment.

The Title IX Coordinator is responsible for overseeing Simpson's handling of all Title IX reports and Formal Complaints, determining the extent of investigation of anonymous reports, identifying and addressing any patterns or institutional issues that become evident through the review of those complaints, and responding to any questions or concerns regarding Simpson College's policies and procedures. Reports regarding violations of this non-discrimination statement or the policy can be made directly to the Title IX Coordinator

Keyah Levy [titleix@mysimpson.onmicrosoft.com](mailto:titleix@mysimpson.onmicrosoft.com)

515-961-1675



Inquiries or complaints concerning the application of Title IX may be also referred to the United States Department of Education's Office for Civil Rights:

Regional #5 Office  
500 West Madison St., Suite 1475  
Chicago, IL 60661 Chicago, IL 60661  
312-730-1560

### **Non-Retaliation Statement**

Retaliation by any individual or agent of the College against a person who reports, is accused of, or participates in an investigation of sexual misconduct is prohibited. These actions are violations of college policy and will result in conduct charges and possible resulting sanctions. Acts of retaliation may also violate state and federal laws. Acts of retaliation should be reported to the Title IX Coordinator, Dean of Students, and/or Director of Human Resources.

## **ASSOCIATED PERSONNEL**

### **Title IX Coordinator**

The Title IX Coordinator is responsible for coordinating all aspects of the College's gender equity compliance efforts, including the College's efforts to prevent sexual harassment. The Title IX Coordinator is responsible for ensuring the College's compliance with all requirements of Title IX and other applicable state and federal laws. Additionally, the Title IX Coordinator:

- Coordinates the College's response to all complaints involving possible sex-based harassment or discrimination
- Advises individuals about Simpson's Sexual Misconduct Policy and reporting options
- Explains options, resources, and available supportive measures to affected individuals regardless of whether a Formal Complaint is filed
- Coordinates supportive measures offered to both parties
- Oversees campus-wide sexual misconduct and Title IX training measures

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- Oversees and maintains records of training for members of the Title IX team

## **Investigators**

Investigators are trained staff, faculty, or other professionals who review and investigate all details of a Formal Complaint to which they are assigned, including conducting interviews of both parties, interviewing witnesses, collecting evidence, and preparing a written investigation summary report.

## **Hearing Board Members**

The Sexual Misconduct Review Board is composed of trained staff and faculty, or other professionals, who determine whether the Respondent is responsible for the sexual misconduct alleged in a Formal Complaint. If the responding party is found responsible, the Review Board, in consultation with the Title IX Coordinator (and, in the case of faculty/staff respondents, with the Academic Dean or Director of Human Resources), will determine the consequences and/or sanctions to be imposed. Hearings are chaired by an external review board member retained by the College.

## **Officials with Authority to Institute Corrective Measures**

Officials with Authority to Institute Corrective Measures (or OWAs) are any Simpson employee explicitly vested with the responsibility to implement corrective measures on behalf of the institution for sex- or gender-based discrimination, harassment, violence, and/or retaliatory conduct involving students, faculty, staff, or third parties. Positions at Simpson considered OWAs are listed below.

- President
- Senior Vice President/Academic Dean
- Vice President of Student Development
- Vice President of Enrollment
- Dean of Students
- Dean of Continuing and Graduated Education
- Director of Human Resources

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- Director of Campus Security
- Athletic Director
- Senior Women's Athletics Administrator

## **Training**

All associated personnel receive annual training and information on required and relevant topics, depending on their position and role. Topics of training may include, depending on position:

- Issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking
- How to conduct fair and impartial investigations
- Creating investigation reports that fairly summarize evidence
- The College Sexual Misconduct Policy
- How to conduct a hearing
- How to serve impartially
- Technology to be used at hearings
- Requirements and expectations of their position

Records of training materials are maintained and publicly available on Simpson's Title IX webpage.

## **POLICY DEFINITIONS**

**Consent:** Consent, pertaining to this policy, is a voluntary agreement to engage in any sexual activity(ies). Consent is given when a fully informed, mentally capable person freely chooses to participate in a mutually agreed upon sexual activity through mutually understandable words or actions. Consent to sexual activity can be communicated in a variety of ways but one should assume that consent has not been given until both parties have clearly agreed to the sexual act. This consent can be withdrawn at any point during the sexual experience. Prior consensual sexual activity does not imply current consent. Consent to engage in a specific sexual activity does not imply consent to engage in other sexual activities.

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Consent to engage with one partner does not imply consent to engage in sexual activities with any other/additional persons.

Effective consent is informed, freely and actively given, mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon current sexual activity. Consent is not effective if it results from the use of fraud, physical force, threats, intimidation, or coercion

- Physical force exists, for example, when someone acts upon you physically, such as by hitting, kicking, restraining or otherwise exerting their physical control over you through violence.
- Threat exists where a reasonable person would have been compelled by the words or actions of another to give permission to sexual contact they would not otherwise have given, absent the threat. For example, threats to kill you, themselves, or to harm someone you care for are sufficient to constitute threats.
- Intimidation exists where someone uses their physical presence to menace you, though no physical contact occurs, or where your knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places you in fear as an implied threat.
- Coercion exists when a sexual initiator engages in sexually pressuring and/or oppressive behavior that violates norms of respect in the community, such that the application of such pressure or oppression causes the object of the behavior to engage in unwanted sexual behavior. Coercion may be differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, and the initiator's knowledge that the pressure is unwanted.

A person cannot give consent if incapacitated, including through the effects of drugs or alcohol. Silence, non-communication, or lack of resistance should never be interpreted as consent. Furthermore, someone under the age of 16 cannot give effective consent to someone over the legal age of consent (18) absent a legally valid marriage or court order. A mentally disabled individual cannot give effective



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consent to a sexual activity if they cannot appreciate the fact, nature, or extent of the sexual situation in which they find themselves.

Simpson College is also committed to providing a safe environment for individuals whose capacity to provide effective consent is limited, such as minors, developmentally disabled persons, and vulnerable adults. When a matter involves an individual with the limited ability to consent, this will be considered throughout the process.

**Sexual Misconduct:** Sexual misconduct prohibited by this policy includes: sexual harassment, sexual violence, rape, sexual assault, domestic violence, dating/relationship violence, and stalking.

**A. Sexual Harassment:** Under Title IX, sexual harassment refers to unwelcome conduct on the basis of sex that satisfies one or more of the following:

1. Submission to such conduct is made either explicitly or implicitly as a term or condition of admission, instruction, employment, academic advancement, or participation in any College activity
2. Submission to or rejection of such conduct by an individual is used as a basis for evaluation in making an employment, academic, or personnel decision affecting an individual
3. Such conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity, which includes employment that relates to educational activities
4. Sexual assault, dating violence, domestic violence, and stalking

Sexual harassment may include unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal, nonverbal, or physical conduct or communication of a sexual nature. Actions that may, depending on circumstances, constitute sexual harassment include, but are not limited to:

- Unwelcome sexual flirtations, advances, or propositions



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- Requests for sexual favors
- Verbal abuse of a sexual nature, obscene language, off-color jokes, verbal commentary about an individual's body, sexual innuendo
- The display of derogatory or sexually suggestive posters, cartoons, drawings, objects, notes, letters, emails, or text messages
- Visual conduct
- Recording video or photographs of a sexual nature without consent
- Cyber harassment, including but not limited to electronically recording, photographing, or transmitting identifiable utterances, sounds, or images of private sexual activity and/or intimate body parts (including genitalia, groin, breasts, or buttocks) without the knowledge and consent of all involved
- Engaging in conduct of a sexual nature that creates an intimidating, hostile, or offensive academic or work environment
- Punishing or threatening to punish a subordinate or student for refusing to comply with sexual requests or demands
- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over the person
- Causing the prostitution of another person
- Allowing third parties to observe private sexual acts of a participant without the participant's consent
- Voyeurism (spying on others who are in intimate or sexual situations)
- Threatening to sexually assault another person
- Stalking, including cyber-stalking
- Engaging in indecent exposure

Sexual harassment may involve the behavior of a person of either sex toward a person of the same or opposite sex when that behavior falls within the operative definition of sexual harassment.

This policy does not prohibit students and faculty from discussing or communicating about topics in the academic context that involve sexual issues, even if the discussion offends some people who overhear it.

**B. Sexual Violence:** Sexual violence is a form of sexual harassment. It includes physical sexual acts or sexual contact with a person's intimate parts that are performed against a person's will or without consent of the other party. Physical resistance need not occur to fulfill the definition of sexual violence. Sexual violence may include rape, sexual assault, dating violence, and other forms of nonconsensual sexual contact. Depending on circumstances, other forms of sexual violence may include domestic violence and stalking. The following list provides examples but is not exhaustive of the type of behavior that may be considered sexual violence:

**C. Sexual Assault:** Sexual assault is a form of sexual harassment and sexual violence and includes any type of sexual contact or behavior that occurs with another person who does not or cannot give consent. This may or may not include force. Sexual assault includes, but is not limited to:

- Rape (the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of any person, without the consent of the victim; a victim may be a person who is penetrated without consent or a person who is forced to penetrate another person without consent)
- Attempted rape
- Fondling (the touching of private body parts of another person, including genitalia, groin, breasts, or buttocks or the clothing covering them, for the purpose of sexual gratification, without consent)
- Incest (sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law)
- Statutory rape (sexual penetration or other form of sexual contact with a person who is under the statutory age of consent)
- Forcing an unwilling person to touch another's intimate parts

**D. Domestic Violence:** Domestic violence includes asserted violent 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

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protected under domestic or family violence law. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound.

**E. Dating/Relationship Violence:** Dating/relationship violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

**F. Stalking:** Stalking is a form of sexual harassment that involves engaging in a course of conduct directed at a specific person that would cause most people to fear for their safety or suffer substantial emotional distress. It may include, but is not limited to, repeatedly following a person; persistent attempts to contact the person by phone, electronic communication, or regular mail; vandalizing the person's property or leaving unwanted items for the person; and/or constantly appearing at the person's classroom, residence, or workplace without permission.

Other forms of sexual misconduct, including but not limited to instances of sexual harassment that do not rise to the level of sexual harassment as defined above, are prohibited by and may be adjudicated through other conduct processes as outlined in the student, faculty, and staff handbooks.

**Report:** A report of sexual misconduct occurs when an individual or group notifies the Title IX office that a member of the Simpson College community may have experienced or engaged in sexual misconduct. A report does not constitute a Formal Complaint or trigger the Grievance Procedure as described in this policy.

**Reporting Party:** An individual who reports a violation of the Sexual Misconduct Policy to the Title IX office.

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**Complainant:** The individual(s) who, through filing a Formal Complaint of sexual misconduct, alleges to be the victim of sexual misconduct. In order to file a Formal Complaint, the individual(s) must be currently participating in or attempting to participate in Simpson College's programs or activities.

**Respondent:** Individual(s) who has been accused of sexual misconduct in a Formal Complaint.

**Advisor:** An individual who is selected by the party or provided by the College, who is not a witness or otherwise involved in the events that are the subject of the report or is otherwise involved in the disciplinary process under this policy. For purposes of the hearing described in this Grievance Procedure, cross-examination of a party must be conducted by an advisor.

**Third Party:** Any other participant in the process, including a witness to the conduct, or an affected community member.

**Mandated Reporter:** Employees who do not meet one of the conditions to be considered a confidential source (e.g., Counseling, Chaplain, Health Services, SARAs) are required to report all the details of an incident (including the identities of both the alleged victim and perpetrator) to the Title IX Coordinator.

**Formal Complaint:** A Formal Complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual misconduct and requesting that the Complaint be addressed by the Institution.

**Grievance Procedure:** The Grievance Procedure occurs after a Formal Complaint is filed, may include an investigation, hearing, appeal process, and/or informal resolution.

## REPORTING, INTERIM MEASURES, AND FILING A FORMAL COMPLAINT

### Reporting an Incident of Sexual Misconduct

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Individuals who have experienced, witnessed, or learned of an incident they think involves sexual misconduct as defined in this policy are encouraged to report the incident using any one or combination of the options below. Reports may be made anonymously. While anonymous reports enable the College to gather data regarding incidents of sexual misconduct, they may significantly limit the extent to which the College can investigate and respond to reported sexual misconduct. All reports of sexual misconduct will be forwarded to Simpson's Title IX Coordinator. Reports should include sufficient information to enable the College to understand the nature of the report and complete an initial assessment, discussed below.

No matter the reporting party's status (as a student, employee, or faculty member), reports of sexual misconduct should be directed to the Title IX Coordinator. The Title IX Coordinator will assist in informing a reporting party of their right to make a Formal Complaint, of services available to try to restore a person's access to education programs or activities, and will make a determination about whether Simpson College can investigate any Formal Complaint of sexual misconduct, discussed below.

The standard of proof for Simpson College sexual misconduct matters is a preponderance of evidence ("more likely than not") standard to determine if this policy was violated. The College will strive to complete the investigation of any sexual misconduct complaint within 90 days.

Different individuals on campus have different abilities to maintain a person's confidentiality when they receive a report of prohibited conduct.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." These resources include Counseling Services staff, Health Services staff, trained victim advocacy services, or the Chaplain while they are acting in a confidential role.
- Employees whose communications are not covered by privilege or confidentiality rules are required to report all the details of an incident

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(including the identities of both the alleged victim and perpetrator, if known) to the Title IX Coordinator. A report to these employees (called “mandated reporters”) constitutes a report to the College and may lead to a Formal Complaint and initiation of the Grievance Procedure.

Along with the on-campus options described below, Simpson College strongly encourages a survivor of sexual misconduct to make a report to local law enforcement and to speak with a rape crisis or other counselor, on- or off-campus. Sexual assault and many other types of sexual misconduct constitute criminal behavior. Law enforcement officers are trained in handling sexual assault and other cases involving sexual misconduct. An officer can be dispatched to campus to meet with the person calling, to assist the survivor in obtaining medical attention and emotional counseling, to discuss available options, and to write a formal report of the incident. The police report and any supporting evidence are turned over to the County Attorney’s office, which decides whether there is sufficient evidence to prosecute should the victim wish to pursue charges.

## **Responding to a Report of Sexual Misconduct**

Within two business days of receiving a report, Simpson College will reach out to the reporting party to schedule a meeting to review the report. If the reporting party is not the alleged victim, Simpson College will then reach out to the alleged victim to schedule a meeting. During the first meeting with the alleged victim, the Title IX Coordinator will:

- Inform the alleged victim (provided in writing) of any right to file a Formal Complaint, discussed below, and will explain the procedure for doing so.
- Inform the alleged victim of measures that may restore or preserve an individual’s access to their education, education program or activities, or other matters, without the filing of a Formal Complaint.
- Offer each alleged victim supportive measures in response to the report. If circumstances do not permit Simpson College to offer supportive measures in response to a report, such as in cases where a reporting party wishes to remain anonymous or will not respond to follow-up contact from Simpson



College, Simpson College will document the reason it could not offer supportive measures.

Should the reporting party and/or the alleged victim not respond to requests to meet, the above information will be provided in writing.

### **Interim or Supportive Measures following a Report of Sexual Misconduct**

Reports of alleged sexual misconduct in violation of this policy may be supported by appropriate immediate interim measures coordinated by the Title IX Coordinator or designee. When appropriate, the College may provide interim measures at any point following the receipt of a report of sexual misconduct.

Interim or supportive measures are non-disciplinary and are intended to restore or preserve a person's equal access to the College's education programs or activities, including employment that relates to educational activities. Any interim or supportive measure will be designed to protect the safety of all parties and members of the Simpson College community and deter sexual misconduct.

An individual may request specific interim or supportive measures at any point after a report of sexual misconduct is made. A Formal Complaint does not need to be filed in order to request interim or supportive measures. Requests for interim measures should be made to the Title IX Coordinator. The College will keep interim or supportive measures confidential to the greatest extent possible.

The College is obligated to provide reasonable interim or supportive measures regardless of whether a report has been made to local law enforcement. If a party has obtained a court order related to an individual involved in report of sexual misconduct, the party who made the report or sought the order should provide that information to the Title IX Coordinator. The College will take all reasonable and legal action to assist with compliance of the order.

Interim measures may be requested by any party and may include, but are not limited to, the following:



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- A change in on-campus housing location to alternate housing
- Assistance in exploring alternative housing off-campus
- Assistance in arranging academic accommodations, including rescheduling exams and assignments
- Changing a student's class schedule
- Changing an employee's work schedule or job assignment
- Assistance in arranging for incompletes, leaves, or withdrawal from a class or the College
- Assistance in arranging for alternate college employment arrangements
- The issuance of a College-imposed mutual "no contact directive" pending the outcome of the investigation. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another
- Access to counseling, medical, or other confidential services and assistance in setting up initial appointments on and off campus
- Providing campus security escorts to assure safe movement between classes and activities
- Interim suspension (in the case of a respondent who is a current student), employment leave (with the right to appeal), or restriction from campus (in the case of a respondent who is not currently affiliated with the College)
- Any other measure deemed possible and appropriate that would help restore or preserve a person's equal access to the College's education programs or activities

## **Initial Assessment and Individualized Risk Assessment**

Simpson College will ensure that the College responds to every sexual misconduct report in a timely manner that treats every individual with respect and promotes safety for the parties and the Simpson College community.

The first step in response to a sexual misconduct report is an initial assessment. The initial assessment will consider the nature of the report, the reporting party's preferences for resolution, and the most appropriate course of action given the

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information available. The appropriate course of action may change over time as further information gathering, analysis, or investigation reveal more information surrounding the alleged sexual misconduct. If an alleged victim decides against filing a Formal Complaint, the decision of how to move forward with the information will be made by the Title IX Coordinator, potentially in consultation with other College administrators. At the initial assessment stage, and throughout any investigation or disciplinary proceeding, only those who “need to know” are given information about the issues.

The College’s initial assessment and individualized safety/risk analysis will include review of safety issues for the parties and the Simpson College community. If the College determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations in any report justifies removal of an individual from campus, the College will promptly notify the affected individual and remove the individual from campus or relevant program. Immediately following the removal, Simpson College will give the removed individual the opportunity to challenge the removal in instructions included in the notice of removal.

## **Filing a Formal Complaint of Sexual Misconduct**

Individuals who believe that sexual misconduct has occurred may file a Formal Complaint of sexual misconduct. A Formal Complaint of sexual misconduct is subject to the Grievance Procedure in this policy, discussed below, and must be investigated. Simpson College students, faculty, staff, administrators, and others may be subject to a Formal Complaint of sexual misconduct.

To file a Formal Complaint, a complainant must sign, by hand or by digital signature, a document that alleges sexual misconduct against a respondent and request that Simpson College investigate the allegations of sexual misconduct. Title IX only permits individuals who are participating, or are attempting to participate, in an educational program or activity of Simpson College to file a Formal Complaint. This would include, but is not limited to, current students of Simpson College, applicants for enrollment to Simpson College, and other

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individuals who participate, or are attempting to participate in Simpson's educational programs or activities, such as faculty, coaches, or other College employees.

Individuals who wish to file a Formal Complaint may do so by contacting the Title IX Coordinator:

Keyah Levy

[titleix@mysimpson.onmicrosoft.com](mailto:titleix@mysimpson.onmicrosoft.com)

515-961-1675

Upon receipt of a report of sexual misconduct, discussed above, Simpson College's Title IX Coordinator may sign a Formal Complaint to initiate the grievance process in the Sexual Misconduct Policy, even where no person who alleges to be the victim of sexual misconduct wishes to file a Formal Complaint. Before doing so, the Title IX Coordinator will consider the Complainant or reporting party's wishes and evaluate whether investigation is reasonable under the circumstances. Factors that may cause Simpson College to file a Formal Complaint include campus safety, when multiple individuals have reported assaults involving the same individual, or other conditions indicating a high risk of further sexual misconduct occurring. In deciding whether to file a Formal Complaint, the Title IX Coordinator may consult with other College administrators, including but not limited to the Vice President for Student Development, Dean of Students, Director of Human Resources, and/or Academic Dean. Reporting parties will be notified prior to Simpson College filing a report of sexual misconduct.

## **RESOLVING A FORMAL COMPLAINT**

Individuals who file a Formal Complaint may choose to pursue resolution via two different methods – formal resolution or informal resolution. Procedures for both options are detailed below.

### **Evaluation and Potential Dismissal of Formal Complaint**

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Within 10 business days of receipt of a Formal Complaint, the Title IX Coordinator or other College administrator will evaluate the allegations. Title IX regulations require that Simpson College dismiss the Formal Complaint as a Title IX violation if the alleged conduct does not meet the definition of sexual misconduct under Title IX. Title IX only applies to incidents that meet the above definition of sexual harassment and occur on campus, during an official college program or activity (regardless of location within the United States), or off campus in an environment that is subject to Simpson's substantial control.

Instances dismissed under Title IX may still be addressed through the Grievance Procedure when, if proven, the conduct would constitute a violation of this policy.

If a Title IX dismissal occurs and the alleged incident falls outside the scope of this policy, the Grievance Procedure will not apply. In such circumstances, Simpson College or the Complainant may take action to respond to the allegations in the Formal Complaint under the student code of conduct and faculty/staff harassment policies and procedures, if appropriate.

Simpson College may also, in its discretion, dismiss a Formal Complaint at any time during the Grievance Procedure under any of the following circumstances:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or allegations in the Formal Complaint
- The Respondent is no longer enrolled or employed by Simpson College
- Specific circumstances prevent Simpson College from gathering evidence sufficient to reach a determination about the Formal Complaint or allegations in the Formal Complaint.

The College will not dismiss a matter without first notifying the Complainant of the grounds upon which it is considering dismissal and providing the Complainant a reasonable opportunity to respond.

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Upon a dismissal of the Formal Complaint of any allegations, the College will promptly and simultaneously provide the parties a written Notice of Dismissal, which will contain the grounds upon which the dismissal is made. The Notice of Dismissal will identify instructions on how a party may appeal the dismissal decision.

## **Notice of Allegations**

Within five business days of determining whether the College must dismiss the Formal Complaint, the Title IX Coordinator or their designee will issue a Notice of Allegations, in writing, to both parties, informing both parties of the commencement of the Grievance Procedure. After receiving the Notice of Allegations, both parties will be given sufficient time to prepare before any meetings scheduled to discuss allegations. The Title IX Coordinator or their designee will meet with the Respondent, if possible, for an initial meeting in which the Respondent will have the opportunity to learn about the Grievance Procedure and request interim or supportive measures before they are asked to meet with investigators.

The Notice of Allegations will include the following:

- The allegations of sexual misconduct, including details known at the time of the Notice that enable a respondent to understand the nature of the allegations. This includes:
  - the identity of the parties involved in the incident, if known
  - a description of the alleged sexual misconduct
  - the date of the alleged sexual misconduct, if known
  - the location of the alleged sexual misconduct, if known
- Notice that the Respondent is presumed not responsible for the alleged sexual misconduct pending determination made through an investigation and hearing process
- Notice that a determination of responsibility for the alleged sexual misconduct will be made at the conclusion of the grievance process

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- Notice that each party to a Formal Complaint has the right to an advisor of their choice, who may be, but is not required to be, an attorney
- Notice that knowingly making false statements or knowingly submitting false information during a Grievance Procedure is a violation of the Code of Conduct and will be addressed under that disciplinary process
- Notice that each party may inspect and review all directly related evidence collected in the investigation prior to a determination of responsibility for sexual misconduct
- Notice that retaliation against any party, witness, or other individual who reports sexual harassment or who participates in the Grievance Procedure is prohibited
- Information about interim or supportive measures available to complainants or respondents
- Information about Simpson College's grievance process for Formal Complaints
- Information about Simpson College's informal resolution process

If, in the course of an investigation, Simpson College decides to investigate allegations about any party that are not included in the initial Notice, Simpson College will issue an amended Notice of any additional allegations to all known parties.

Respondents in a Sexual Misconduct Grievance Procedure are expected to participate in the process. The Grievance Procedure may still occur even if a respondent chooses not to participate or chooses to leave Simpson College.

## **Consolidation of Multiple Complaints**

At its discretion, the College may consolidate Formal Complaints of sexual harassment allegations against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same set of facts or circumstances.

## **Formal Resolution**

Formal resolution follows the formal Grievance Procedure and includes an investigation, the submission of an investigation summary report, and adjudication (including potential appeal).

Simpson College will endeavor to complete the Grievance Procedure following receipt of a Formal Complaint within 90 days of receiving a Formal Complaint. Simpson College may temporarily delay or extend the Grievance Procedure when good cause exists to do so. Good cause for delay or extension may include:

- Accommodating the availability of a party, witness, advisor, investigator, or review board member
- Addressing scheduling conflicts that may arise due to Simpson College's break schedule
- Law enforcement activity related to the incident
- Arranging language assistance
- Accommodating an individual's disability
- Other circumstances beyond the College's control

Throughout the Formal Resolution process, both parties will receive notice of all meetings scheduled with either party.

## The Grievance Procedure

### 1. Investigation of a Formal Complaint

Title IX regulations require that after a Formal Complaint is filed, the College must investigate the allegations. College officials involved will discharge their obligations under these procedures fairly and impartially. Identified conflicts of interest will be disclosed to the College, addressed and, if necessary, other appropriate individuals will be designated to fill the role of a potentially conflicted official. Sexual misconduct investigations are conducted by trained investigator(s) or other officials who receive training on issues related to sexual misconduct.



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## Assignment of Investigator(s)

The Title IX Coordinator or their designee will choose one or more investigator(s) to review and investigate all details of Formal Complaint. The investigator(s) are trained staff, faculty, or attorneys that will be chosen based on availability and knowledge of the case. Both the Complainant and the Respondent may petition, in writing, to the Title IX Coordinator to have any investigator removed on the basis of bias or a conflict of interest. An investigator will only be removed should the Title IX Coordinator find credible evidence of bias or conflict. In the event that any investigator needs to be removed from the investigation for any reason, an alternative investigator will be selected by the Title IX Coordinator.

## Burden of Proof and Presumption of Non-Responsibility

Throughout the investigation, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on Simpson College—not on a complainant or a respondent. Throughout the proceeding, until the issuance of a decision by the review board, a respondent will be presumed not responsible for the allegations in the Formal Complaint.

## Equal Opportunity

Each party will have an equal opportunity to present witnesses to the investigators, including expert witnesses. Each party will also have an equal opportunity to present evidence that they believe supports or disproves the allegations. Neither the investigators nor Simpson College will restrict a party's ability to discuss the allegations under investigation, or gather and present relevant evidence.

The parties will have the same opportunity to have others present for any part of the Grievance Proceeding, including the opportunity to be accompanied to any investigation meeting by a single advisor.

## Interviews

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The investigation will generally include interviews of the Complainant and Respondent and interviews and/or written statements from any witnesses, as well as the review of any other evidence relevant to the incident. If an in-person interview is requested, the investigator or Simpson College representative will provide written notice of the date, time, location, participants, and purpose of the requested interview at least three business days before the interview.

The Complainant and Respondent will be permitted to have their advisor present during the interviews, however during the investigation phase these individuals are permitted to participate only in an advisory capacity to the party. Advisors may confer with the party they are supporting but are not permitted to otherwise actively engage in the investigation or meetings outside the formal hearing.

## Witnesses

During the investigation, both the Complainant and the Respondent may identify relevant witnesses, including expert witnesses, to present to the investigators. Witnesses cannot be participating solely to speak about an individual's character. If it is clear a witness would not contribute relevant information about the case, the investigator(s) may choose not to interview the witness. The investigators will electronically record any interviews, and these recordings will be made available to all parties to inspect and review at the conclusion of the investigation.

## Evidence

Also during the investigation, the parties are encouraged to provide any other directly related evidence, including but not limited to correspondence between the parties and physical evidence. At least ten days prior to the close of evidence, the College must make available all directly related evidence gathered in the investigation for the parties to inspect and review, whether inculpatory or exculpatory, and whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. While the College seeks to keep all written accounts of the incident

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confidential, complainants and respondents can talk freely about the incident. The College encourages complainants and respondents to seek the counsel of those they trust.

## Close of Evidence Notice

Prior to the drafting of an Investigation Report, the parties will be informed of the pending close of the investigation phase so that the parties will have the opportunity to submit any additional evidence and/or suggest additional witnesses to be interviewed. The deadline for submitting further evidence will occur on a date identified by the investigator(s) and the parties will not be permitted to introduce additional evidence after that date absent circumstances the College deems necessary in meeting its burden of proof or burden of gather evidence sufficient to reach a determination.

## Impact and Mitigation Statements

Before the investigation closes, the Complainant may write an impact statement and the Respondent may submit a mitigation statement. The impact statement and mitigation statement should be delivered to the Review Board in a sealed envelope or through a secured confidential electronic source and opened and used only if the Respondent is found responsible for consideration in the determination of sanctions. Should the Respondent be found not responsible, the Review Board will return the sealed envelopes to the respective parties or permanently delete the electronic source.

## Notice of Review Period

Prior to issuance of the investigative report, discussed below, the College will provide all parties with notice that they have five business days to inspect and review any evidence obtained as part of the investigation, including recordings or transcripts of the interviews conducted by the investigators and the incident statements discussed above. The College is legally obligated to provide the parties with access to all directly related materials that were collected, whether they

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support or disprove the allegations in a Formal Complaint. However, the College will not and cannot provide adverse parties with the opportunity to confidential information that is subject to privacy laws, such as health information or records protected by privacy laws. A party may choose to provide a written waiver of their right to maintain certain health or other records as confidential if the party believes that doing so makes sense under the circumstances.

All relevant evidence collected will be made available to the hearing panel and the parties prior to the hearing, discussed below. Each party has five business days from notice of the availability of the investigation materials to submit a written response to the investigation materials. The investigator(s) will consider a party's response to the investigation materials when completing the investigation summary report.

## 2. Investigation Summary Report

At the conclusion of the investigation, the investigator(s) will prepare a written investigation summary report based on interviews with the Complainant, Respondent, witnesses, and other materials reviewed. The report will provide a fair summary of relevant evidence. An electronic copy of the report will be sent to each party and party's advisor at least five business days prior to the hearing discussed below.

## 3. Hearing and Adjudication

A hearing is an opportunity for the parties to address the Sexual Misconduct Review Board in person and to question the other party and/or witnesses. It also provides the Review Board the opportunity to obtain information following the investigation that is necessary to make a determination of whether a policy violation occurred.

Once the investigation summary report has been drafted, the College will appoint a Review Board to determine whether the Respondent is responsible for sexual misconduct alleged in the Formal Complaint. If the responding party is found

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responsible for the conduct alleged in the Formal Complaint, the Review Board, in consultation with the Title IX Coordinator (and, in the case of faculty/staff respondents, with the Academic Dean and/or Director of Human Resources), will determine the consequences and/or sanctions to be imposed. The Review Board will be individual(s) other than the Title IX Coordinator and investigator.

## Scheduling

A live hearing on the Formal Complaint will be scheduled at least 10 calendar days after the parties' receipt of the Investigation Report and, except in extraordinary circumstances, no later than 17 days from the issuance of the Investigation Report.

## Composition of the Sexual Misconduct Review Board

The Sexual Misconduct Review Board is composed of members of the Simpson College faculty, staff, and administration. Board members are appointed by the Title IX Coordinator, in consultation with processes for selection of faculty members. Hearings will be chaired by an external Review Board member who is retained by the College. When selected, all members of the Board receive comprehensive training about the hearing process and sexual misconduct. The Title IX Coordinator will serve as an ex-officio consultant to the Sexual Misconduct Review Board without vote and provide administrative support and clarifications as needed.

The Respondent and Complainant will be notified of the names of those who will serve on the Board at the time the hearing is scheduled. If either objects to any member or members of the Board, they must commit the reasons for the objection to writing within two business days thereafter. The Title IX Coordinator will review the objection and decide whether the Review Board member(s) should or should not be replaced. Removal from the Review Board will occur only if the Title IX Coordinator is convinced that extenuating circumstances exist that would preclude the Review Board member from their ability to impartially adjudicate the incident. Any Board member who personally

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knows either the Respondent or the Complainant and believes this may impact their impartiality may be excused from the case.

## Hearing Board Review of Materials

Prior to the hearing, the Review Board will receive and review the investigation summary report, which will contain all evidence deemed relevant by the investigator(s). These materials may include any statements, interview, and material evidence submitted during the investigation process. The statements from witnesses obtained during an investigation may be submitted in lieu of actual witness testimony in the absence of an objection by either party. Prior to the hearing, the Review Board may request more information from any parties, including the Complainant, the Respondent, or identified witnesses involved in the case. The parties will be notified of any additional interviews. After reviewing the materials, the hearing board will identify which witnesses, which may include all witnesses, they want available at the hearing for potential questioning by parties' advisors. The hearing board may request the presence of any witness however, the hearing board may consider prior statements of witnesses who do not appear at the hearing for decision-making purposes.

## Pre-hearing Meeting

Prior to the hearing, the Title IX Coordinator will schedule a separate pre-hearing meeting with each party and their advisors to review procedures to be followed at the hearing; to identify the names of witnesses that the hearing board asked to be available; to identify other witnesses the party wants to appear; and to answer any other questions or share information prior to the hearing. The Title IX Coordinator will also discuss time allotted for the hearing and any time limitations. The parties are expected to identify witnesses they wish to be available during the hearing by the pre-hearing meeting. The Review Board may, at its discretion, exclude from the hearing witnesses who were not identified by a party.

## The Hearing Process

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The hearing is not intended to be a repeat of the investigation or an exhaustive review of the evidence summarized in the investigation report. The hearing will be conducted live and will be convened in a private room or its virtual equivalent where there will be no disturbances from other members of the campus community. There will be separate waiting rooms for the witnesses of the Respondent and for the witnesses of the Complainant. The hearing will not be open to the public.

The Complainant and the Respondent will not be required to be present in the hearing room at the same time nor face one another during the hearing process, however, arrangements will be made for both the Complainant and the Respondent to have the opportunity to observe the entire hearing. Each may present evidence on their own behalf through their own testimony, exhibits, the presentation of witnesses and/or (absent objection) statements of witnesses. Each may choose an advisor (which may be, but is not required to be, legal counsel) to accompany them during the hearing.

## Case Presentation

The Review Board has absolute discretion to decide upon the format for the hearing and to determine which witnesses are relevant to their outcome determination. The Hearing Board may decline to hear from a witness where they have concluded that the information is not relevant for their outcome determination or unduly duplicative of other testimony already provided at the hearing.

A typical hearing may include:

- Brief opening remarks by the Review Board Chair;
- Questions posed by the Review Board to one or both parties
- Follow-up questions by one party to the other (typically with the Respondent's advisor questioning the Complainant first)
- Questions by the Review Board to any witnesses; and



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- Follow-up questions by the parties (through their advisors) to any witnesses.

The Review Board may also afford the opportunity to both parties to present brief closing remarks.

The Review Board members are allowed to ask questions at any point throughout the hearing. Furthermore, the Review Board may recall the Complainant, Respondent, and/or any witness at any point to clarify a point or inquire further about relevant information.

There are some situations in which the Complainant or Respondent cannot or will not present their own case. In these situations, the Title IX Coordinator may appoint an administrator to present the case to the Review Board in the party's stead. When this occurs, the party will be permitted to have input on the selection of that administrator but the Title IX Coordinator retains ultimate authority to appoint the administrator. Under this circumstance, the Complainant/Respondent still may be present throughout the entire proceeding.

## Questioning and Cross-Examination

Neither the Respondent nor the Complainant may directly question the other during the hearing. However, the Review Board will permit each party's advisor to ask the other party and any relevant witnesses all relevant questions and follow-up questions, including questions that challenge a witness's credibility. All cross-examination questions will be conducted directly, orally, and in real time by the party's advisor—never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. For that reason, questions to the other party must be directed to the Review Board chair who will review the questions and determine if they will be posed to the other party and, if so, the chair will ask the party the question. Prior sexual behavior/sexual history/sexual predisposition of a party is not relevant and will not be allowed to be presented during the hearing except: (1) evidence of the

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prior relationship between the Complainant and the Respondent to determine whether there was consent; and (2) to prove that someone other than the Respondent committed the alleged conduct. However, the existence of a current or past sexual relationship or encounter does not, in and of itself, establish consent for any given sexual encounter. Evidence of a respondent's prior conduct violations may be relevant and admissible to determine a sanction, if the Respondent is found responsible.

## Standard of Evidence

To find the Respondent responsible for a violation of this policy, a majority of the Review Board must decide that a preponderance of the evidence establishes the Respondent's behavior constituted a violation of the conduct alleged in the Formal Complaint. Preponderance of the evidence means that it is more likely than not that the Respondent violated the policy. In the absence of a finding of a policy violation based upon a preponderance of the evidence, neither the Complainant nor the Respondent will be subject to disciplinary action.

## Impact of Non-Participation

The Respondent will be deemed responsible only where the Review Board determines that a preponderance of the evidence supports a determination of responsibility. Neither party is required to participate in the investigation or any form of resolution under this Grievance Procedure. The Review Board will not draw any adverse inference from a decision by either party not to participate.

The Review Board cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing, or refusal to answer cross-examination or other questions.

## Hearing Record

A record of the hearing (audio tape recording and/or written) will be maintained and made available for electronic review to the Respondent and Complainant if requested, subject to restrictions/conditions established by the College.

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## Decision Making

Once the hearing is concluded, the Review Board members will, after meeting in closed session, render a decision within 10 business days as to whether the Respondent's actions constitute a violation of this policy. However, if they cannot reach a decision in that time the parties will be so notified and a timeframe will be provided for when the decision will be rendered. If necessary, prior to the decision being rendered, any party, including witnesses, may be recalled for further questioning by the Review Board.

## Written Determination of Responsibility

Once a decision is made, the Title IX Coordinator will issue to both parties simultaneously a written Determination of Responsibility. The Review Board's written determination of responsibility will include:

- The description of the alleged sexual misconduct
- A description of the procedural steps taken from the College's receipt of the Formal Complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather evidence, and hearings held
- Findings of fact supporting the Review Board's determination
- Conclusions on the application of this policy to the facts
- A statement of, and rationale for, the result as to each allegation, including a determination of responsibility
- A statement of disciplinary sanctions that Simpson College is imposing on the Respondent, if any
- Information about whether remedies designed to restore or preserve equal access to Simpson College's education program or activities will be provided by Simpson College to the Complainant
- The procedure for appeal and permissible basis for appeal of the Review Board's determination.

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The Determination of Responsibility becomes final either on the date that the College provides both parties with written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## Sanctions and Remedies

Sanctions and remedies will be based on the nature of the incident and seriousness of the behavior, any prior conduct violations disclosed to the review board, whether there is a pattern of sexual misconduct, safety concerns for the parties and the Simpson College community, and other relevant facts.

Sanctions may include, but are not limited to, one or more of the following:

- Oral or written reprimand
- Additional education or counseling
- Community service on or off campus
- Restriction of campus privileges
- Not being allowed to represent the College in leadership, volunteer, or paid positions
- No contact orders
- Removal from college housing without a refund. Students who are dismissed during the term are subject to Simpson's official Refund and Withdrawal Policy as outlined in the college catalog.
- Disciplinary warning
  - A disciplinary notice consists of written notice that continuation of misconduct in general or repetition of specified conduct has been found unacceptable within the specified period of time stated in the warning. Failure to comply may be cause for further disciplinary action.
- Disciplinary probation for students and employees
  - Disciplinary probation is the most severe and serious warning an individual may receive and still remain enrolled in and/or employed by the College. During the period of probation, disciplinary

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probation may be accompanied by other conditions as determined by the College. Violation of the terms of disciplinary probation or the infraction of any college regulation during the probation period may be grounds for suspension, expulsion, or termination of employment.

- Suspension
  - Suspension is the separation from the College for a specified period of time. Readmission must be applied for and may be contingent upon compliance with specific conditions.
- Expulsion
  - Expulsion is the permanent termination of enrollment from the College
- Termination of employment with the College
- Any other available sanctions specified in the Student Handbook, Staff Handbook, or Faculty Handbook

The Review Board reserves the right to broaden, lessen, or alter the range of recommended sanctions in the case of serious mitigating circumstances, egregiously or offensive behavior, or other compelling justifications.

In addition, depending on the decision of the Sexual Misconduct Review Board, the Title IX Coordinator may provide remedies/accommodations to the Complainant such as counseling, alternative living/working arrangements, and academic accommodations. The Title IX Coordinator may also take certain measures for the benefit of the school community.

Both Title IX and FERPA permit a school to disclose to the Complainant information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student.

## 4. Appeal Process

The Sexual Misconduct Appeals Board is composed of members of the Simpson College faculty, staff, and administration and is chaired by the Vice President for

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Student Development. Appeals Board members are appointed by the Title IX Coordinator, in consultation with processes for selection of faculty members. All members of the Board receive comprehensive training about the hearing process and sexual misconduct.

## Appeal of Dismissal

A party wishing to appeal a decision by the College to dismiss a Formal Complaint of any allegations may do so by submitting a written letter of appeal to the Title IX Coordinator within three business days of when the Title IX Coordinator sent the Notice of Dismissal. A decision denying a request to dismiss a Formal Complaint or any allegations cannot be the subject of an appeal. The letter of appeal should state the grounds for appeal and the non-appealing party will have the opportunity to review and respond to the letter. A non-appealing party's response to the letter of appeal must be received within three business days of the notice of the appeal letter. The Title IX Coordinator will provide the Formal Complaint, Notice of Dismissal, and any other relevant information to the Appeal Board for review.

Either or both parties may contest the dismissal determination on any of the following grounds:

- Failure to adhere to proper procedures as outlined in this policy
- The addition of new, relevant information that was not reasonably available to the Review Board that could affect the outcome of the matter
- The Title IX Coordinator, investigator, or member of the Review Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The Appeal Board will simultaneously issue to both parties a written decision describing the result of the appeal and the rationale for the decision within three business days after receipt of all appeal documents.

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## Appeal of Review Board Decision

Within five business days of issuance of the written determination by the Review Board, a party may appeal. The non-appealing party will receive a copy of the notice of appeal and the opportunity to respond within three business days. Either the Complainant or Respondent may initiate an appeal for the following reasons:

- Failure to adhere to proper procedures as outlined in this policy
- The addition of new, relevant information that was not reasonably available to the Review Board that could affect the outcome of the matter
- The Title IX Coordinator, investigator, or member of the Review Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

A party may not appeal based only upon dissatisfaction with an outcome or sanction.

All the decisions by the appeals officer or board shall be final and binding on the parties. The parties will be as simultaneously as possible notified of the decision of the Appeals Board in writing within three business days of a decision being made, and this notification will include any changes that may have been made to the prior decision.

### **Informal Resolution of a Formal Complaint**

Informal means of resolution, such as mediation, may be used in lieu of the Grievance Procedure, or, in some circumstances, utilized even after the Grievance Procedure is underway. Informal resolution is never available to resolve a Formal Complaint when the Respondent is a faculty or staff member. Informal resolution is not available as an option to resolve Title IX complaints when the Respondent is employed by the College in any capacity. Sexual misconduct or



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sexual harassment complaints that are not subject to Title IX in which the Respondent is a student may be resolved through informal resolution.

The following standards apply to any informal resolution method that is utilized:

- The decision about whether to allow the parties to pursue Informal Resolution as a final and binding resolution of a Formal Complaint will be made by any of the following individuals, or a combination of them: the Dean of Students, the Title IX Coordinator, and the Director of Human Resources.
- The parties' written, voluntary consent to the informal resolution process will be obtained
- Informal Resolution is available to parties throughout the Grievance Procedure, including from the time a Formal Complaint is filed and through the appeal process.
- If an individual decides to file a Formal Complaint, that individual has the right to decide whether to continue with the Grievance Procedure.
- The parties will not be required to "work out" the problem directly with each other.
- Either party may terminate the informal process at any time and resume the Grievance Procedure.
- The College may decline a request for informal resolution and may terminate an on-going informal resolution process at any time.
- The agreement to participate in informal resolution and any resolution reached is subject to the agreement of the Title IX Coordinator, the Complainant, and the Respondent.

Informal Resolution can include, but is not limited to, options such as the following:

- An informal meeting between the Complainant and Respondent, mediated by a third party, in order to find a mutually agreeable solution

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- A representative from the College meeting with the Respondent individually in an effort to act as an intercessor on behalf of the Complainant
- Voluntarily agreed upon separation of the Complainant and Respondent
- Referral of the parties or party to counseling programs
- Conducting educational and/or training programs
- An agreement for corrective action

If an informal resolution is sought, it may satisfy a reporting party or complainant's desire to proceed with the Grievance Procedure, and may provide a faster outcome. When a Formal Complaint has been informally resolved, parties will be asked to sign a document acknowledging the mutually agreed upon resolution.

A final and binding informal resolution, which precludes the parties from resuming the Grievance Procedure, must be in writing and signed by all parties, including a representative of the College. To be considered a final and binding informal resolution, the written informal resolution agreement must state that the parties and the College understand that the resolution is intended to fully and finally resolve the matter subject to the reported sexual misconduct and/or the Formal Complaint of sexual misconduct.

Informally resolved complaints will not be treated as disciplinary records and would not be part of a student's educational records, or responsive to a request for records under the Family Educational Rights and Privacy Act ("FERPA"). However, conduct that is alleged in an informally resolved complaint may be used as evidence to establish a pattern or practice of sexual misconduct if a subsequent Formal Complaint is filed against the same Respondent.

Simpson College will endeavor to complete the informal resolution process within 30 days of when the process is initiated. Simpson College may temporarily delay or extend the Grievance Procedure when good cause exists to do so.

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## **Investigation and Resolution of Formal Complaints when the Accused Person is a Faculty or Staff Member**

If the accused person is a faculty member or staff member and a Formal Complaint is filed, the faculty or staff member will be subject to the Grievance Procedure discussed above. If an employee's employment, contract, or tenure with Simpson College is adversely affected by the Review Board's determination, Simpson College will, if necessary, place the employee on paid leave and conduct any contractually necessary review through the applicable process in the faculty or staff handbook. The written investigative summary report and determination from the Review Board will form the basis for the Title IX Coordinator, Human Resources Director, Academic Dean, or their designee to make decisions and recommendations for faculty and staff and their employment status in addition to those mandated by the Review Board through the Grievance Procedure.

## **RESOURCES**

### **Emergency Assistance**

Individuals who have suffered sexual assault may seek emergency assistance. The following information provides direction to individuals in need of emergency assistance:

- Campus Security, 515-961-1711
- Indianola Police Department, 911; 515-961-9400
- Sexual Assault Response Advocates (SARA); 515-330-6392

### **On and Off Campus Resources**

Remember, you are not alone. The following offices and resources can provide you with the assistance and support you need:

#### On Campus – Confidential Resources

- Sexual Assault Response Advocates (SARA); 515-330-6392

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- Counseling Services; Kent Campus Center (2nd floor); 515-961-1332
- Health Services; Kent Campus Center (2nd floor); 515-961-1604
- Chaplains' Office; Smith Chapel; 515-961-1684 or 515-961-1716

## Additional On Campus Resources – Not Confidential

- Campus Security; Kent Campus Center (1st floor); 515-961-1711
- Title IX Coordinator; Hillman (2nd floor); 515-961-1675
- Student Development Office; Kent Campus Center (2nd floor); 515-961-1592

## Off Campus

- Indianola Police Department, 911 or 515-961-9400
- Victims Services, 515-286-3535
- Iowa Methodist Hospital, 515-241-6423
- Iowa Lutheran Hospital, 515-263-5120
- Mercy Medical Center, 515-247-3121

## **OTHER IMPORTANT POLICY PROVISIONS**

### **Privacy and Confidentiality**

The information pertaining to the reported sexual misconduct will be shared with only those individuals who need to know. College officials will attempt to keep these matters as confidential as possible, but due to the nature of a sexual misconduct investigation, maintaining a complainant's total anonymity may not be possible. In investigating an allegation of sexual misconduct, the College will share information with participants in the investigation on a need to know basis and will take all possible steps to protect confidential information.

During the reporting process, a reporting party may choose not to have their identity divulged. Individuals may make an anonymous report without disclosing their name, identifying the party who engaged in sexual misconduct (if known), or requesting any action. Depending on the level of information available and the

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reporting party's willingness to divulge their identity, anonymity may impact the College's ability to address prohibited conduct. If an individual wishes to file a Formal Complaint of Sexual Misconduct, Title IX regulations require Simpson College to identify the name of the Complainant in the Notice that is issued to a respondent.

## **Information for Mandated Reporters**

At Simpson College, most professional and some student employees are considered mandated reporters. Aside from Counseling Services staff, Health Services staff, trained victim advocacy services, and the Chaplain, all faculty, staff, and administrators are mandated reporters. Community advisors (CAs) and SC Leaders (SLCs) are also mandated reporters. It is the expectation of Simpson College that anyone considered a mandated reporter will report all known information (including names of all parties and all relevant facts of the alleged incident) about any potential issue of sexual misconduct to the Title IX Coordinator.

## **Timely Warnings**

The Clery Act requires institutions to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. Timely warnings are only required for Clery-reportable crimes that occur on Clery geography, although institutions are encouraged to issue appropriate warnings regarding other criminal activity that may pose a serious threat as well. Timely warning reports will withhold the names and other identifying information about victim. When determining if a timely warning will be issued, the length of time between when the report of the crime was made and when the crime actually occurred will be taken into account along with other relevant circumstances.

## **Maintaining Evidence**

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If someone has experienced sexual assault, it can be beneficial to get an evidentiary exam immediately following the assault. Even though the individual may want to change clothes or shower, they should consider reporting the assault before doing so. It is more difficult for a hospital or clinic to gather evidence if the person has showered, bathed, changed their clothes, urinated, defecated, or brushed their teeth.

Medical help is important to identify and treat any physical injuries, gather evidence should the person want to report the crime, and to protect from sexually transmitted infections and/or pregnancy. Individuals have up to 72 hours after the assault to take prophylactic medication to prevent some sexually transmitted infections and up to 120 hours to prevent pregnancy (if a concern). The physical evidence of an assault is most effectively collected within the first 24-48 hours of the assault, but some evidence may be collected for up to 72 hours. The exam and subsequent medical treatment are free to individuals who have been victimized. Evidence collection does not require or necessitate filing police charges

## **Police Reporting**

Complainants are encouraged to contact the police as soon after an incident of sexual assault as possible in order to facilitate gathering full reports and evidence, and to best ensure that witnesses are available for interviews. Any staff member identified in this policy can assist complainants with this process. A complainant may choose at any time to pursue an external complaint of sexual misconduct, either through the criminal or civil court system. These external processes (criminal or civil) are separate from the Simpson investigation and adjudication processes and are outside the control or authority of the College. However, Simpson will assist a victim with outreach to the criminal court system. Anyone who believes that they are a victim of a crime may take steps to file a criminal complaint with local authorities. This option applies regardless of whether the alleged perpetrator is a member of the Simpson community. Local law enforcement authorities may be contacted at: Indianola Police Department – 515-961-9400 or 911; 110 North 1st Street, Indianola. Information about legal

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processes and resources in Iowa can be found on the **Iowa Coalition Against Sexual Assault website**. While the College has no control over any police investigation and legal processes that may follow, college staff will continue to work with students to provide support throughout the process.

## **Supports and Advocates**

Under this policy, complainants and respondents are entitled to the same opportunities to consult with and be accompanied by one advisor of their choice throughout each and every step in the Grievance Process. This includes assistance in the preparation of any written materials, attending any meeting with the investigator(s), hearing panel, the hearing, and appeal.

However, an advisor may not actively participate in any meeting or proceedings other than the hearing, described above. The advisor may be any individual, such as a teacher, mentor, friend, parent, trained victim advocate obtained through a community agency, or an attorney, who is not a witness or otherwise involved in the events that are the subject of the report or is otherwise involved in the disciplinary process under this policy. Aside from the hearing, advisors are not permitted to speak to, question, or otherwise communicate with other parties or witnesses during the course of any investigation without express authority from the Title IX Coordinator or designee. An advisor may be required to meet with the Title IX Coordinator in advance to understand the parameters of their role, privacy restrictions under FERPA, and the provisions of this policy.

If a party does not have their own advisor in the Grievance Procedure, Simpson College will provide that party, at no fee or charge to the party, with an advisor the party may choose from a list of individuals supplied by the Title IX Coordinator. For purposes of the hearing described in this Grievance Procedure, cross-examination of a party must be conducted by an advisor—parties may not cross-examine each other.

The Complainant or Respondent may change their advisor at any point during the process. It is expected that the advisor will understand and abide by the expectations of privacy involved in the proceeding and will act with appropriate



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decorum at all stages. An advisor will be asked to sign an affirmation that they understand their role in the process. The College reserves the right to dismiss an advisor who is disruptive to the proceedings or who does not abide by the restrictions in this policy.

## **Procedure for Other Reports of Prohibited Conduct**

Some reports may involve conduct that Simpson College cannot process through the grievance procedure for Formal Complaints. Simpson College may choose to address this conduct through other disciplinary processes as outlined in Simpson College's Student Handbook, Faculty Handbook, or Staff Handbook. Conduct subject to the policies and disciplinary procedures other than the Sexual Misconduct Policy, include:

- Inappropriate conduct, including harassment or discrimination on the basis of a characteristic other than sex, such as race, skin color, religion, age, disability, or veteran's status
- Sex-based conduct that is inappropriate but does not meet the definition of harassment under the Sexual Misconduct Policy
- Misconduct that occurred outside the United States or its territories
- Misconduct by a member of the Simpson College community directed toward a person or group that was not participating or attempting participate in an educational program or activity
- Any other misconduct prohibited by Simpson College's other policies

## **Group Infractions**

When members of a student group, team, or organization, or individuals acting as a group, violate the Sexual Misconduct Policy, they may be named in the Formal Complaint as a group and a hearing may proceed against the group as joint respondents. Sanctions would be individually determined based on each person's involvement and level of responsibility for the incident, and may also be applied to the student group, team, or organization.

# SIMPSON COLLEGE

## **Amnesty Policy**

Students may be hesitant to report to college officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. The College will not pursue conduct action against a complainant or third party who shares information about alleged sexual misconduct as long as the report is made in good faith.

## **False Reporting**

Simpson College takes seriously all reports of sexual misconduct, and recognizes the rarity of false reporting. However, Simpson College will not tolerate intentional false reporting of sexual harassment or assault. It is a violation of college policy to make an intentionally false report of sexual harassment or assault, and it may also violate state criminal statutes and civil defamation laws.

## **Prevention and Education**

Simpson College engages in many programs that promote awareness and prevention of rape and other sexual misconduct. Each year sexual assault awareness and prevention are addressed during new student orientation via participation in an online training program, attendance of a theater performance addressing various forms of sexual misconduct and how to respond to it, reflective conversations led by trained students, and provision of information regarding resources available to those who are victims of sexual misconduct.

Outside of new student orientation, Simpson endeavors to provide educational opportunities to all members of the campus community on issues of sexual misconduct, healthy relationships, gender dynamics, supporting survivors, consent, College policy and procedures, bystander intervention, and more. These opportunities are offered primarily through Simpson's SARA program, Mentors in Violence Prevention (MVP), Counseling Services, Health Services, Residence Life, and the Title IX office.



Approved  
Simpson College President's Cabinet  
September 28, 2020