

Eff Date. Sep 3, 2018

**WOFFORD COLLEGE  
SEXUAL AND GENDER-BASED MISCONDUCT POLICY  
2018-2019**

**IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEXUAL ASSAULT:**

If you or someone you know may have been a victim of Sexual Assault or any other type of Sexual or Gender-based Misconduct, you are strongly encouraged to seek immediate assistance. **Assistance can be obtained 24 hours a day, seven days a week from Wofford College Campus Safety (864-597-4911)** or from a Student Affairs staff member on call. Campus Safety can contact the staff member on call.

During business hours (8:30 a.m. to 5 p.m. Monday through Friday), you also are strongly encouraged to contact one of the following individuals:

**Title IX Coordinator: Amanda Estabrook**

Title IX and ADA Coordinator  
Campus Life Building, Second Floor  
Telephone: 864-597-4047 Email: [estabrookar@wofford.edu](mailto:estabrookar@wofford.edu)

**Title IX Deputy Coordinator: Matthew Hammett**

Assistant Dean of Students for Student Involvement  
Campus Life Building, Second Floor  
Telephone: 864-597-4048  
Email: [hammettmk@wofford.edu](mailto:hammettmk@wofford.edu)

**Title IX Deputy Coordinator: Demario Watts**

Assistant Dean of Students for Diversity and Leadership Development  
Campus Life Building, Second Floor  
Telephone: 864-597-4066  
Email: [wattsdl@wofford.edu](mailto:wattsdl@wofford.edu)

**Title IX Deputy Coordinator: Amy Lancaster**

Dean of International Programs  
Michael S. Brown Village Center, First Floor  
Telephone: 864-597-4430  
Email: [lancasterae@wofford.edu](mailto:lancasterae@wofford.edu)

For additional information about seeking medical assistance and emotional support as well as important contact information for local law enforcement agencies, hospitals, and other resources, **see Exhibit A and Exhibit B.**

## Table of Contents

IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY BE VICTIMS OF SEXUAL ASSAULT:.....	1
<b>ARTICLE I. INTRODUCTION.....</b>	<b>4</b>
Section 1.01 Notice of Nondiscrimination .....	4
Section 1.02 Background and Community Expectations .....	5
Section 1.03 Applicability of This Policy.....	5
Section 1.04 Period of Limitations .....	5
Section 1.05 Definitions Applicable to This Policy .....	6
<b>ARTICLE II. STATEMENTS OF POLICY.....</b>	<b>6</b>
Section 2.01 Prohibition on Sexual and Gender-Based Misconduct .....	6
Section 2.02 Prohibition on Retaliation .....	6
Section 2.03 Prohibition on Providing False Information or Interfering with an Investigation.....	6
Section 2.04 Related Misconduct.....	7
Section 2.05 Amnesty .....	7
Section 2.06 Individuals with Disabilities.....	7
<b>ARTICLE III. CONFIDENTIALITY .....</b>	<b>7</b>
Section 3.01 Confidentiality in Reporting and Disclosure.....	7
Section 3.02 Confidentiality in the Investigation and Resolution Processes.....	8
<b>ARTICLE IV. HOW AND WHERE TO REPORT SEXUAL AND GENDER-BASED MISCONDUCT.....</b>	<b>10</b>
Section 4.01 Reporting to Local Law Enforcement.....	10
Section 4.02 Reporting to the College.....	10
<b>ARTICLE V. POLICIES APPLICABLE TO ALL COMPLAINTS OF PROHIBITED CONDUCT .....</b>	<b>13</b>
Section 5.01 Oversight .....	13
Section 5.02 Conflicts.....	13
Section 5.03 Support Persons .....	13
Section 5.04 Timing.....	13
Section 5.05 Documentation and Recording.....	13
Section 5.06 Confidentiality and Disclosure .....	14
Section 5.07 Violations Involving Groups of Individuals.....	14
Section 5.08 Consolidation of Investigation.....	14
<b>ARTICLE VI. PROCESSES APPLICABLE TO ALL COMPLAINTS OF PROHIBITED CONDUCT.....</b>	<b>15</b>
Section 6.01 A Report of Prohibited Conduct Becomes a Complaint.....	15
Section 6.02 Evaluation of Interim Safety Measures and Interim Disciplinary Measures.....	15
Section 6.03 Initial Meetings with the Assigned Title IX Deputy Coordinator.....	16
Section 6.04 The Assigned Title IX Deputy Coordinator’s Initial Determination .....	17
Section 6.05 Determination of Formal Versus Facilitated Resolution.....	17

Section 6.06 Respondent’s Acknowledgement of Responsibility..... 18

**ARTICLE VII. FORMAL RESOLUTION ..... 18**

Section 7.01 The Investigation..... 18

Section 7.02 The Outcome ..... 20

Section 7.03 Final Accommodations and Corrective Action..... 23

Section 7.04 Appeals..... 23

**ARTICLE VIII. FACILITATED RESOLUTION..... 24**

Section 8.01 Facilitated Resolution, Generally..... 24

Section 8.02 The Facilitated Resolution Process..... 25

**EXHIBIT A ..... 26**

Suggested Actions for Victims of Sexual Assault..... 26

**EXHIBIT B ..... 28**

Campus and Community Resources ..... 28

**EXHIBIT C ..... 30**

Prohibited Conduct under this Policy..... 30

**EXHIBIT D ..... 33**

Related Definitions ..... 33

**EXHIBIT E ..... 36**

Sexual and Gender-based Misconduct Education..... 36

**WOFFORD COLLEGE**  
**SEXUAL AND GENDER-BASED MISCONDUCT POLICY**  
2018-2019

**ARTICLE I. INTRODUCTION**

**Section 1.01 Notice of Nondiscrimination**

Wofford College does not discriminate on the basis of race, color, creed, religion, sex, age, national origin, disability, veteran status, sexual orientation, or any legally protected class. (*Wofford Board of Trustees, adopted October 2012*).

Wofford College (“the College”) believes that all members of the college community and visitors have the right to be free from all forms of Sexual and Gender-based Misconduct. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The College will not tolerate sexual or gender-based misconduct. Wofford College complies with Title VII of the Civil Rights Act of 1964, which prohibits employers from discriminating against employees on the basis of sex, race, color, national origin, and religion. Further, as a recipient of federal funds, Wofford College complies with Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, et seq. and its implementing regulations, 34 C.F.R., Part 106) which prohibits discrimination on the basis of sex in federally assisted education programs and activities: **“No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial aid . . . .”** In addition, the Supreme Court, Congress, and federal executive department and agencies, including the Department of Education, have recognized that sexual harassment can constitute discrimination which is prohibited by Title IX.

The following individuals have been designated to handle inquiries regarding Wofford College’s nondiscrimination policies.

- Inquiries concerning nondiscrimination related to sex or gender may be referred to **Wofford College’s Title IX Coordinator**, Amanda Estabrook. Estabrook’s office is located on the second floor of the Campus Life Building, 429 N. Church St., Spartanburg, South Carolina 29303. Estabrook may be contacted by phone at 864-597-4047 or by email at [estabrookar@wofford.edu](mailto:estabrookar@wofford.edu).
- Inquiries concerning nondiscrimination related to a student’s disability may be referred to **Wofford College’s director of accessibility services**, Perry Henson. Henson’s office is located on the second floor of the Hugh R. Black Wellness Center, 429 N. Church St., Spartanburg, South Carolina 29303. Henson may be contacted by phone at 864-597-4373 or by email at [hensonpv@wofford.edu](mailto:hensonpv@wofford.edu).
- Inquiries concerning nondiscrimination related to an employee’s disability may be referred to **Wofford College’s director of human resources**, Chee Lee. Lee’s office is located on the first floor of the Snyder House, 429 N. Church St., Spartanburg, South Carolina 29303. Lee may be contacted by phone at 864-597-4230 or by email at [leecj@wofford.edu](mailto:leecj@wofford.edu).
- All other inquiries concerning nondiscrimination not addressed in the Sexual and Gender-based Misconduct Policy may be referred to **Wofford College’s Bias Incident Response Team coordinator**, Demario Watts. Watts’ office is located in the Campus Life Building, 429 N. Church St., Spartanburg, South Carolina 29303. Watts may be contacted by phone at 864-597-4066 or by email at [wattsdl@wofford.edu](mailto:wattsdl@wofford.edu).

Concerns regarding discrimination may also be reported using the Bias Incident Report Form:  
<https://connect.wofford.edu/mywofford/campusLife/biasIncident.aspx>.

Individuals have the right to file a formal complaint or make any other inquiry concerning the application of Title IX also may be referred to the United States Department of Education’s Office of Civil Rights (OCR) at the following:

Office for Civil Rights  
U.S. Department of Health and Human Services 400 Maryland Avenue, S.W. Washington, DC 20202-1475  
202-453-6020

## **Section 1.02 Background and Community Expectations**

Sexual and Gender-based Misconduct are forms of discrimination and are prohibited under the Sexual and Gender-based Misconduct Policy (“this Policy”). This Policy has been developed to reaffirm these principles, define community expectations, and outline Wofford College’s response to reports of Sexual and Gender-based Misconduct and related conduct prohibited under this Policy (referred to collectively as “Prohibited Conduct”).

Wofford College strongly urges all members of the campus community to play a role in discouraging, responding to, and preventing Sexual and Gender-based Misconduct prohibited by this Policy. The College encourages the community to speak up when an incident occurs and to report Prohibited Conduct. Further, any individual who feels that they<sup>1</sup> have been subjected to Prohibited Conduct under this Policy is encouraged to seek assistance and resolution. This Policy provides a variety of ways in which an individual may proceed in cases of Sexual or Gender-based Misconduct so that each individual may choose an avenue for reporting appropriate to their particular situation, whether that be internally through Wofford College’s facilitated or formal resolution or externally through law enforcement or criminal or civil processes.

The College is committed to providing programs, activities, and an educational and work environment free from sex and gender-based discrimination and to fostering a community that promotes prompt reporting of all Prohibited Conduct and timely and fair resolution of Complaints of Prohibited Conduct. In furtherance of these commitments, this Policy sets forth available resources ([Exhibit A](#)), describes and defines Prohibited Conduct (Article II and [Exhibit C](#), respectively), and establishes procedures for responding to Complaints of Prohibited Conduct (Articles III-VIII).

The College will make this Policy and information about recognizing and preventing Sexual and Gender-based Misconduct readily available to all members of the College community.

The College is committed to eliminating Sexual and Gender-based Misconduct, preventing its recurrence, and addressing its effects.

## **Section 1.03 Applicability of This Policy**

This Policy applies to any allegation of Prohibited Conduct made by or against a student or an employee of the College or a third party, regardless of the sex, sexual orientation, sexual identity, gender, or gender identity of any party and wherever the alleged Prohibited Conduct occurred, if the conduct giving rise to the Complaint is related to or impacts the College’s academic, educational, athletic, or extracurricular programs or activities. There is no geographical limitation to invoking this Policy.

Students and employees participating in Wofford Interim, study abroad, and internship programs are subject to this Policy. When Prohibited Conduct is alleged by or against a College employee or student in a College-affiliated internship or educational program of another entity, the College may, in its sole discretion, conduct its own investigation pursuant to this Policy, conduct a joint investigation with the affiliated entity, or utilize the investigation of the other entity as a basis for further investigation.

In the case of allegations of Prohibited Conduct under this Policy, unless otherwise stated, this Policy supersedes and applies in lieu of all other procedures and policies set forth in other College documents.

## **Section 1.04 Period of Limitations**

A Complaint of Sexual or Gender-based Misconduct may be filed at any time, regardless of the length of time between the

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<sup>1</sup> Throughout the Sexual and Gender-Based Misconduct Policy, “they,” “them,” and “their” are used as gender-inclusive pronouns.

alleged conduct and the decision to file the Complaint. However, the College strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a Complaint may compromise the subsequent investigation, particularly if neither the Complainant nor the Respondent is employed by the College or enrolled as a student at the time.

Complaints of Prohibited Conduct reported to have occurred prior to the implementation of this Policy will be adjudicated pursuant to this Policy and utilizing the Prohibited Conduct definitions in place when the alleged conduct occurred.

The Title IX Coordinator has the discretion to re-open a case at any time should germane new evidence become available that the Title IX Coordinator determines would significantly impact the outcome of the case.

### **Section 1.05 Definitions Applicable to This Policy**

Capitalized terms used in this Policy have the meanings described in [Exhibit C](#) or [Exhibit D](#).

## **ARTICLE II. STATEMENTS OF POLICY**

### **Section 2.01 Prohibition on Sexual and Gender-Based Misconduct**

The College prohibits Sexual and Gender-based Misconduct. The College strongly encourages prompt reporting of all types of Prohibited Conduct and is committed to fostering a community that promotes timely and fair resolution of Sexual and Gender-based Misconduct cases. To that end, the College has defined Sexual and Gender-based Misconduct broadly, and the College will properly address all allegations of Sexual and Gender-based Misconduct. Wofford College is committed to fostering a campus environment that promotes prompt and effective resolution of Sexual and Gender-based Misconduct cases. The College's procedures are designed to protect the rights, needs, and privacy of the person reporting Prohibited Conduct ("Complainant"); the rights of those accused of engaging in Prohibited Conduct ("Respondent"); and of the campus community as a whole.

However, not all unwelcome sexual or gender-based conduct rises to the level of warranting adjudication and/or discipline pursuant to this Policy. Although the College will properly address all allegations of Sexual and Gender-based Misconduct, this Policy uses the term "Material Sexual Misconduct," as defined in [Exhibit D](#), to identify those acts of Sexual and Gender-based Misconduct that do warrant adjudication under, and discipline pursuant to, this Policy.

### **Section 2.02 Prohibition on Retaliation**

Retaliation against any person for filing, supporting, or providing information in good faith in connection with a Complaint of Prohibited Conduct is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other College disciplinary procedures, as deemed appropriate in the College's discretion. Any person who feels that they have been subjected to Retaliation should make a report to the Assigned Title IX Deputy Coordinator or to the Title IX Coordinator.

### **Section 2.03 Prohibition on Providing False Information or Interfering with an Investigation**

Any individual who knowingly files a false Complaint under this Policy or who interferes with an investigation may be subject to disciplinary action. Interference with an investigation may include, but is not limited to, the following:

- Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- Removing, destroying, or altering documentation relevant to the investigation; or
- Providing false or misleading information to College officials who are involved in the investigation and resolution of a Complaint or encouraging others to do so.

## Section 2.04 Related Misconduct

Alleged misconduct that is related to the Prohibited Conduct at issue, even if such related misconduct is not, when standing alone, governed by this Policy, may be adjudicated under this Policy. Similarly, complaints of Retaliation, providing false information, and counterclaims by a Respondent may be adjudicated in the same proceeding as the original Complaint or in a separate proceeding. Determinations regarding adjudication of related misconduct will be made by the Title IX Coordinator, Assigned Title IX Deputy Coordinator, and appropriate administrators.

## Section 2.05 Amnesty

The College considers the reporting and adjudication of Sexual and Gender-based Misconduct cases on campus to be of paramount importance. The College does not condone underage drinking or use of illegal drugs. However, the College will extend amnesty to Complainants, Third-party Reporters, and those assisting victims of Sexual or Gender-based Misconduct from punitive sanctioning for illegal use of drugs and/or alcohol.

## Section 2.06 Individuals with Disabilities

The College will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the procedures outlined in this Policy. Student requests for accommodations must be made to **the director of accessibility services** (located on the second floor of the Wellness Center and available from 8:30 a.m. to 5 p.m.). All other requests for accommodations must be made to **the director of human resources** (located in Snyder House).

## ARTICLE III. CONFIDENTIALITY

### Section 3.01 Confidentiality in Reporting and Disclosure

The College encourages anyone who has experienced Sexual or Gender-based Misconduct to talk to someone about what happened, both so that they can get the support they need and so that the College can respond appropriately. The College wants individuals to be aware of the various reporting and confidential disclosure options available to them so that they can make informed choices about where to turn should they be subjected to Sexual or Gender-based Misconduct.

**A. Licensed mental health professionals, pastoral counselors and health services professionals.** Licensed mental health professionals and pastoral counselors who provide mental health counsel to members of the Wofford College community, registered nurses, nurse practitioners and off-campus rape crisis resources are not required to report any information about an incident to the College or the Title IX Coordinator without the reporting individual's permission. Individuals may discuss alleged Sexual or Gender-based Misconduct in strict confidence with these individuals ("Confidential Resources"). The following is contact information for these individuals:

- Wellness Center (864-597-4370 or ext. 4371)
- Chaplain (864-597-4050 or ext. 4051)

This means that Personally Identifiable Information shared with Confidential Resources is not part of students' or employees' College records and will not be reported to other College personnel (including the Title IX Coordinator) or to anyone else (unless the disclosing individual gives their consent to the disclosure or the law requires it – as may be the case with alleged Sexual or Gender-based Misconduct involving a minor or under conditions involving imminent physical harm, for example).

Confidential Resources will assist both parties in receiving necessary protection and support, including referrals to external resources, such as academic support or accommodations; disability, health, or mental health services; and changes to living, working, or course schedules. A Complainant who first requests confidentiality may later decide to file a Complaint with the College or report the incident to local law

enforcement and thus have the incident fully investigated.

Confidential Resources are not Responsible Employees, and therefore are not required to (and will not, absent direction from the disclosing individual, do so) report incidents of alleged Sexual or Gender-based Misconduct to the Title IX Coordinator. For purposes of clarity, all other College employees who are not Confidential Resources are Responsible Employees. Communications made to Responsible Employees are not entitled to the same confidentiality protections as those made to Confidential Resources. Note that people who serve more than one role at the College (e.g. chaplain and faculty member) will be a Confidential Resource when serving in the role designated as confidential (e.g. chaplain) but will be a Responsible Employee when serving in a role designated as a Responsible Employee role (e.g. faculty member). Confidential Resources may report non-identifying statistical information to the College.

- B. The Title IX Coordinator and Responsible Employees.** When a Complainant tells a Responsible Employee about an incident of Sexual or Gender-based Misconduct, the Complainant has the right to expect the College to take appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A disclosure to the Title IX Coordinator or a Responsible Employee constitutes a report to the College and obligates the College to investigate the incident and take appropriate steps to address the allegations, which may include disclosures as contemplated by Section 3.02(A). *See the definition of "Responsible Employee" in Exhibit D.*

A Responsible Employee must share all relevant details about reported Sexual and Gender-based Misconduct shared by the Complainant or a Third-party Reporter to the Title IX Coordinator or a Title IX deputy Coordinator – including the names of the Complainant and the alleged perpetrator(s), any witnesses and any other relevant facts, including the date, time, and specific location of the alleged incident.

### **Section 3.02 Confidentiality in the Investigation and Resolution Processes**

- A. Sharing of information (applicable to all Complaints).** The College will respect and will make every feasible effort to avoid the inappropriate disclosure of the information shared by and the identities of the parties involved in Sexual and Gender-based Misconduct matters.

Information regarding reported Sexual or Gender-based Misconduct generally will be disclosed by College personnel during the investigation and resolution processes only as follows:

- i.** College personnel will (and are obligated to) handle information regarding reported Sexual and Gender-based Misconduct in accordance with applicable local, state, and federal laws. For example:
- Under conditions of potential imminent harm to the community, the College may be required by federal law to inform the community of the occurrence of the alleged incident(s) of Sexual or Gender-based Misconduct. Any such warning would not include information that identifies the Complainant.
  - Information regarding the alleged Sexual or Gender-based Misconduct may be used as a statistical, anonymous report for data collection purposes under the Clery Act.
  - The College may be required by state law to inform the South Carolina State Law Enforcement Division of the occurrence of the reported incident(s) of Sexual Assault.
  - College personnel may share reports of Sexual or Gender-based Misconduct to local law enforcement if warranted by the nature of the allegations at issue (e.g. incidents involving minors).
  - College administrators will share information regarding reported Sexual and Gender-based Misconduct, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar misconduct, and address the effects of the misconduct.
- B. Requests for confidentiality.** If information regarding alleged Prohibited Conduct is shared with the Title IX Coordinator and/or a Responsible Employee, but the Complainant desires that (1) the information not be shared with other Responsible Employees, with the Respondent, or with others, even as appropriate and necessary to address the allegation; (2) that the College not investigate the information; or (3) that no disciplinary action be taken, the Complainant must request that the College treat such information as confidential. This request must be

made to the Assigned Title IX Deputy Coordinator (or, if such determination has not yet been made, to the Title IX Coordinator).

- i. **Evaluation of the request.** The College takes requests for confidentiality seriously; however, granting such requests may limit the College's ability to investigate and take reasonable action in response to a Complaint. The Title IX Coordinator will evaluate the request for confidentiality in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment and will determine whether such request will be granted. In order to make such a determination, the Assigned Title IX Deputy Coordinator (or, if such determination has not yet been made, the Title IX Coordinator) may conduct a preliminary investigation into the reported Prohibited Conduct and may weigh requests for confidentiality against the following factors, among others:
- The seriousness of the reported Prohibited Conduct (including, but not limited to, whether Sexual or Gender-based Misconduct was perpetrated with a weapon);
  - The increased risk that the alleged perpetrator will commit additional acts of Prohibited Conduct, such as (A) whether there have been other reports or complaints against the reported perpetrator, (B) whether the reported perpetrator has a history of arrests or records from a prior school indicating a history of Sexual or Gender-based Misconduct or a history of violence, (C) whether the reported perpetrator threatened further Sexual or Gender-based Misconduct or threatened violence against the victim or others, or (D) whether the Sexual or Gender-based Misconduct was committed by multiple perpetrators;
  - Whether the information reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group or person;
  - The Respondent's right to receive information about the allegations if the information is maintained by the College as an Education Record;
  - Whether the victim is a minor; and
  - Whether the College possesses other means to obtain relevant evidence of the Sexual or Gender-based Misconduct (e.g., security cameras or security personnel, physical evidence).

The presence of one or more of these factors may lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College likely will honor the request for confidentiality.

- ii. **Determination as to whether a request can be granted.** The Assigned Title IX Deputy Coordinator (or, if such determination has not yet been made, the Title IX Coordinator) will inform the person requesting confidentiality whether the College intends to honor the request or whether the College intends to pursue investigation and/or resolution despite the request.

**If the College determines that it cannot maintain confidentiality,** it will inform the Complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for addressing the allegations. The College also will take ongoing steps to protect the Complainant from Retaliation or harm and work with the Complainant to create a safety plan, if warranted, and assist the Complainant in accessing other services and interim safety measures (see Section 6.02(A)).

**If the College honors the request for confidentiality,** the College's ability to investigate and take reasonable action in response to an allegation of Sexual or Gender-based Misconduct may be limited. A Respondent is entitled to know the name of the Complainant and information regarding the nature of the allegations in order to defend against the allegations; thus, the College may not be able both to adjudicate the Complaint and to maintain confidentiality during that process.

Even when the College determines to abide by a request for confidentiality (and even if such request limits the College's ability to take disciplinary action against the Respondent):

- a. To the extent practicable and appropriate, the College will take prompt action to limit the effects of the reported Sexual or Gender-based Misconduct and to prevent its recurrence. For instance, the College may

take appropriate interim measures to ensure an individual's safety even in the absence of a College proceeding. The College also may consider broader remedial action (such as increased monitoring, supervision, or security at locations where reported conduct occurred, increased education and prevention efforts, including to targeted population groups, and climate assessments).

- b. Information regarding the reported Sexual or Gender-based Misconduct may be included in College records, as necessary and appropriate.
- c. College personnel will (and are obligated to) handle information regarding reported Sexual and Gender-based Misconduct in accordance with applicable local, state, and federal laws and may take the steps outlined in Section 3.02(A)(i).

Note that the College cannot control disclosure by third parties.

## **ARTICLE IV. HOW AND WHERE TO REPORT SEXUAL AND GENDER-BASED MISCONDUCT**

*For information about seeking medical assistance and emotional support as well as important contact information for local law enforcement agencies, hospitals, and other resources, see [Exhibit A](#) attached to this Policy.*

Because Sexual and Gender-based Misconduct may in some instances constitute both a violation of College policy and criminal activity, and because the College processes are not a substitute for instituting legal action, **the College encourages individuals to report Sexual and Gender-based Misconduct promptly to College officials and to law enforcement authorities, where appropriate.**

Individuals who have experienced Sexual and Gender-based Misconduct have the option not to report it to campus officials or to law enforcement authorities. The College respects the individual's decision in regard to reporting; however, subject to the confidentiality provisions outlined in Article III of this Policy, if information about Sexual or Gender-based Misconduct comes to the attention of the College, the College (1) may start an investigation even in the absence of a filed Complaint and/or (2) may notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

### **Section 4.01 Reporting to Local Law Enforcement**

**Individuals may file a complaint directly with local law enforcement agencies by dialing 911.**

Individuals may contact any of the following for assistance in filing a complaint with local law enforcement:

- Wofford College Campus Safety, 24 hours a day, seven days a week (available by phone at 864-597-4911 and located in Andrews Field House).
- The College's Title IX Coordinator, Amanda Estabrook (Title IX and ADA Coordinator), (available by phone from 8:30 a.m. to 5 p.m. Monday through Friday at 864-597-4047 or by email at [estabrookar@wofford.edu](mailto:estabrookar@wofford.edu) and located in the Campus Life Building).

Individuals may inform law enforcement authorities about Sexual or Gender-based Misconduct and discuss the matter with a law enforcement officer without requesting an investigation under this Policy. Individuals who make a criminal complaint also may choose to pursue a College Complaint simultaneously.

### **Section 4.02 Reporting to the College**

If an individual wishes for information regarding Prohibited Conduct to be investigated and addressed pursuant to this Policy, they must disclose such information to the **Title IX Coordinator** or to a **Responsible Employee**. *See the definition of "Responsible Employee" in [Exhibit D](#). These individuals are REQUIRED to report allegations of Sexual and Gender-based Misconduct to the Title IX Coordinator (or, if the Title IX Coordinator is implicated in the allegations, to a Title IX deputy Coordinator).* Individuals who are not Responsible Employees are not subject to the same requirement

(and in some instances, such as is generally the case with Confidential Resources, are prohibited from reporting alleged Sexual and Gender-based Misconduct to others absent an express directive from the alleged victim to do so).

Individuals may report information regarding Prohibited Conduct on their own behalf (i.e., as Complainants) or on behalf of the Complainant (i.e., as Third-party Reporters).

If the Title IX Coordinator is the Respondent or is otherwise at issue in a Complaint, or if an individual is otherwise uncomfortable making a Complaint to the Title IX Coordinator, they may report Prohibited Conduct to a Title IX deputy Coordinator or any other Responsible Employee.

No member of the College community may discourage an individual from reporting Prohibited Conduct. With the exception of certain research-based disclosures described in the following paragraph, a Responsible Employee with any knowledge (including firsthand observation) about a known or suspected incident of Sexual or Gender-based Misconduct must report the incident to the Title IX Coordinator (or, if the Title IX Coordinator is implicated in the allegations, a Title IX Deputy Coordinator). No employee is authorized to investigate or resolve Complaints without the approval and involvement of the Title IX Coordinator or an Assigned Title IX Deputy Coordinator.

Disclosures of incidents of Sexual or Gender-based Misconduct made by an individual during such individual's participation as a subject in an institutional review board–approved human subjects research protocol (an “approved research protocol”) will not be considered notice to the College of Sexual or Gender-based Misconduct for purposes of triggering its obligation to investigate the incident at issue. (More specifically, a Responsible Employee whose knowledge of a known or suspected incident of Sexual or Gender-based Misconduct is gained as a result of conducting an approved research protocol is not required to report the incident to the Title IX Coordinator.) Institutional review boards may, in appropriate cases, require researchers to provide information to all subjects of a study about the subjects' Title IX rights and about available College and community resources and support services with regard to Sexual or Gender-based Misconduct.

Individuals also may file **anonymous reports** by visiting [www.wofford.edu/titleix](http://www.wofford.edu/titleix). Individuals who choose to file anonymous reports are advised that it may be very difficult for the College to follow up or take action on anonymous reports when corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes.

#### **Section 4.03 Reporting to Campus Safety**

Campus Safety staff members are Responsible Employees for the purpose of Title IX. A report to Campus Safety constitutes a report to the College. When Campus Safety receives a report related to Prohibited Conduct under this Policy, an officer may conduct an investigation to determine whether there is an ongoing or imminent threat to the campus community or for law enforcement purposes. Any information that Campus Safety receives related to a report of Prohibited Conduct will be shared with the Title IX Coordinator. Information provided to the Title IX Coordinator by Campus Safety will be used at the discretion of the Title IX Coordinator, Assigned Title IX Deputy Coordinator, and other College administrators to assist in the resolution of a Complaint under this Policy.

<b>Reporting to the College: <i>What happens when someone reports?</i></b>	
If someone reports directly to the <b>Title IX Coordinator</b> :	<b>The Title IX Coordinator will initiate the processes listed in this Policy</b> (unless the person requests confidentiality pursuant to Section 3.02(B), in which case the information will be held in confidence unless the Title IX Coordinator determines that, due to the College’s commitment to provide a reasonably safe and non-discriminatory environment, the request cannot be granted).
If someone reports to a <b>Responsible Employee</b> (including a <b>Title IX deputy Coordinator</b> ): <i>(See the definition of Responsible Employee in Exhibit D)</i>	<b>The Responsible Employee will forward the information to the Title IX Coordinator, who will initiate the investigation and resolution process</b> (unless the person requests confidentiality pursuant to Section 3.02(B) in which case the information will be held in confidence unless the Title IX Coordinator determines that, due to the College’s commitment to provide a reasonably safe and non- discriminatory environment, the request cannot be granted).
If someone confides in a <b>counselor, registered nurse, nurse practitioner, or the chaplain</b> :	<p><b>The information provided will remain confidential</b> and will not* be reported to the Title IX Coordinator (or anyone else) for investigation and resolution. (refer to Section 3.01(A))</p> <p><i>*Remember that in unusual circumstances, information someone shares with the counselors, registered nurses, nurse practitioners, or the chaplain (such as situations involving imminent harm to the community or situations involving abuse of a minor) may be disclosed without that person’s consent.</i></p>
If a person reports to someone else (i.e. <b>someone other than the Title IX Coordinator, a Responsible Employee, a counselor, registered nurse, nurse practitioner, or the chaplain</b> ):	<p><b>The individual may or may not report details regarding the information provided to the Title IX Coordinator.</b> This is because the individual to whom the information is reported is not <i>obligated</i> to report allegations of Sexual or Gender-based Misconduct to the Title IX Coordinator (and conversely, is not <i>obligated</i> to maintain information you shared in confidence).</p> <p><i>For this reason, if a reporting party would like the information to be addressed by Wofford College, they should direct it to a Title IX Coordinator or a “Responsible Employee.” Conversely, if the reporting party would like the information they share to be maintained in strict confidence, they should share it with a counselor, registered nurse, nurse practitioner, or the college chaplain.</i></p>

## **ARTICLE V. POLICIES APPLICABLE TO ALL COMPLAINTS OF PROHIBITED CONDUCT**

### **Section 5.01 Oversight**

The Assigned Title IX Deputy Coordinator will be responsible for overseeing the prompt, fair, thorough and impartial investigation and resolution of Complaints filed with or disclosed to the College. The Title IX Coordinator also may serve the function of the Assigned Title IX Deputy Coordinator in the resolution of a Complaint. When that is the case, the vice president for student affairs or the director of human resources or their designee will serve the appeal function set forth in Section 6.04 or Section 7.02.

### **Section 5.02 Conflicts**

If any employee designated by this Policy to participate in the investigation or resolution of a Complaint is the Respondent, then the Title IX Coordinator will appoint another College administrator or a third party to perform such person's duties under this Policy. (If the Title IX Coordinator is the Respondent, then the president of the College will appoint another College employee or a third party to perform their duties under this Policy.)

### **Section 5.03 Support Persons**

Both the Complainant and the Respondent may have one support person present to support and assist them throughout the Complaint process (including, but not limited to, during related meetings and investigative interviews (for purposes of this section, "meetings"). The Complainant and the Respondent are not limited in their choice of support person. However, a person may not serve as both a support person and a witness in a proceeding. Support persons may be friends, family members, victim advocates, lawyers, or others. The Complainant and the Respondent may consult with their respective support persons during meetings, provided that such consultation is not disruptive. Support persons may not, however, have a speaking role during any meeting. In addition, the support person's attendance may be disallowed if such support person's presence would be obstructive or would otherwise warrant his or her removal. Absent accommodation for disability, the Complainant and the Respondent may not be accompanied by more than one support person or by other individuals during meetings.

For the avoidance of doubt, the College may seek advice from the College's counsel at any time (including during any proceeding).

### **Section 5.04 Timing**

The College will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The timelines set forth in this Policy are intended as guidelines and may be altered for good cause. The College will strive to complete its investigation and resolution of a Complaint (not including an appeal, if applicable) within 60 calendar days of the receipt of the Complaint, absent extenuating circumstances. If circumstances, such as complexity of the case, non-availability of parties or witnesses, College breaks or other circumstances require the College's investigation and resolution to extend past 60 calendar days, the College will notify the parties of that fact.

Any party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator may modify any deadlines contained in this Policy as necessary and for good cause; in such case, the Title IX Coordinator will provide the Complainant and the Respondent with written notice of the modification and the reason therefore.

### **Section 5.05 Documentation and Recording**

The College will retain documentation (including, but not limited to, the written Complaint, notifications, the investigative report, written findings of fact, petitions for appeal, notifications of decisions – including the Outcome Letter and Sanction Letter – and any written communication between the parties) for at least seven (7) years.

Documentation pertaining to expulsions or degree revocations will be retained indefinitely or in accordance with College policy.

The College may record any interviews, meetings, or proceedings related to this Policy. Any recordings will be the property of the College, and copies of any recordings will not be available except as required or authorized by law. Any technological problems that result in no recording or an inaudible one will not affect the validity of the outcome of a case. Parties and witnesses are not permitted to record any of the proceedings.

### **Section 5.06 Confidentiality and Disclosure**

In order to comply with FERPA, Title IX, and other applicable laws, and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the resolution processes are not open to the general public. Accordingly, documents prepared in anticipation of the facilitated and/or the formal resolution processes (including the Complaint, the investigative report, and notices and communications to or from the Complainant or the Respondent); documents, statements, or other information introduced in the interviews and meetings; and the Outcome and Sanction Letters may not be disclosed outside of those processes except as may be required or authorized by law. The College reserves the right to notify parent(s) or guardian(s) of a student Respondent of the outcome of any investigation involving that Respondent, redacting names of any other students who do not consent to the disclosure of their information.

College policy does not prohibit the further disclosure of Outcome or Sanction Letters by either the Complainant or the Respondent. However, the College strongly encourages parties to maintain privacy in proceedings pursuant to this Policy.

### **Section 5.07 Violations Involving Groups of Individuals**

Members of a student group, an organization, a College department or a team, or individuals collusively acting in concert in violation of this Policy may be charged as a group and/or as individuals, and an investigation may proceed against the group as joint respondents or against one or more involved individuals as appropriate given the available information and the circumstances.

A student group, an organization, or a team's officers and members may be held collectively and individually responsible when violations of this Policy by the organization or its members include any of the following circumstances:

- Occurred at organization-sponsored events.
- Received the consent or encouragement of the organization or of the organization's leaders or officers.
- Were known or reasonably should have been known to the membership or its officers.

In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and/or individually in proportion to the involvement of each individual. Moreover, consistent with the provisions of Section 6.02(B)(i), the College may impose interim measures against a group including, but not limited to, social suspension and restriction of access to College facilities.

### **Section 5.08 Consolidation of Investigation**

The Title IX Coordinator may consolidate multiple reports against a single Respondent or group of Respondents into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s).

## ARTICLE VI. PROCESSES APPLICABLE TO ALL COMPLAINTS OF PROHIBITED CONDUCT

### Section 6.01 A Report of Prohibited Conduct Becomes a Complaint

A Complaint may be initiated in one of the following ways:

- An individual may file a written Complaint with the College through the online reporting form at [www.wofford.edu/titleix](http://www.wofford.edu/titleix) or may submit a written statement in their own words providing sufficient information for the College to investigate the allegations contained therein (including, but not limited to, the names of the parties involved and the date, location, and nature of the alleged Prohibited Conduct).
- An individual may report violations of this Policy in person to the Title IX Coordinator or a Title IX Deputy Coordinator. In such a situation, the Title IX Coordinator will ask the reporting party for the names of the individuals involved and the date, location, and nature of the Prohibited Conduct and/or a written statement.
- The College may determine, based on information of which it becomes aware, that it is necessary and/or appropriate for it to investigate the information available to it.

Once a Complaint is initiated, the individual reported to have experience the Prohibited Conduct will be referred to as a “Complainant” and the individual(s) reported to have engaged in Prohibited Conduct will be referred to as a “Respondent.”

### Section 6.02 Evaluation of Interim Safety Measures and Interim Disciplinary Measures

Following the initiation of a Complaint (and at any point during the Complaint, investigative or disciplinary processes, if the Assigned Title IX Deputy Coordinator deems it necessary for the protection of any member of the College community), the Assigned Title IX Deputy Coordinator will determine which, if any, of the following measures and/or actions should be taken:

**A. Interim safety measures.** When warranted to ensure the safety and well-being of the parties, the Assigned Title IX Deputy Coordinator may implement one or more interim measures, if appropriate and/or reasonably available, including, but not limited to, the following:

- Issuing no-contact orders to prevent any contact between or among the Complainant, the Respondent, witnesses, and/or third parties.
- Providing an individual to escort a Complainant and/or Respondent between classes, work, and/or activities.
- Changing a Complainant’s or a Respondent’s on-campus housing, if any, to a different on-campus location and providing assistance from College personnel in completing the relocation.
- Changing a Complainant’s or a Respondent’s work arrangements or schedules.
- Changing academic schedules (such as moving the Complainant or the Respondent from one class section to another).

#### **B. Interim Disciplinary Measures**

- i. Student Respondents.** When a student Respondent’s alleged actions or behaviors affect the safety, health, or general welfare of the Complainant, other students, and/or the College community, the Assigned Title IX Deputy Coordinator may impose interim disciplinary measures prior to the adjudication of the Complaint pursuant to this Policy.

Possible interim measures include, but are not limited to, requesting that the vice president for student affairs or their designee (1) impose on the Respondent an administrative withdrawal from the College, (2) summarily suspend the Respondent from campus housing on an interim basis, and/or (3) restrict the Respondent’s access to College facilities.

The Assigned Title IX Deputy Coordinator will notify the Respondent of the proposed interim measure(s) in

writing. These actions may be appealed to the vice president for student affairs (available by phone at 864-597-4040 and located in the Campus Life Building) or their designee. Any appeals must be made in writing within 72 hours of notification of the imposing interim measure. The decision of the vice president for student affairs regarding the imposition of these actions will be final.

- ii. **Employee Respondents.** When an employee Respondent's alleged actions or behaviors affect the safety, health, or general welfare of the Complainant, students, other employees, and/or the College community, the Assigned Title IX Deputy Coordinator will coordinate with human resources and/or the employee's supervisor to (1) take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's access to college facilities, and/or (2) temporarily adjust the job duties of or place on administrative leave such Respondent.

These actions may be appealed to the director of human resources (available by phone at 864-597-4230 and located in the Snyder Building). The decision of the director of human resources regarding the imposition of these actions will be final.

- C. **Compliance with interim safety measures and interim disciplinary measures.** Individuals subject to interim safety measures and interim disciplinary measures are expected to adhere to the measures put in place by College officials until such measures are revoked or revised. Any allegations that individuals are not complying with the measures put in place will be reviewed by the Assigned Title IX Deputy Coordinator. The Assigned Title IX Deputy Coordinator may interview the Complainant, Respondent, or any other individuals with information about the alleged noncompliance, or the Assigned Title IX Deputy Coordinator may request that the appointed Investigator(s) or other trained individuals conduct interviews to determine what, if any, additional steps need to be taken. Additional steps may include, but are not limited to, additional interim safety measures or interim disciplinary measures, adjudication under this Policy, or a referral to the director of human resources, the provost, or the vice president of student affairs for adjudication under other campus policies.

### Section 6.03 Initial Meetings with the Assigned Title IX Deputy Coordinator

- A. **Complainant's initial meeting with the Assigned Title IX Deputy Coordinator.** As soon as is practicable, the Assigned Title IX Deputy Coordinator will contact the Complainant to schedule an initial meeting to discuss the Complaint and avenues for its resolution. (If the person who reported the Prohibited Conduct is a Third-party Reporter, the Assigned Title IX Deputy Coordinator will attempt to meet with them as soon as possible to gather information.)

Following the meeting with the Complainant, the Assigned Title IX Deputy Coordinator will, if applicable, promptly determine any interim measures to be provided to the Complainant during the investigative and resolution processes. (If interim safety measures already have been implemented pursuant to Section 6.02(A), the Assigned Title IX Deputy Coordinator will evaluate whether they should continue to be provided and whether other interim measures also should be implemented.) These interim measures may include the safety measures listed in Section 6.02(A) and/or other appropriate interim measures, such as:

- Arranging to dissolve a campus housing contract and offering a pro-rated refund.
- Rescheduling class work, assignments, and examinations.
- Arranging for the Complainant to withdraw from or take an incomplete in class without penalty.
- Providing academic support services.
- Providing alternative course completion options.
- Providing counseling services.

Such determination will be communicated promptly to the Complainant (no later than it is communicated to the Respondent) and, to the extent that it directly affects them, the Respondent.

**B. Respondent's initial meeting with the Assigned Title IX Deputy Coordinator.** As soon as is reasonably practicable after the Assigned Title IX Deputy Coordinator's initial meeting with the Complainant, the Assigned Title IX Deputy Coordinator will schedule an initial meeting with the Respondent to discuss the Complaint, to inform the Respondent of any interim measures already determined and being provided to the Complainant that directly affect the Respondent and to discuss the process for resolving the Complaint. Following the meeting with the Respondent, the Assigned Title IX Deputy Coordinator will, if applicable, promptly determine any interim measures to be provided to the Respondent during the pendency of the investigative and resolution processes (such as those listed in Section 6.02 and/or Section 6.03(A) above). Such determination will be communicated promptly to the Respondent (no later than it is communicated to the Complainant) and, to the extent that it directly affects them, the Complainant.

#### **Section 6.04 The Assigned Title IX Deputy Coordinator's Initial Determination**

The Assigned Title IX Deputy Coordinator will review the information available and the Complaint will move forward to either formal resolution or facilitated resolution pursuant to this Policy unless it is clear on its face and/or based on the Assigned Title IX Deputy Coordinator's initial meetings with the parties that no reasonable grounds exist for believing that the conduct at issue constitutes Material Sexual Misconduct or is otherwise a violation of this Policy.

In the event that the Complaint was made by a Third-party Reporter, the Assigned Title IX Deputy Coordinator also will consider the following factors in determining whether to move forward with either formal resolution or facilitated resolution pursuant to this policy:

- The source and nature of the information.
- The seriousness of the alleged incident.
- The specificity of the information.
- The objectivity and credibility of the source of the information.
- Whether the individuals allegedly subjected to the Prohibited Conduct can be identified.
- Whether those individuals wish to pursue the matter.

If the Assigned Title IX Deputy Coordinator determines that an investigation of the Complaint is not warranted, they will close the Complaint, document the closure, and promptly notify the Complainant and the Respondent of the closure and the rationale for the closure.

The Complainant and/or the Respondent may appeal the Assigned Title IX Deputy Coordinator's decision in writing to the Title IX Coordinator or their designee and provide a copy of the appeal to the Assigned Title IX Deputy Coordinator within five (5) calendar days of receipt of the notice of closure. The Assigned Title IX Deputy Coordinator will promptly inform the other party of the appeal.

Following receipt of the appeal, the Title IX Coordinator or their designee will determine whether the Complaint warrants further investigation and whether any additional or different remedial action is necessary. The Title IX Coordinator will notify the Complainant and the Respondent concurrently of their decision within five (5) days of receipt of the appeal. The decision of the Title IX Coordinator is final. If the Title IX Coordinator is serving the functions of the Assigned Title IX Deputy Coordinator, this appeal will be forwarded to the vice president for student affairs (if the Respondent is a student) or the director of human resources (if the Respondent is an employee), who then will make the determination described above or designate another individual to do so.

#### **Section 6.05 Determination of Formal Versus Facilitated Resolution**

At any time before the parties receive the final investigative report during the formal resolution process (see Section 7.01(E)), the parties may elect to resolve the Complaint through the facilitated resolution process in accordance with Article VIII of this Policy. Otherwise, a Complaint that is not closed pursuant to the Assigned Title IX Deputy Coordinator's initial meetings with the Complainant and Respondent will proceed to formal resolution in accordance with Article VII of this Policy.

## Section 6.06 Respondent's Acknowledgement of Responsibility

At any time prior to receiving the Outcome Letter during the formal resolution process or the conclusion of the facilitated resolution process, the Respondent may elect to acknowledge their actions and take responsibility for the reported Prohibited Conduct. In such a situation, the Complaint will proceed pursuant to Section 7.02(D) for the determination of sanctions. If the Respondent acknowledges responsibility for the Prohibited Conduct, the sanction(s) determination only may be appealed pursuant to Section 7.04 of this Policy.

## ARTICLE VII. FORMAL RESOLUTION

### Section 7.01 The Investigation

- A. Effect of corollary criminal investigation.** The College's investigation may be delayed temporarily while criminal investigators are gathering evidence. In the event of such a delay, the College may take interim measures when necessary to protect the Complainant/Respondent and/or the College community. Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate a matter is determinative of whether Prohibited Conduct, for the purposes of this Policy, has occurred.
- B. Appointment of Investigators.** The Assigned Title IX Deputy Coordinator, in consultation with the Title IX Coordinator, promptly will appoint one or more Investigators and send written notice of investigation, including the name(s) of the assigned Investigator(s) to both parties.

Within three (3) calendar days of receiving notice, the Complainant and/or Respondent may identify to the Assigned Title IX Deputy Coordinator in writing alleged conflicts of interest posed by assigning such Investigator(s) to the matter. The Assigned Title IX Deputy Coordinator carefully will consider such statements and will assign different individual(s) as Investigator(s) if it is determined that a material conflict of interest exists.

- C. Overview of the investigation.** Parties will have an equal opportunity to submit evidence, to identify witnesses and provide an explanation of their relevancy to the investigation, and to submit questions they believe should be directed by the Investigator(s) to any witness or to each other.

The Investigator(s) promptly will begin their investigation, taking such steps as:

- Conducting interviews with the Complainant, the Respondent, and third-party witnesses (including expert witnesses, where applicable) and either summarizing such interviews in written form or recording the interviews.
- Visiting, inspecting, and taking or reviewing photographs at relevant sites where applicable.
- Collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies) where applicable. Throughout the investigation, the Investigators will remain neutral.

- D. Evidentiary matters.** Formal rules of evidence will not be observed. The Investigator(s) will review evidence submitted by the parties and witnesses and determine what information is relevant and appropriate to the investigation. The Investigator(s) may redact any information that is deemed irrelevant, prejudicial, or otherwise inappropriate pursuant to this section.
- Any identification of witnesses and evidence the parties wish the Review Panel to consider should be presented to the Investigator(s) as early as possible during the investigation process. If a party wishes to submit evidence in response to the draft investigative report, that evidence must be submitted during the Review and response period. Any evidence not presented in a timely manner during the investigation or prior to the investigative report being finalized may be excluded at the discretion of the Title IX Coordinator or Assigned Title IX Deputy Coordinator.
  - Character evidence generally is inadmissible.

- Evidence of the sexual histories of the Complainant and the Respondent, prior or subsequent to the allegation(s) in question, will be inadmissible with the following exceptions:
  - Evidence is permitted when information related to the sexual history between the parties may be relevant to the determination of consent. In that circumstance, sexual history between the parties may be considered only with regard to patterns of communicating and obtaining consent. Consent will not be assumed based solely on evidence of any prior or subsequent sexual history.
  - Evidence is permitted to show that the Complainant has in the past been formally disciplined by the College for falsely filing Complaints alleging Sexual or Gender-based Misconduct.
  - Evidence is permitted to show that the Respondent has in the past been either convicted in a criminal proceeding or formally disciplined by the College for Sexual or Gender-based Misconduct.
  - Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was charged formally with a violation of the Policy with respect to such conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual or Gender-based Misconduct at issue, provided that (1) the Respondent has not been found "not responsible" by the College in a proceeding related to such sexual activity and (2) the Investigator(s) have found both that the evidence is reliable and credible and that the conduct is sufficiently and substantially similar to the conduct at issue to suggest a pattern of behavior.

Relevancy and admissibility of witnesses and evidence is determined by the Investigator(s). For the avoidance of doubt, the Investigator(s) may consult with and/or ask for assistance from the Assigned Title IX Deputy Coordinator or the Title IX Coordinator in order to make a determination about relevancy of witnesses or admissibility of evidence.

- E. Draft investigative report.** At the conclusion of the investigation, the Investigator(s) will write summaries of each interview and provide the parties and each witness a reasonable timeframe to review and provide feedback of their own summary.

The Investigator(s) will prepare a draft investigative report that includes items such as the written Complaint, interview summaries, photographs, written statements, descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question.

The Assigned Title IX Deputy Coordinator will make the draft investigative report concurrently available to both parties and will designate a reasonable time for review and response by the parties, not to exceed five (5) calendar days ("review and response period"). In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator(s) during the designated review and response period will not be considered in the determination of responsibility for a violation of the Sexual and Gender-Based Misconduct Policy and will not be considered for appeal.

The draft investigative report will not include any findings. The Complainant and Respondent will have an opportunity to review the draft investigative report, meet with the Investigator(s), submit additional comments and information to the Investigator(s), identify any additional witnesses or evidence for the Investigator(s) to pursue, and submit any further questions that they believe should be directed by the Investigator(s) to the other party or to any witness.

The Investigator(s) will review any responses submitted during the review and response period and determine any additional steps that need to be taken before finalizing the report.

Due to the sensitive nature of the information in this report, neither the parties nor their support persons may copy, remove, photograph, print, image, record or in any other manner duplicate or remove the information provided. The Complainant and Respondent may not make copies of the draft investigative report. All parties to whom the draft investigative report is distributed pursuant to this Policy must maintain it in confidence (even after the resolution of the Complaint); the draft investigative report may only be disclosed as is contemplated by this Policy.

**Final investigative report.** The Investigator(s) will complete a final written investigative report that includes

items such as the written Complaint, any written statements of position, summaries of all interviews conducted, photographs, descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question (the "final investigative report"). The Investigator(s) will submit the final investigative report to the Assigned Title IX Deputy Coordinator. If the matter proceeds to a Review Panel as set forth in Section 7.02, the Assigned Title IX Deputy Coordinator will make it (concurrently) available to the Complainant and to the Respondent to review for three (3) calendar days, after redacting any information that would not be admissible pursuant to this Policy.

Due to the sensitive nature of the information in this report, neither the parties nor their support persons may copy, remove, photograph, print, image, record or in any other manner duplicate or remove the information provided. The Complainant and Respondent may not make copies of the final investigative report.

All parties to whom the final investigative report is distributed pursuant to this Policy must maintain it in confidence (even after the resolution of the Complaint); the final investigative report may only be disclosed as is contemplated by this Policy.

## **Section 7.02 The Outcome**

- A. The Assigned Title IX Deputy Coordinator's evaluation of the final investigative report.** The Assigned Title IX Deputy Coordinator will evaluate the final investigative report and will direct that the Complaint proceeds to a Review Panel for a finding of "responsible" or "not responsible" unless it is clear from the final investigative report that no reasonable grounds exist for believing that the conduct at issue constitutes Material Sexual Misconduct or is otherwise a violation of this Policy.

The Assigned Title IX Deputy Coordinator will specify which allegations of Prohibited Conduct and, if applicable, which other related alleged misconduct, will move forward to a Review Panel under this Policy. Any allegations that move forward to a Review Panel will be referred to as "charges."

If the Assigned Title IX Deputy Coordinator finds that it is clear from the final investigative report that no reasonable grounds exist to believe that the conduct at issue constitutes Material Sexual Misconduct or is otherwise a violation of this Policy, they will close the Complaint, document the closure, and promptly notify the Complainant and the Respondent of the closure and the rationale for the closure.

The Complainant and/or the Respondent may appeal the Assigned Title IX Deputy Coordinator's decision in writing to the Title IX Coordinator or their designee and provide a copy of the appeal to the Assigned Title IX Deputy Coordinator within five (5) calendar days of receipt of the notice of closure. The Assigned Title IX Deputy Coordinator will promptly inform the other party of the appeal.

Following receipt of the appeal, the Title IX Coordinator or their designee will determine whether the Complaint warrants further investigation and whether any additional or different remedial action is necessary. The Title IX Coordinator will notify the Complainant and the Respondent concurrently of their decision within five (5) days of receipt of the appeal. The decision of the Title IX Coordinator is final. If the Title IX Coordinator is serving the functions of the Assigned Title IX Deputy Coordinator, this appeal will be forwarded to the vice president for student affairs (if the Respondent is a student) or the director of human resources (if the Respondent is an employee), who then will make the determination described above or designate another individual to do so.

- B. Composition of the Review Panel.** Findings regarding all charges of Prohibited Conduct and related misconduct will be determined by a three (3) person Review Panel consisting of the appointed Investigators and one (1) other trained Investigator (when only one Investigator previously was appointed to investigate the case, the Assigned Title IX Deputy Coordinator will appoint two trained Investigators to the Review Panel) appointed by the Assigned Title IX Deputy Coordinator in consultation with the Title IX Coordinator.

The Assigned Title IX Deputy Coordinator will notify both parties concurrently in writing of the composition of the Review Panel and of the alleged Prohibited Conduct and related conduct that will move forward for

resolution. The parties may challenge the participation of any member of the Review Panel by submitting a written objection to the Assigned Title IX Deputy Coordinator within three (3) calendar days of receipt of the notice of the composition of the Review Panel. Such objection must state the specific reason(s) for the objection. The Assigned Title IX Deputy Coordinator will evaluate the objection and determine, in consultation with the vice president for student affairs or their designee (where the Respondent is a student) or the director of human resources or their designee (where the Respondent is an employee), whether a material conflict exists. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Review Panel. Any changes in the composition of the Review Panel will be provided in writing to both parties prior to the Review Panel making a finding.

- C. Findings.** Once the composition of the Review Panel has been finalized, the Assigned Title IX Deputy Coordinator will make the final investigative report available for the entire Review Panel. The Review Panel will find, by a majority and based on a Preponderance of the Evidence, that the Respondent is either responsible or not responsible for violating the Sexual and Gender-Based Misconduct Policy and related misconduct (where applicable). The Review Panel will make a separate finding for each charge of Prohibited Conduct and related misconduct. The Assigned Title IX Deputy Coordinator will send written notification concurrently to both parties of the findings and rationale (“Outcome Letter”).
- i. Findings of not responsible.** When the Review Panel finds that the Respondent is not responsible, the Complainant may appeal per Section 7.03.
  - ii. Findings of responsible.** When the Review Panel finds the Respondent responsible (on one or more of the charges) for violating the Sexual and Gender-Based Misconduct Policy, the Complainant and Respondent may submit an impact or mitigation statement to the Assigned Title IX Deputy Coordinator to be considered during the determination of sanctions. Impact and mitigation statements must be submitted to the Assigned Title IX Deputy Coordinator within three (3) calendar days of receipt of the findings. When the Review Panel finds that the Respondent is responsible for one or more violations of the Sexual and Gender-Based Misconduct Policy, any appeal should not be submitted until after sanctions have been determined and the Sanction Letter has been sent to both parties.
- D. Sanctioning.** The Title IX Coordinator or their designee and appropriate administrator will review the findings, rationale, any impact/mitigation statements submitted by the parties, and the final investigative report to determine sanctions that are appropriate, consistent with those issued in similar cases, and are intended to end the misconduct and remedy the effects.

<b>If the Respondent is a...</b>	<b>The Appropriate Administrator is:</b>
Student	The Vice President for Student Affairs or their designee
Faculty Member	The Provost or their designee
Staff Member	The Director of Human Resources or their designee

Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for Prohibited Conduct, or both. As a guide, general recommended ranges of sanctions for individual violations are listed below. However, individual sanctions may be combined (e.g. a period of suspension from the College may be combined with disciplinary probation and social probation upon return to the College). The Title IX Coordinator (or their designee) and appropriate administrator will determine sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. Sanctions imposed are effective immediately upon issuance of the Sanction Letter described below, in accordance with federal law.

## Recommended Ranges of Sanctions

<b>Violation</b>	<b>Recommended Range of Sanctions for Students</b>	<b>Recommended Range of Sanctions for Employees</b>
<b>Sexual Harassment, Retaliation, Failure to Comply</b>	educational sanctions (such as community service, reflection paper(s), and/or fines), social restrictions, disciplinary probation, expulsion or suspension from campus housing, suspension** or expulsion*** from the College	written warning/probation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments
<b>Sexual Exploitation</b>	disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension** or expulsion*** from the College	written warning/probation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments
<b>Sexual Intimidation, Stalking, Dating Violence, Domestic Violence</b>	disciplinary probation, social restrictions, expulsion or suspension from campus housing, completion of batterer intervention program, suspension** or expulsion*** from the College	written warning/probation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, completion of batterer intervention programs
<b>Sexual Assault*</b>	disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension** or expulsion*** from the College	terminating employment, temporary suspension without pay

\*The appropriate sanctions for any penetrative sexual assault will include at a minimum a period of suspension from the College.

\*\*Suspension is defined as exclusion from classes and other privileges or activities as set forth in the notice of suspension for a defined period of time. The student cannot take part in clubs, musical groups, athletics teams and other student organizations during this time period. When a student is suspended, they should leave the Wofford College campus within 24 hours after receipt of the Sanction Letter or any decision by the Appeals Officer, whichever is later. A suspended student is not allowed to return to campus without written permission of the vice president for student affairs.

\*\*\*Expulsion is defined as termination of student status for an indefinite period of time. The conditions of readmission, if any are permitted, shall be stated in the order of expulsion. When a student is expelled, they should leave Wofford College campus within 24 hours after receipt of the Sanction Letter or any decision by the Appeals Officer, whichever is later. An expelled student is not allowed to return to campus without written permission of the vice president for student affairs.

**E. The Sanction Letter.** Within five (5) business days of the Title IX Coordinator and appropriate administrator’s determination, the Assigned Title IX Deputy Coordinator will notify the Complainant and Respondent concurrently and in writing of the sanction(s) and rationale.

**Section 7.03 Final Accommodations and Corrective Action.**

In addition to any sanctions imposed on the Respondent, promptly following the outcome of the formal resolution process, the Assigned Title IX Deputy Coordinator will determine the final accommodations to be provided to the Complainant, if any, and the Assigned Title IX Deputy Coordinator will communicate such decision to the Complainant, and, to the extent that it affects them, to the Respondent. Such accommodations may include, but are not limited to, those listed Section 6.03(A) of this Policy.

The Assigned Title IX Deputy Coordinator will also take steps, where necessary, to prevent the further harassment of or Retaliation against the Complainant or third parties, such as informing them about how to report subsequent problems, following up with them to ensure that there are no subsequent problems, providing trainings for the College community, and providing counseling. The Assigned Title IX Deputy Coordinator will also, where appropriate, take steps to prevent the harassment of the Respondent.

Furthermore, the Assigned Title IX Deputy Coordinator will take prompt corrective action if the Complainant experiences Retaliation or is subjected to further Prohibited Conduct or if the original sanctions imposed on the Respondent are ineffective to protect the safety and well-being of the Complainant or other members of the College community. In appropriate cases (such as those involving Sexual Harassment), the Assigned Title IX Deputy Coordinator will also take reasonable steps to eliminate any hostile environment that has been created. In taking the above-outlined steps, the Assigned Title IX Deputy Coordinator will make every reasonable effort to minimize the burden on the Complainant.

**Section 7.04 Appeals.**

The Complainant or the Respondent may appeal the decision of the Review Panel and/or the sanction(s) imposed on the Respondent within three (3) calendar days from the date of the Outcome Letter (when the Respondent has been found not responsible) or the date of the Sanction Letter (when the Respondent has been found responsible for one or more charges). The decision of the Review Panel and the sanction imposed on the Respondent may, if desired, be appealed simultaneously.

**A. Grounds for appeal.**

**i. Appeal of findings.** The only permissible grounds for an appeal of the Review Panel’s finding of responsible or not responsible are (1) availability of germane new evidence not available at the time of the Review Panel’s decision that could significantly impact the outcome and/or (2) procedural errors that significantly impacted the outcome.

**B. Generally.** Appeals must be made in writing to the Assigned Title IX Deputy Coordinator. The Assigned Title IX Deputy Coordinator will promptly inform the other party of the filing of the appeal and will forward the appeal and all relevant materials to the Appeals Officer.

<b>If the Respondent is a...</b>	<b>The Appeals Officer is:</b>
Student	The Vice President for Student Affairs or their designee
Faculty Member	The Provost or their designee
Staff Member	The Director of Human Resources or their designee

- C. Review of the appeal.** The Appeals Officer will review the appeal and all relevant materials to make one of the following determinations: (1) the appeal does not meet the permissible grounds for appeal; (2) the decision of the Review Panel and/or the decision of the Title IX Coordinator and appropriate administrator should stand; (3) the decision of the Review Panel and/or the decision of the Title IX Coordinator and appropriate administrator should be overturned.

In the event that the Appeals Officer determines that the decision of the Review Panel and/or the Title IX Coordinator and appropriate administrator should be overturned, the Appeals Officer will specify, after consultation with the Assigned Title IX Deputy Coordinator and appropriate administrators, the appropriate steps to be taken to come to a final resolution of the complaint.

- D. Notification of determination.** Within ten (10) days of receipt of the appeal, the Appeals Officer will inform the Assigned Title IX Deputy Coordinator of their decision and rationale. The Assigned Title IX Deputy Coordinator promptly will notify the Complainant and the Respondent of the Appeals Officer's decision concurrently and in writing. There shall be no further appeals.

## **ARTICLE VIII. FACILITATED RESOLUTION**

Facilitated resolution is only appropriate if (i) the Complainant and Respondent voluntarily agree to such resolution after receiving full disclosure of the allegations and their options for formal resolution, (ii) the Complainant and the Respondent are both students or are both employees of the College, (iii) the Assigned Title IX Deputy Coordinator determines that facilitated resolution is an appropriate mechanism for resolving the Complaint, and (iv) the Complaint does not involve Sexual Assault (*see Exhibit C (E)*). To make their determination about the appropriateness of facilitated resolution or to assist in the in the process of the facilitated resolution, the Assigned Title IX Deputy Coordinator may conduct interviews of the parties and/or witnesses or may assign Investigator(s) to do so. If the Assigned Title IX Deputy Coordinator determines any investigation is warranted, the appointment of Investigator(s) may be appealed in accordance with Section 7.01(B).

Facilitated resolution may not be selected for less than all of the misconduct alleged in the Complaint (for example, the parties may not choose to resolve a claim of Sexual Assault according to the formal resolution process but use the facilitated resolution process for all other claims). If the parties agree to facilitated resolution (and facilitated resolution is appropriate for all of the claims at issue), then all of the claims must be resolved according to the facilitated resolution process.

Both parties have the right to terminate the facilitated resolution process at any time and proceed with formal resolution. Furthermore, the Assigned Title IX Deputy Coordinator may, where appropriate, terminate or decline to initiate facilitated resolution and proceed with the formal resolution process instead. In such cases, statements or disclosures made by the parties in the course of the facilitated resolution process, or in any interviews or investigation related to facilitated resolution, may be considered in the subsequent formal resolution proceedings.

### **Section 8.01 Facilitated Resolution, Generally.**

- A. The facilitator.** When the Complainant's Complaint is to be resolved according to the facilitated resolution process, the Assigned Title IX Deputy Coordinator will oversee the process. The Assigned Title IX Deputy Coordinator will involve other individuals as deemed beneficial to the process (e.g. a human resources representative for matters involving employees).
- B. Notice of facilitated resolution.** The Assigned Title IX Deputy Coordinator will provide concurrent written notice to the Complainant and the Respondent setting forth the names of any individuals who will assist in the facilitated resolution, the alleged Prohibited Conduct that will be subject to the facilitated resolution process, and information regarding initial steps for facilitated resolution.

Any party may challenge the participation of the Assigned Title IX Deputy Coordinator, or the individual(s) designated by the Assigned Title IX Deputy Coordinator to assist in the process, *and/or* the alleged Prohibited

Conduct subject to the facilitated resolution process by submitting a written objection to the Title IX Coordinator within three (3) calendar days of receipt of the notice of the facilitated resolution process. Such objection must state the specific reason(s) for the objection. Failure to submit a timely and proper objection will constitute a waiver of any right of objection. The Title IX Coordinator will evaluate the objection and determine whether to assign a different individual to facilitate the process. Any substitution of the Title IX Deputy Coordinator or individual(s) designated by the Assigned Title IX Deputy Coordinator to assist in the process will be provided in writing to both parties prior to the commencement of facilitated resolution.

- C. **Support Persons.** As provided in Section 5.03, both the Complainant and Respondent may have a support person present to support and assist them during the facilitated resolution process.
- D. **No Contact Prior to Facilitated Resolution.** The Complainant and the Respondent may not contact each other outside of the facilitated resolution process, even to discuss the process.
- E. **Participation.** Both the Complainant and the Respondent are expected to participate in the facilitated resolution. If either party fails to fully participate in the facilitated resolution, and such party was provided proper notice of the terms of facilitated resolution, including notice of any meetings, then absent extenuating circumstances, the Assigned Title IX Deputy Coordinator may direct that resolution of the Complaint be determined according to the formal resolution process set forth in Article VII or may reschedule or reevaluate the facilitated resolution.

## Section 8.02 The Facilitated Resolution Process

Facilitated resolution may include the following:

- **Resolution with the Assistance of a Third Party.** A Complainant may seek assistance in informally resolving a report of Prohibited Conduct from the Assigned Title IX Deputy Coordinator who may directly facilitate or may arrange to have a trained representative facilitate a meeting or meetings between the parties or individually with the parties. The availability of this form of facilitated resolution, and any resolution reached through such form of facilitated resolution, is subject to the agreement of the Assigned Title IX Deputy Coordinator in consultation with the Title IX Coordinator, the Complainant, and the Respondent.
- **Interventions and Remedies.** Facilitated resolution agreements may involve a host of interventions and remedies, such as actions designed to maximize the Complainant's access to educational, extracurricular, and/or College employment activities; increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct is alleged to have occurred or is likely to reoccur; targeted or broad-based educational programming or training for relevant individuals or groups; academic and/or College housing modifications for student Complainants; workplace modifications for employee Complainants; one or more of the restorative remedies or other sanctions described in this Policy; and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the Sexual and Gender-based Misconduct Policy.

Any form of facilitated resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the College, the Complainant, and the Respondent is reached through facilitated resolution, the terms of the agreement are implemented, and the matter is resolved and closed. If an agreement is not reached, and the Assigned Title IX Deputy Coordinator determines that further action is necessary, or if either party fails to comply with the terms of the facilitated resolution, the matter may be referred for an investigation and formal resolution under these procedures.

The Title IX Coordinator will maintain records of all reports and conduct referred for facilitated resolution, which typically will be completed within thirty (30) calendar days.

NOTE: A resolution that is reached pursuant to this section will not be included in a student Respondent's student conduct record or in an employee Respondent's personnel record, unless the inclusion of such information is agreed to as part of the facilitated resolution of the matter.

## EXHIBIT A

### Suggested Actions for Victims of Sexual Assault

While all types of Sexual and Gender-based Misconduct are inappropriate and taken seriously by the College, actions involving **Sexual Assault** (as defined in [Exhibit C](#)) are particularly concerning. Thus, if you are the victim of **Sexual Assault**, the College's first priority is to help you take steps to address your safety, medical needs and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a criminal or College complaint.

#### 1. Ensure your physical safety

You may seek help from **local law enforcement agencies** or by contacting **Wofford Campus Safety**. Wofford Campus Safety can assist you with contacting local law enforcement and can help you obtain transportation to the local law enforcement office. Security personnel are on duty at Wofford Campus Safety 24 hours a day, seven days a week.

#### 2. Seek medical assistance and treatment

Local options for medical care include **Spartanburg Medical Center and Mary Black Memorial Hospital**. It is crucial that you obtain medical attention as soon as possible after a Sexual Assault to determine the extent of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities also can screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

Employees at the Wellness Center can help you obtain transportation to a local hospital and can help you contact a support person, such as a family member, a friend, or a roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 72 hours. Even if you have not decided whether to file charges, it is advisable to have the evidence collection kit completed so that you can better preserve the options of obtaining a protective order and/or filing criminal charges at a later date. Spartanburg Medical Center and Mary Black Memorial Hospital administer evidence collection kits, and you can request an anonymous kit with no law enforcement involvement. Spartanburg Medical Center has specially trained sexual assault nurse examiners (SANEs) who administer these kits. The cost of these kits will be paid for from a crime victim fund, and you will not be billed for the kits.

In order to best preserve evidence for an evidence collection kit, it may be advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before the kit is completed. You also should wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

#### 3. Obtain emotional support

**The Wellness Center** can help students process their emotions and begin the recovery process. The counselors at the Wellness Center are trained to provide crisis intervention on short-term and emergency issues. The Wellness Center also can provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services are confidential and are not part of students' College records and will not be reported to other College personnel.

Employees may contact the Employee Assistance Program to obtain emotional support (available at: 800-854-1446).

#### 4. Obtain information/report misconduct

You are encouraged to report incidents of Sexual Assault to the College's **Title IX Coordinator** (even if you have

filed a report directly with law enforcement). Further information about how to report Sexual Assault is provided in the body of this Policy. The Title IX Coordinator can help you access resources and can provide support and information, including information on the College's procedures for investigating and addressing instances of Sexual Assault.

## EXHIBIT B

### Campus and Community Resources

The below list of campus and community resources was compiled for the use of the entire campus community. Any individuals seeking assistance from campus resources should note that college employees, with the exception of those noted “confidential,” are considered “Responsible Employees.” Individuals who cannot find an appropriate resource below are encouraged to contact the Wellness Center (864-597-4370) or the Title IX coordinator (864-597-4047) for assistance in identifying other options.

#### 1. Campus Resources

**Wofford College’s Title IX coordinator** is Amanda Estabrook, whose office is in the Campus Life Building. She may be contacted during business hours Monday through Friday (8:30 a.m. to 5 p.m.) by phone at 864-597-4047 or in person in the Campus Life Building. She also can be contacted by email at [estabrookar@wofford.edu](mailto:estabrookar@wofford.edu).

**Wofford Campus Safety** is located in Andrews Field House and is available by phone at 864-597-4911. Wofford Campus Safety Officers are available 24/7. Campus Safety also can contact the staff member on call.

**Medical Services** (confidential) are located in the Wellness Center and are available by phone at 864-597-4370 or 597-4371. The office is staffed from 8:30 a.m. to 5 p.m. Monday through Friday during the academic term.

**Student Affairs** is located in the Campus Life Building and is available by phone at 864-597-4040 or 597-4044. The office is staffed from 8:30 a.m. to 5 p.m. Monday through Friday.

**Human Resources** is located in the Snyder Building and is available by phone at 864-597-4230. The office is staffed from 8:30 a.m. to 5 p.m. Monday through Friday.

**Counseling Services** (confidential) are located in the **Wellness Center** and are available by phone at 864-597-4370 or 597-4371. The center is staffed from 8:30 a.m. to 5 p.m. Monday through Friday.

The **Office of Financial Aid** is located in the Hugh S. Black building and can be contacted by phone at 864-597-4160. Financial aid is staffed from 8:30 a.m. to 5 p.m. Monday through Friday.

The **Office of International Programs** is located in the Michael S. Brown Village Center and can be contacted by phone at 864-597-4430. International programs is staffed from 8:30 a.m. to 5 p.m. Monday through Friday.

#### 2. Community Resources

**Spartanburg City Police Department** can be reached by calling 911 (or, for non-emergency matters, by calling 864-596-2222. The Spartanburg City Police Department is located at 145 West Broad Street in Spartanburg.

**Spartanburg Medical Center** is located at 101 East Wood Street in Spartanburg and is available by phone at 864-560-6000. Spartanburg Medical Center has special sexual assault nurse examiners (SANEs) who can collect evidence.

**Mary Black Memorial Hospital** is located at 1700 Skylyn Drive in Spartanburg. The emergency department can be reached at 864-573-3000.

**Emergency Medical Services** can be reached at 911.

**SAFE Homes-Rape Crisis Coalition** is located at 236 Union Street in Spartanburg and is available by phone at 864-585-9569. Its crisis hotline is available 24/7 at 800-273-5066. Safe Homes provides services to people affected by sexual violence, dating violence, domestic violence or stalking.

**South Carolina Legal Services (Spartanburg)** provides legal assistance in Spartanburg, including assistance with immigration matters. The office is located at 148 East Main Street in Spartanburg and can be reached at 864-582-0369.

**South Carolina Victims Assistance Network** provides free legal assistance to survivors of sexual assault. They can be reached at 803-750-1200, Option 2, for the Legal Assistance to Victims Program.

**National Suicide Prevention Lifeline** provides free and confidential support for people in distress. Counselors are available 24/7 at 800-273-8255. Additional information and resources are available at [www.suicidepreventionlifeline.org](http://www.suicidepreventionlifeline.org).

## EXHIBIT C

### Prohibited Conduct under this Policy

Conduct defined in Exhibit B of this Policy is prohibited regardless of the sex, sexual orientation, sexual identity, gender, or gender identity of the Complainant or Respondent.

- A. Dating Violence.** “Dating Violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.
- B. Domestic Violence.** “Domestic Violence” includes felony or misdemeanor crimes of violence committed by:
- i. A current or former spouse of the victim.
  - ii. A person with whom the victim shares a child in common.
  - iii. A person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner.
  - iv. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of South Carolina.
  - v. Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the state of South Carolina.
- C. Failure to Comply.** “Failure to Comply” means any action taken in opposition to a college directive under this Policy. For the purposes of this Policy, “college directive” includes, but is not limited to, sanctions, no contact orders, facilitated resolution agreements, and interim and final accommodations and corrective action.
- D. Gender-based Harassment.** “Gender-based Harassment” is any unwelcome verbal, nonverbal, written, electronic, or physical conduct based on gender identity or expression, sexual orientation, pregnant or parenting status, and nonconformity with gender stereotypes which may include acts of aggression, intimidation, or hostility when such conduct is so severe or pervasive that it has the effect of substantially interfering with the individual’s work or educational performance by creating an intimidating, hostile, or demeaning environment for employment, education, on-campus living, or participation in a college activity.
- E. Sexual Assault.** “Sexual Assault” consists of (i) sexual contact and/or (ii) Sexual intercourse without Consent (as defined in “Related Definitions.”)
- i. Sexual contact:
    - Any intentional sexual touching
    - However slight
    - With any object or body part (as described below)
    - Performed by a person upon another person

Sexual contact includes (a) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; and (b) making another touch you or themselves with or on any of these body parts.
  - ii. Sexual intercourse:
    - Any penetration
    - However slight
    - With any object or body part (as described below)
    - Performed by a person upon another person

Sexual intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

- F. Retaliation.** “Retaliation” means any adverse action threatened or taken against a person because they have filed, supported, or provided information in connection with a Complaint of Prohibited Conduct, including, but not limited to, direct and indirect intimidation, threats, and harassment. The prohibition of retaliation does not end with the resolution of the Complaint. Retaliation may be present even after a finding of “not responsible” on allegations of Prohibited Conduct. Retaliatory behavior is not limited to behavior by the accused individual and covers behaviors by their associates as well as third parties. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct.
- G. Sexual and Gender-Based Misconduct.** “Sexual and Gender-based Misconduct” is an overarching term for any unwelcome conduct of a sexual nature or directed at someone because of their gender identity or expression or sexual orientation, including any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual and Gender-based Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual and Gender-based Misconduct can be committed by anyone regardless of gender, and it can occur between people of the same or different gender. The College encourages reporting of all Sexual and Gender-based Misconduct. Sexual and Gender-based Misconduct includes but is not limited to:
- i. Dating Violence**
  - ii. Domestic Violence**
  - iii. Gender-based Harassment**
  - iv. Sexual Assault**
  - v. Sexual Exploitation**
  - vi. Sexual Harassment**
  - vii. Sexual Intimidation**
  - viii. Stalking**
- H. Sexual Exploitation.** “Sexual Exploitation” means any act of taking non-consensual, unjust or abusive sexual advantage of another person for one’s own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual Exploitation includes, but is not limited to, the following:
- i.** Causing or attempting to cause another person to be Incapacitated in order to gain a sexual advantage over such person;
  - ii.** Prostituting another person (i.e., personally gaining money, privilege, or power from the sexual activities of another);
  - iii.** Non-consensual videotaping, photographing, or audio-taping of sexual activity and/or distribution of private sexual activity or a person’s intimate parts (including genitalia, groin, breast or buttocks) without consent via media such as, but not limited to, the internet;
  - iv.** Exceeding the boundaries of Consent (e.g., allowing another person to observe consensual sex without the knowledge of or Consent from all participants);
  - v.** Voyeurism; and
  - vi.** Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.
- I. Sexual Harassment.** “Sexual Harassment” is any unwelcome verbal, nonverbal, written, electronic, or physical conduct of a sexual nature. Examples of Sexual Harassment include instances in which:
- i.** Submission or consent to the behavior is reasonably believed to carry consequences for the individual’s education, employment, on-campus living environment, or participation in a College activity. Examples of this type of sexual harassment include:
    - Pressuring an individual to engage in sexual behavior for some educational or employment benefit
    - Making a real or perceived threat that rejecting sexual behavior will carry a negative educational or employment consequence for the individual.
  - ii.** The behavior is so severe or pervasive that it has the effect of substantially interfering with the individual’s

work or educational performance by creating an intimidating, hostile, or demeaning environment for employment, education, on-campus living, or participation in a College activity. Examples of this type of sexual harassment include:

- One or more instances of Sexual Assault.
- Persistent unwelcome efforts to develop a romantic or sexual relationship.
- Unwelcome sexual advances or requests for sexual favors.
- Unwelcome commentary about an individual's body or sexual activities.
- Repeated and unwelcome sexually-oriented teasing, joking, or flirting.
- Verbal abuse of a sexual nature.

**J. Sexual Intimidation.** "Sexual Intimidation" includes but is not limited to:

- i. Threatening, expressly or impliedly, to commit a sexual act upon another person without their Consent.
- ii. Engaging in indecent exposure (intentionally exposing one's sexual organs in public) with the intention of alarming, distressing, and/or offending others.

**K. Stalking.** "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

For purposes of this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim; and "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## EXHIBIT D

### Related Definitions

- A. Appeals Officer.** “Appeals Officer” is defined in Section 7.04(B). Individuals who may serve in this capacity will receive regular professional training in investigation and determination practices and procedures and issues related to Sexual and Gender-based Misconduct.
- B. Assigned Title IX Deputy Coordinator.** The “Assigned Title IX Deputy Coordinator” means the Title IX Deputy Coordinator assigned by the Title IX Coordinator to handle a given Complaint. In some cases, the Title IX Coordinator may serve this function.
- C. Clery Act.** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.
- D. Complainant.** A “Complainant” is an individual who files a Complaint of Prohibited Conduct or on whose behalf a Complaint is filed.
- E. Complaint.** A “Complaint” is an allegation of Prohibited Conduct asserted against another party and initiated pursuant to Section 6.01.
- F. Confidential Resource.** “Confidential Resource” is defined in Section 3.01.
- G. Consent.** “Consent” is informed, freely and actively given, and mutually understandable words or actions that indicate a willingness to participate in mutually agreed-upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a clear and unambiguous agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from:

- Silence, passivity, or lack of resistance alone.
- A current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else).
- Attire.
- The buying of dinner or the spending of money on a date.
- Consent previously given (i.e., consenting to one sexual act does not imply consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, deception, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a party used intimidation or coercion to obtain Consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by:

- Minors, even if the other participant did not know the minor’s age.
- Mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled.
- Persons who are Incapacitated. The use of alcohol or drugs does not diminish one’s responsibility to obtain Consent and does not excuse conduct that constitutes Sexual or Gender-based Misconduct under this Policy.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other’s willingness to

continue and capacity to Consent. Neither party should make assumptions about the other's willingness to continue.

**H. Day.** A "day" is a business day, unless otherwise specified.

**I. Education Record.** "Education Record" has the meaning assigned to it under FERPA.

**J. FERPA.** The Family Educational Rights and Privacy Act ("FERPA") is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 § C.F.R. 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.

**K. Outcome Letter.** The "Outcome Letter" is the notice provided concurrently to the Complainant and Respondent after the Review Panel makes a determination that a Respondent is "responsible" or "not responsible" for violating the Sexual and Gender-based Misconduct Policy at the conclusion of the formal resolution process.

**L. Incapacitated.** "Incapacitated" means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including, but not limited to, being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

**M. Investigators.** The "Investigators" are neutral fact-finders who are designated by the Assigned Title IX Deputy Coordinator to investigate a Complaint. The Investigators will be trained annually on (1) reasonable and appropriate investigative techniques and (2) issues related to Sexual and Gender-based Misconduct.

**N. Material Sexual Misconduct.** "Material Sexual Misconduct" is Sexual and Gender-based Misconduct that, taking into account the totality of the circumstances, is sufficiently serious and significant to warrant adjudication under, and discipline pursuant to, this Policy. Specifically, to determine whether Sexual or Gender-based Misconduct rises to the level of Material Sexual Misconduct, consideration will be given to the following criteria: (1) the type, frequency and duration of the conduct (the more severe the conduct, the less the need to show a repetitive series of incidents, particularly if the conduct is physical), (2) the identity of and relationship between the alleged victim and the Respondent, (3) the number of individuals involved, (4) the age and sex of the alleged victim and the Respondent, (5) the location of the incidents and the context in which they occurred, and (6) whether there have been similar incidents.

**O. Personally Identifiable Information.** "Personally Identifiable Information" (as that term is defined by FERPA) includes, but is not limited to:

- A student's name;
- The name of a student's parent(s) or other family members;
- The address of a student or a student's family;
- A personal identifier, such as a student's social security number, student number, or biometric record;
- Other indirect identifiers, such as a student's date of birth, place of birth, or mother's maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the College community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- Information requested by a person whom the College reasonably believes knows the identity of the student to whom the Education Record relates.

**P. Preponderance of the Evidence.** "Preponderance of the Evidence" is the evidentiary standard used in this Policy to determine whether the sum of all the evidence shows that it is more likely than not that a Respondent violated the Sexual and Gender-based Misconduct Policy.

**Q. Respondent.** A "Respondent" is an individual who has been accused in a Complaint of violating the Sexual and Gender-based Misconduct Policy.

- R. Responsible Employee.** A “Responsible Employee” is an employee of the College who has the obligation to report to the Title IX Coordinator any Complaints or allegations of Sexual or Gender-based Misconduct of which he or she becomes aware. Confidential Resources are not Responsible Employees, but all other employees are Responsible Employees and are required to share all available information related to Sexual and Gender-based Misconduct with the Title IX Coordinator.
- S. Review Panel.** The “Review Panel” is defined in Section 7.02(B). The Review Panel consists of trained Investigators.
- T. Sanction Letter.** The “Sanction Letter” is the notice of sanctions provided concurrently to the Complainant and Respondent during the formal resolution process when a Review Panel finds a Respondent responsible for violating the Sexual and Gender-based Misconduct Policy and the Title IX Coordinator and appropriate administrator determine sanctions.
- U. Third-Party Reporter.** A “Third-party Reporter” is an individual who reports or files a Complaint alleging that another individual is the victim of Sexual or Gender-based Misconduct.
- V. Title IX Coordinator.** The College’s “Title IX Coordinator” is Amanda Estabrook. Estabrook’s office is located in the Campus Life Building, and she may be contacted by phone at 864-597-4047 or by email at [estabrookar@wofford.edu](mailto:estabrookar@wofford.edu). The Title IX Coordinator has ultimate oversight responsibility for handling Title IX-related complaints and for identifying and addressing any patterns or systemic problems involving Sexual and Gender-based Misconduct. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or College processes, incidents, patterns, or problems related to Sexual or Gender-based Misconduct. All allegations involving Sexual and Gender-based Misconduct should be directed to the Title IX Coordinator.

The Title IX Coordinator will receive regular professional training in resolution practices and procedures. More specifically, the Title IX Coordinator will receive annual training on (1) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct a fair and equitable resolution process.

**W. Title IX Deputy Coordinator(s).** The College’s “Title IX Deputy Coordinators” are:

- Matt Hammett, assistant dean of students for student involvement. Hammett can be reached by telephone at 864-597-4048, by email at [hammettmk@wofford.edu](mailto:hammettmk@wofford.edu) or in person on the second floor of the Campus Life Building.
- Demario Watts, assistant dean of students for diversity and leadership development. Watts may be reached by telephone at 864-597-4066, by email at [wattsdl@wofford.edu](mailto:wattsdl@wofford.edu) or in person on the second floor of the Campus Life Building.
- Amy Lancaster, dean of international programs. Lancaster can be reached by telephone at 854-597-4430, by email at [lancasterae@wofford.edu](mailto:lancasterae@wofford.edu) or in person on the first floor of the Michael S. Brown Village Center.

The Title IX Deputy Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of Title IX-related Complaints. The Title IX Coordinator may, at their discretion, assign a Title IX Deputy Coordinator as the Assigned Title IX Deputy Coordinator in connection with a given Complaint.

The Title IX Deputy Coordinators will receive regular professional training in resolution practices and procedures. More specifically, the Title IX Deputy Coordinators will receive annual training on (1) issues related Sexual and Gender-based Misconduct, and (2) how to conduct a fair and equitable resolution process.

## **EXHIBIT E**

### **Sexual and Gender-based Misconduct Education**

#### **| OUTREACH & PREVENTION |**

Wofford College is committed to the prevention of Sexual and Gender-based Misconduct and routinely conducts outreach and educational programming designed to increase awareness of the prevalence of Sexual and Gender-based Misconduct involving college-age students and other College constituents, inform the Wofford community about issues related to Sexual and Gender-based Misconduct such as substance abuse and the role of the bystander, and promote knowledge of the College's Sexual and Gender-based Misconduct Policy.

#### **| TRAINING |**

The College regularly conducts training for its constituents, including the following groups:

- Title IX Coordinator and Title IX Deputy Coordinators.
- Investigators.
- Appeals Officers.
- Employees.
- Students.
- Campus Safety Officers.

These groups are trained, as appropriate and applicable, on such subjects as:

- The Sexual and Gender-based Misconduct Policy.
- Title IX and related regulatory guidance.
- The College's responsibility to address allegations of Sexual and Gender-based Misconduct.
- Recognizing and responding to reports of Sexual and Gender-based Misconduct.
- Understanding common and counterintuitive victim responses (during and after an incident) and the effect of Sexual and Gender-based Misconduct on victims.
- Understanding the link between substance abuse and Sexual and Gender-based Misconduct.
- Which employees are "Responsible Employees" and which individuals and offices are confidential resources.
- Reasonable, appropriate, and sensitive investigative and interview techniques.
- Issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking.
- Conducting reliable, impartial, and fair investigations and determinations.