

WOFFORD COLLEGE
SEXUAL MISCONDUCT POLICY
2017-2018

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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 Misconduct prohibited under this policy, 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 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact one of the following individuals:

Title IX Coordinator: Amanda Estabrook

Title IX and ADA Coordinator
Campus Life Building, 2nd Floor
Wofford College, 429 North Church Street
Spartanburg, SC 29303
Telephone: 864-597-4047
Email: estabrookar@wofford.edu

Title IX Deputy Coordinator: Chee Lee

Director of Human Resources/Title IX
Deputy Coordinator
Snyder House
Wofford College, 429 North Church Street
Spartanburg, SC 29303
Telephone: 864-597-4230
Email: leecj@wofford.edu

Title IX Deputy Coordinator: Matthew Hammett

Assistant Dean for Student
Involvement/Title IX Deputy Coordinator
Office # 15—Campus Life Building
Wofford College, 429 North Church Street
Spartanburg, SC 29303
Telephone: 864-597-4048
Email: hammettmk@wofford.edu

Title IX Deputy Coordinator: Demario Watts

Assistant Dean of Students for Diversity
and Leadership Development/Title
IX Deputy Coordinator
Campus Life Building, Second Floor
Wofford College, 429 North Church
Street Spartanburg, SC 29303
Telephone: 864-597-4066
Email: wattsdl@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](#) attached to this Policy.**

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ARTICLE I. INTRODUCTION

Section 1.01 Notice of Nondiscrimination.

Wofford College does not unlawfully discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities.

Wofford College believes that all members of the College community, guests, and visitors have the right to be free from all forms of sexual 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 misconduct. 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) that prohibit 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 on the basis of sex may be referred to **Wofford College’s Title IX Coordinator** (or to the U.S. Department of Education’s Office for Civil Rights (District of Columbia Office)). Wofford College’s Title IX Coordinator is Amanda Estabrook, Title IX and ADA Coordinator, whose office is located on the 2nd floor of the Campus Life Building, 429 North Church Street, Spartanburg, South Carolina 29303. Ms. Estabrook may be contacted by phone at 864-597-4047 or by email at estabrookar@wofford.edu.
- Inquiries concerning nondiscrimination on the basis of a student’s disability may be referred to **Wofford College’s Accessibility Services Director**, Perry Henson. Ms. Henson’s office is located on the 2nd floor of the Wellness Center, 429 North Church Street, Spartanburg, South Carolina 29303. Ms. Henson may be contacted by phone at 864-597-4373 or by email at hensonpv@wofford.edu.
- All other inquiries concerning nondiscrimination not addressed in this Policy may be referred to **Wofford College’s Vice President for Student Life**, Roberta Bigger. Dean Bigger’s office is located in the Campus Life Building, 429 North Church Street, Spartanburg, South Carolina 29303. Ms. Bigger may be contacted by phone at 864-597-4040 or by email at biggerrh@wofford.edu.

Concerns about nondiscrimination 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 may also 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
Fax: 202-453-6021
ocr.dc@ed.gov

Section 1.02 Background and Community Expectations.

Sexual Misconduct and Sexual Harassment are all forms of discrimination and are referred to generally as "Sexual Misconduct" in this policy. This policy has been developed to reaffirm these principles and to define community expectations, outline Wofford College's response to reports of Sexual Misconduct, provide recourse for individuals whose rights have been violated, and provide a reliable, impartial and fair mechanism for determining when those rights and expectations have been violated.

Wofford College strongly urges all members of the campus community to play a role in discouraging, responding to, and preventing Sexual Misconduct that is prohibited by this policy. Wofford College encourages the community to speak up when an incident occurs and to report Sexual Misconduct. Further, any individual who feels that he or she has 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 unlawful discrimination, Sexual Harassment, Sexual Misconduct, and Retaliation, so that each individual may choose an avenue for reporting appropriate to his or her particular situation, whether that be internally through Wofford College informal 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 discrimination and to fostering a community that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of Sexual Misconduct Complaints. In furtherance of these commitments, this Policy sets forth available resources ([Exhibit A](#)), describes prohibited conduct (Article II), and establishes procedures for responding to Complaints of Sexual Misconduct (Articles III-VIII).

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

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

Section 1.03 Applicability of This Policy.

This Policy applies to any allegation of Sexual Misconduct 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 Sexual Misconduct occurred, if the conduct giving rise to the Complaint is related to 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 Sexual Misconduct 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 Sexual Misconduct, 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 Misconduct may be filed at any time, regardless of the length of time between the alleged Sexual Misconduct 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.

Section 1.05 Definitions Applicable to This Policy.

Capitalized terms used in this Policy have the meanings given to them in Exhibit B.

ARTICLE II. STATEMENTS OF POLICY

Section 2.01 Prohibition on Sexual Misconduct.

This Policy is designed to protect the rights and needs of alleged victims and Respondents. Creating a safe environment is the responsibility of all members of the College community.

The College prohibits Sexual Misconduct. The College strongly encourages prompt reporting of all types of Sexual Misconduct and is committed to fostering a community that promotes timely and fair resolution of Sexual Misconduct cases. To that end, the College has defined Sexual Misconduct broadly to include any unwelcome conduct of a sexual nature, and the College will properly address all allegations of Sexual Misconduct. Wofford College is committed to fostering a campus environment that promotes prompt and effective resolution of sexual misconduct cases. The College's procedures are designed to protect the rights, needs and privacy of the person reporting an alleged sexual misconduct ("Complainant"), the rights of those accused of sexual misconduct ("Respondent") and of the campus community as a whole.

However, not all unwelcome conduct of a sexual nature rises to the level of warranting adjudication and/or discipline pursuant to this Policy. Although the College will properly address all allegations of Sexual Misconduct, this Policy uses the term "Material Sexual Misconduct," as defined in Exhibit B, to identify those acts of Sexual 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 Sexual Misconduct 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 he or she has 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:

- 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.

The Hearing Board may hear allegations of and impose sanctions for alleged misconduct that is related to the Sexual Misconduct at issue, even if such related misconduct is not, when standing alone, governed by 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 before either the same or a different Hearing Board.

Section 2.05 Amnesty

The College considers the reporting and adjudication of Sexual 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 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 steps and procedures outlined in this Policy. Student requests for accommodations must be made to **Accessibility Services** (located on the second floor of the Wellness Center and available from 8:30 a.m. until 5:00 p.m.). All other requests for accommodations must be made to 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 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 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 a Complainant's permission. Individuals may discuss alleged Sexual Misconduct in strict confidence with these individuals ("Strictly Confidential Resources"). The following is contact information for these individuals:

- (i) Wellness Center (864-597-4370 or 4371), and
- (ii) Chaplain (864-597-4050 or 4051),

This means that Personally Identifiable Information shared with Strictly 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), to the Respondent, or to others (unless the disclosing individual gives his or her consent to the disclosure or the law requires it (as may be the case with alleged Sexual Misconduct involving a minor or under conditions involving imminent physical harm, for example)).

Strictly Confidential Resources will assist the Complainant in receiving necessary protection and support, such as victim advocacy, 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.

Strictly Confidential Resources are not Responsible Employees, and therefore, are not required to (and will not, absent direction from the disclosing individual to do so) report incidents of alleged Sexual Misconduct to the Title IX Coordinator. For purposes of clarity, please understand that many of the College employees who are not Strictly Confidential Resources are Responsible Employees. Communications made to Responsible Employees (and others) are not entitled to the same confidentiality protections as those made to Strictly Confidential Resources. Please note that people who serve more than one role at the College (e.g. Chaplain and faculty member) will be a highly 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). Strictly 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 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 B for a list of the College’s Responsible Employees.*

A Responsible Employee must report all relevant details about the alleged sexual misconduct shared by the Complainant to the Title IX Coordinator or a Title IX Deputy Coordinator, and the College will need to determine what happened—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 Misconduct matters.

Information regarding alleged Sexual Misconduct will generally 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 alleged Sexual Misconduct in accordance with applicable local, state, and federal laws. For example:
 - 1) 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 Misconduct. Any such warning would not include information that identifies the Complainant.
 - 2) Information regarding the alleged Sexual Misconduct may be used as a statistical, anonymous report for data collection purposes under the Clery Act.
 - 3) The College may be required by state law to inform the South Carolina State Law Enforcement Division of the occurrence of the alleged incident(s) of Sexual Misconduct.
- (ii) College personnel may report alleged Sexual Misconduct to local law enforcement if warranted by the nature of the allegations at issue (e.g. incidents involving minors).
- (iii) College administrators will share information regarding alleged Sexual Misconduct, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Misconduct, and address the effects of the Sexual Misconduct.

- (b) **Requests for Confidentiality.** If information regarding alleged Sexual Misconduct is shared with the Title IX Coordinator and/or a Responsible Employee, but the Complainant desires that • the information not be shared with other Responsible Employees, with the Respondent, or with others, even as appropriate and necessary to address the allegations, • that the College not investigate the information, or • 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 alleged Sexual Misconduct and may weigh requests for confidentiality against the following factors, among others:

- 1) the seriousness of the alleged Sexual Misconduct (including, but not limited to, whether the Sexual Misconduct was perpetrated with a weapon);
- 2) the increased risk that the alleged perpetrator will commit additional acts of Sexual Misconduct, such as (A) whether there have been other reports or complaints against the alleged perpetrator, (B) whether he alleged perpetrator has a history of arrests or records from a prior school indicating a history of Sexual Misconduct or a history of violence, (C) whether the alleged perpetrator threatened further Sexual Misconduct or threatened violence against the victim or others, or (D) whether the Sexual Misconduct was committed by multiple perpetrators;
- 3) 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;
- 4) the Respondent's right to receive information about the allegations if the information is maintained by the College as an Education Record;
- 5) whether the victim is a minor; and
- 6) whether the College possesses other means to obtain relevant evidence of the Sexual 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 will likely honor the request for confidentiality.

(ii) **Determination as to Whether 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 in spite of 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 will also 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 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 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):

- 1) To the extent practicable and appropriate, the College will take prompt action to limit the effects of the alleged Sexual 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 may also consider broader remedial action (such as increased monitoring, supervision, or security at locations where reported sexual violence occurred, increased education and prevention efforts, including to targeted population groups, and climate assessments).
- 2) Information regarding the alleged Sexual Misconduct may be included in College records, as necessary and appropriate.
- 3) College personnel will (and are obligated to) handle information regarding alleged Sexual Misconduct in accordance with applicable local, state, and federal laws and may take the steps outlined in Section 3.02(a)(i).

Please note that the College cannot control disclosure by third parties.

ARTICLE IV. HOW AND WHERE TO REPORT ALLEGED SEXUAL 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 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 alleged Sexual Misconduct promptly to College officials and to law enforcement authorities, where appropriate.**

Individuals have the option not to report alleged Sexual Misconduct to campus officials or to law enforcement authorities. The College respects the individual's decision in regards to reporting; however, subject to the Confidentiality provisions outlined in Article III of this Policy, if information about Sexual Misconduct comes to the attention of the College, the College (1) will 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:

- (a) 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),
- (b) the College's Title IX Coordinator, Amanda Estabrook (Title IX and ADA Coordinator), (available by phone from 8:30 a.m. to 5:00 p.m., Monday, Wednesday, & Friday at 864-597-4047 or by email Monday through Friday at estabrookar@wofford.edu and located in the Campus Life Building), or
- (c) the Division of Student Affairs, from 8:30 a.m. to 5:00 p.m. Monday through Friday (available by phone at 864-597-4040 and located in the Campus Life Building).

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

Section 4.02 Reporting to the College.

If you wish for information regarding Sexual Misconduct to be investigated and addressed pursuant to this Policy, you must disclose such information to the **Title IX Coordinator** or to a **Responsible Employee**. See the definition of "Responsible Employee" in [Exhibit B](#) for a list of the College's Responsible Employees. These individuals are REQUIRED to report and address allegations of Sexual Misconduct (or relay the allegations to the Title IX Coordinator (or, if the Title IX Coordinator is implicated in the allegations, to a Title IX Deputy Coordinator) to do so). Individuals who are not Responsible Employees are not subject to the same requirement (and in some instances, such as is generally the case with

Strictly Confidential Resources, are prohibited from reporting alleged Sexual Misconduct to others absent an express directive from the alleged victim to do so).

Individuals may report information regarding Sexual Misconduct 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, he or she may report alleged Sexual Misconduct to a Title IX Deputy Coordinator or any other Responsible Employee.

No member of the College community may discourage an individual from reporting alleged incidents of Sexual Misconduct. 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 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 alleged Sexual 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 Project”) will not be considered notice to the College of Sexual 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 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 Misconduct.

Individuals may also file **anonymous reports** by completing a Silent Witness Form at <http://www.wofford.edu/campusSafety/form.aspx?ekfrm=4204>. 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, where corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes.

Reporting to the College:	
What Happens After a Person Reports?	
<p>If someone reports directly to the Title IX Coordinator:</p>	<p>The Title IX Coordinator will initiate the investigation and resolution process (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).</p>
<p>If someone reports to a Responsible Employee (including a Title IX Deputy Coordinator): <i>(See the definition of Responsible Employee in Exhibit B for a list of all of the College's Responsible Employees)</i></p>	<p>The Responsible Employee will forward the information to the Title IX Coordinator, who will initiate the investigation and resolution process (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).</p>
<p>If someone confides in a Counselor, registered nurse, nurse practitioner or the Chaplain:</p>	<p>The information provided will remain strictly confidential and will not* be reported to the Title IX Coordinator (or anyone else) for investigation and resolution.</p> <p><i>*Remember that in unusual circumstances, information someone shares with the counselors, registered nurses, nurse practitioners or 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>
<p>If a person reports to someone else (i.e. someone other than the Title IX Coordinator, a Responsible Employee, a counselor, registered nurse, nurse practitioner or the Chaplain):</p>	<p>The individual may or may not report details regarding the information provided to the Title IX Coordinator. This is because the individual to whom you reported is not <i>obligated</i> to report allegations of Sexual Misconduct to the Title IX Coordinator (and conversely, is not <i>obligated</i> to maintain the 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 with the College Chaplain.</i></p>

ARTICLE V. POLICIES APPLICABLE TO ALL COMPLAINTS OF SEXUAL MISCONDUCT

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 may also serve the function of the Assigned Title IX Deputy Coordinator in the resolution of a Complaint. When that is the case, the Vice President of Student Affairs will serve the appeal function set forth in Section 6.04(b)

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 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 to perform his or her 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 prehearing meetings, during investigative interviews, and during the hearing or proceeding (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 hearing or 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 days, the College will notify the parties of that fact. Hearings, if any, will take place within 20 days of the conclusion of the investigation. If a hearing has taken place, both the Complainant and the Respondent will receive a Final Outcome Letter within five (5) business days of the conclusion of the hearing.

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 therefor.

Section 5.05 Documentation.

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 Final Outcome Letter) and any written communication between the parties), for at least seven years. Audio recordings of hearings will be retained for the same length of time. Documentation pertaining to expulsions or degree revocations will be retained indefinitely or in accordance with College policy.

Section 5.06 Confidentiality and Disclosure.

In order to comply with FERPA, Title X, 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 informal 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, meetings, and proceedings; and the Final Outcome letter 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.

For the avoidance of doubt, College policy does not prohibit the further disclosure of the Final Outcome Letter 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:

1. occurred at organization-sponsored events;
2. received the consent or encouragement of the organization or of the organization's leaders or officers; or
3. 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. THE PROCESS APPLICABLE TO ALL COMPLAINTS OF SEXUAL MISCONDUCT

Section 6.01 STEP 1: A Report of Sexual Misconduct Becomes a Complaint.

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

- (a) An alleged victim may file a written Complaint with the College or a third party may file a written Complaint on his or her behalf. An alleged victim may complete a Sexual Misconduct Complaint Form (see [Exhibit C](#)) or may submit a written statement in his or her own words providing sufficient information for the College to investigate the allegations contained therein (including but not limited to the name of the alleged victim, the name of the alleged perpetrator, and the date, location, and nature of the alleged Sexual Misconduct).
- (b) An alleged victim may meet in person with the Title IX Coordinator to report alleged Sexual Misconduct. In such a situation, the Title IX Coordinator will ask the alleged victim to complete a Complaint form provided by the College.
- (c) 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, an alleged victim will be referred to as a “Complainant” and an alleged perpetrator will be referred to as a “Respondent.”

Section 6.02 STEP 2: Evaluation of Interim Measures and Interim Disciplinary Sanctions.

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 Protective Measures for Complainants.** When warranted to ensure the safety and wellbeing of the Complainant, 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:
 - (i) Issuing no-contact orders to prevent any contact between or among the Complainant, the Respondent, witnesses, and/or third parties;
 - (ii) Providing the Complainant an escort to ensure that he or she can move safely between classes, work, and/or activities;
 - (iii) 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;
 - (iv) Changing a Complainant’s or a Respondent’s work arrangements or schedules; and
 - (v) Changing academic schedules (such as moving the Complainant or the Respondent from one class section to another).

(b) Interim Disciplinary Measures for Respondents.

- (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 his or her designee

- (A) impose on the Respondent an administrative withdrawal from the College, or
(B) summarily suspend the Respondent from campus housing on an interim basis, or
(C) 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 Student Life Building) or his or her 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 may request that the individual authorized to make personnel decisions regarding the employee at issue (A) take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's access to college facilities, or
(B) 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. If the Director of Human Resources is the Assigned Title IX Deputy Coordinator, the decision regarding interim measures may be appealed to the Title IX Coordinator.

Section 6.03 STEP 3: Initial Meetings with the Assigned Deputy Title IX 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 alleged Sexual Misconduct is a Third-party Reporter, the Assigned Title IX Deputy Coordinator will attempt to meet with him or her as soon as possible to gather information.)

Following the meeting with the Complainant, the Assigned Title IX Deputy Coordinator will, if applicable, promptly determine the interim measures to be provided to the Complainant during the investigative and resolution processes. (If interim protective measures have already 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 should also be implemented.) These interim measures may include the protective measures listed in Section 6.02(a) and/or other appropriate interim measures,

such as

- (i) arranging to dissolve a campus housing contract and offering a pro-rated refund;
- (ii) rescheduling class work, assignments, and examinations;
- (iii) arranging for the Complainant to withdraw from or take an incomplete in class without penalty;
- (iv) providing academic support services;
- (v) providing alternative course completion options;
- (vi) permitting a temporary withdrawal from the College; and
- (vii) providing counseling services.

Such determination will promptly be communicated to the Complainant (no later than it is communicated to the Respondent) and, to the extent that it affects him or her, 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 interview with the Respondent, the Assigned Title IX Deputy Coordinator will, if applicable, promptly determine the 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(a) and/or Section 6.03(a) above). Such determination will promptly be communicated to the Respondent (no later than it is communicated to the Complainant) and, to the extent that it affects him or her, the Complainant.

Section 6.04 STEP 4: 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 Material Sexual Misconduct, for the purposes of this Policy, has occurred.
- (b) **The Assigned Title IX Deputy Coordinator's Initial Determination.** The Title IX Coordinator will promptly appoint two Investigators. The Assigned Title IX Deputy Coordinator will share their names and contact information with the Complainant and the Respondent, and will forward the Complaint to the Investigators *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.

Within three business days of such appointment, the Investigators, the Complainant, or the Respondent may identify to the Assigned Title IX Deputy Coordinator in writing alleged conflicts of interest posed by assigning such Investigators to the matter. The Assigned Title IX Deputy Coordinator will carefully consider such statements and will assign different individuals as Investigators if it is determined that a

material conflict of interest exists.

In the event that the Complaint was made by a Third-party Reporter, the Assigned Title IX Deputy Coordinator will also consider the following factors in determining whether it is reasonable to assign Investigators to investigate the Complaint:

- (i) The source and nature of the information,
- (ii) The seriousness of the alleged incident,
- (iii) The specificity of the information,
- (iv) The objectivity and credibility of the source of the information,
- (v) Whether the individuals allegedly subjected to the Sexual Misconduct can be identified, and
- (vi) Whether those individuals wish to pursue the matter.

In the event that the Assigned Title IX Deputy Coordinator determines that an investigation of the Complaint is not warranted, he or she 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 and provide a copy of the appeal to the Assigned Title IX Deputy Coordinator within five 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 will make a determination as to whether the Complaint warrants further investigation or the case should be closed and whether any additional or different remedial action is necessary. He or she will notify the Complainant and the Respondent concurrently of his or her decision. The decision of the Title IX Coordinator is final. If the Title IX Coordinator is serving the functions of the Assigned Deputy Title IX Coordinator, this appeal will be forwarded to the Vice President for Student Affairs, who will then make the determination described above.

- (c) **The Investigators' Activities.** Upon receipt of the Complaint, the Investigators will promptly begin their investigation, taking such steps as:
 - (i) 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;
 - (ii) Visiting, inspecting, and taking or reviewing photographs at relevant sites where applicable; and
 - (iii) 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) **The Investigative Report.** The Investigators will complete a 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 "Investigative Report"). The Investigators will share the Investigative Report with the Assigned Title IX Deputy Coordinator. If the matter proceeds to formal resolution 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, after redacting from it information that would not be admissible at a hearing on the matter pursuant to this Policy. Due to the sensitive nature of the information in this report, neither the parties nor their advisors may copy, remove, photograph, print, image, record or in any other manner duplicate or remove the information provided. The Complainant and the Respondent may not make copies of the Investigative Report.

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

(e) The Assigned Title IX Deputy Coordinator's Evaluation of the Investigative Report.

The Assigned Title IX Deputy Coordinator will evaluate the Investigative Report and will direct that the Complaint will proceed to adjudication according to the procedures set forth in Article VII (or Article VIII) below *unless* it is clear from the Investigative Report that no reasonable grounds exist for believing that the conduct at issue constitutes Material Sexual Misconduct.

The Assigned Title IX Deputy Coordinator will specify which allegations and, if applicable, which other, related alleged misconduct, will go forward for resolution under this Policy.

If the Assigned Title IX Deputy Coordinator finds that it is clear from the Investigative Report that no reasonable grounds exist to believe that the conduct at issue constitutes Material Sexual Misconduct, then the Assigned Title IX Deputy Coordinator 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 (providing a copy of the appeal to the Assigned Title IX Deputy Coordinator) within five days of receipt of the notice. The Assigned Title IX Deputy Coordinator will promptly inform the other parties of the appeal. Within approximately 5 days of the receipt of the Complainant's appeal, the Title IX Coordinator will make a determination as to whether the Complaint should proceed to hearing or the closure should stand. The Title IX Coordinator will notify the Complainant and the Respondent concurrently of his or her decision. 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, who will then make the determination described above.

Section 6.05 STEP 5: Determination of Formal Versus Informal Resolution.

At any time before the Hearing Board provides notice of the hearing in accordance with Section 7.02(b)(ii), the Complainant may elect to resolve his or her Complaint through the informal resolution process in accordance with Article VIII of this Policy, provided that (i) the Respondent agrees to such 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 informal resolution is an appropriate mechanism for resolving the Complaint, and (iv) the Complaint does not involve Sexual Assault. Otherwise, a Complaint that is not closed pursuant to the Assigned Title IX Deputy Coordinator's evaluation of the Investigative Report will proceed to formal resolution in accordance with Article VII of this Policy.

ARTICLE VII. FORMAL RESOLUTION

Section 7.01 Respondent's Acknowledgement of Responsibility.

At any time prior to the date of the hearing, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Assigned Title IX Deputy Coordinator, in consultation with the Title IX Coordinator, will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without a hearing and without any further rights of appeal by any party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then a Hearing Board will convene for the exclusive purpose of determining a sanction in accordance with Section 7.02(c)(ii) of this Policy. The sanction(s) determination may be appealed pursuant to Section 7.03(b) of this Policy.

Section 7.02 The Formal Resolution Process.

In the case of a formal resolution, a Hearing Board will conduct a hearing in which it may question the Complainant, the Respondent, and any witnesses or other third parties whose testimony the Hearing Board deems relevant. The gathering of evidence is intended to be conducted primarily during the investigation, and the Hearing Board will restrict their questions to those questions they deem necessary and that they believe are not already answered in the Investigative Report. The Hearing Board may question the Investigators as necessary to clarify information provided in the Investigative Report. The Assigned Title IX Deputy Coordinator and the Title IX Coordinator are not required to attend the hearing but may do so if they deem such attendance appropriate.

(a) The Empaneling of the Hearing Board.

- (i) The Hearing Board.** The Title IX Coordinator, in consultation with the Vice President of Student Affairs (if the Complaint involves students) or with the Director of Human Resources (if the Complaint does not involve students) will appoint the members of the "Hearing Board," to include at least three faculty and/or staff members (the Director of Human Resources will attempt to assign at least 2 faculty members for cases involving only faculty members and at least 2 staff members for cases involving only staff members), of which one will be designated as the Chair. The Assigned Title IX Deputy Coordinator will share the Complaint and the Investigative Report (redacted, if applicable, pursuant to Section 6.04(d)) with the Hearing Board and, if only a portion of the misconduct alleged in the Complaint justifies continuing to the hearing process, the Assigned Title IX Deputy Coordinator will specify which part(s) of the alleged misconduct will be the subject of the hearing.

- (ii) Notice of the Hearing and Composition of the Hearing Board.** Promptly after the appointment of the members of the Hearing Board and no less than five days prior to the hearing, the Assigned Title IX Deputy Coordinator will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time and location of the hearing, as well as the names of the individuals selected to serve on and chair the Hearing Board. If only a portion of the alleged misconduct justifies continuing to the hearing process, the Assigned Title IX Deputy Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the hearing. At this time, the Assigned Title IX Deputy Coordinator will make the Investigative Report available to the parties pursuant to Section 6.04(d), if it has not already been made available.

The parties may challenge the participation of any member of the Hearing Board by

submitting a written objection to the Assigned Title IX Deputy Coordinator within two days of receipt of the notice of the composition of the Hearing Board. 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 of Student Affairs and/or the Director of Human Resources, as appropriate, whether to alter the composition of the Hearing Board. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Hearing Board. Any changes in the composition of the Hearing Board will be provided in writing to both parties prior to the date of the hearing.

(b) Hearing Policies and Procedures.

- (i) Submission of Written Materials by the Parties.** Within two days of receipt of the Notice of Hearing and Composition of the Hearing Board, the Complainant and the Respondent may provide the Assigned Title IX Deputy Coordinator with a list of witnesses, if any, that they propose that the Hearing Board call and a brief description of each proposed witness's connection to and/or knowledge of the issues in dispute. Any witness must have relevant and admissible evidence. The Assigned Title IX Deputy Coordinator will share such information with the Hearing Board. The Hearing Board will determine which, if any, of the witnesses it intends to call.
- (ii) Failure to Appear.** If the Complainant and/or the Respondent fails to appear before the Hearing Board, and such party was provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Board will proceed to determine the resolution of the Complaint.
- (iii) No Contact Prior to the Hearing.** The Complainant and the Respondent may not contact each other outside of the hearing, even to discuss the hearing.
- (iv) Support Persons.** As provided in Section 5.03, both the Complainant and the Respondent may have a support person present to support and assist them during the hearing.
- (v) Evidentiary Matters.** The Complainant and the Respondent will have an equal opportunity to present evidence, if desired. Formal rules of evidence will not be observed during hearings. The College will review evidence submitted by the parties and witnesses to determine what information is appropriate to share with the Hearing Board. The Title IX Coordinator, Assigned Title IX Deputy Coordinator, or the Hearing Board can redact information that is deemed irrelevant, prejudicial, or otherwise inappropriate pursuant to this section.
 - 1)** Any identification of witnesses and evidence the parties wish the Hearing Board to consider should be presented to the investigators as early as possible during the investigation process. If a party wishes to submit evidence in response to the Investigative Report, that evidence must be submitted as soon as possible but not later than two days of receipt of the Notice of Hearing and Composition of the Hearing Board. Any evidence not presented in a timely manner during the investigation or prior to the hearing may be excluded at the discretion of the Title IX Coordinator or Assigned Title IX Deputy Coordinator.

- 2) Evidence of the past sexual histories of the Complainant and the Respondent will not be permitted at the hearing, with the following exceptions:
 - a. evidence is permitted to show that the Complainant has in the past been formally disciplined by the College for falsely filing Complaints alleging Sexual Misconduct,
 - b. 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 Misconduct, and
 - c. evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally charged 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 Misconduct at issue before the Hearing Board, 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 Hearing Board has found both that the evidence is reliable and trustworthy and that the conduct is sufficiently and substantially similar to the conduct at issue before the Hearing Board to suggest a pattern of behavior.
- 3) Character evidence is generally inadmissible.

(vi) **Conduct of the Hearing.**

- 1) **Generally.** The Hearing Board will be responsible for asking any questions to be asked of the parties. Both the Hearing Board and the parties will have the opportunity to question any witnesses. It is anticipated that the evidence will primarily be gathered and developed during the investigation and presented to the Hearing Board in the Investigative Report. The Chair of the Hearing Board will resolve any questions concerning procedure or the admission of evidence or testimony (including the relevancy and reliability of the evidence and testimony). Members of the College community are expected to provide truthful testimony, and any member of the College community providing false information during this process is subject to discipline, pursuant to Section 2.03.
- 2) **Testimony.** The Respondent and/or the Complainant may choose not to testify before the Hearing Board; however, the affirmative exercise of that option will not preclude the Hearing Board from making a determination regarding the Complaint.
- 3) **Closed-Circuit Technology.** Upon timely request, the College may, in its discretion, provide for testimony by closed-circuit technology, telephone or other electronic means in appropriate circumstances.
- 4) **Recording.** The College may record the hearing. This recording will be the property of the College, and copies of the recording will not be available except as required or authorized by law. The Appeals Board may use the recording as part of the appeal process. Reasonable care will be taken to ensure a quality recording. However, technological problems that result in no recording or in an inaudible one will not affect the validity of the

outcome of a hearing. Parties and witnesses are not permitted to record any of the proceedings.

(c) Outcome.

(i) The Decision of the Hearing Board Regarding Responsibility. Following the conclusion of the hearing, the Hearing Board will confer and by majority vote determine whether the evidence (including the information provided in and by the Investigative Report, the evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not¹ that the Respondent committed Material Sexual Misconduct. The Hearing Board will render a finding of “Responsible” or “Not Responsible” and will provide the rationale for its decision. If the Respondent is found “Responsible,” the Hearing Board will specify the specific type(s) of Sexual Misconduct, if any, for which the Respondent is found “Responsible” (for example, Sexual Assault, Stalking, etc.).

(ii) The Decision of the Hearing Panel Regarding Sanctions. If the Hearing Board renders a finding of “Responsible,” it will recommend appropriate sanctions to be imposed on the Respondent.

(1) Generally. Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for Sexual Misconduct, or both. Sanctions include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion² or suspension³ from the College, disciplinary probation, expulsion or suspension from campus housing, mandated counseling, completion of a batterer intervention program, written warning, violence risk assessments, and/or educational sanctions (such as community restitution, reflection paper(s), and/or fines) deemed appropriate by the Hearing Board. The Hearing Board 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. The Hearing Board will forward its recommendations regarding sanctions to the Title IX Coordinator, who will review the recommended sanctions in consultation with the Vice President of Student Affairs (in cases involving student Respondents) or with the Director of Human Resources (in cases involving employee Respondents). These individuals will either adopt the sanctions as recommended or make any changes deemed necessary to ensure the sanctions are appropriate, consistent with those issued in similar cases and are intended to end the misconduct and remedy the effects.

¹ In other words, the standard of proof will be the preponderance of the evidence standard.

² 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, he/she should leave Wofford College campus within 24 hours after receipt of the Final Outcome Letter or any decision by the Appeals Board, whichever is later. An expelled student is not allowed to return to campus without the written permission of the dean of students.

³ 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, athletic teams and other student organizations during this time period. When a student is suspended, he/she should leave the Wofford College campus within 24 hours after receipt of the Final Outcome Letter or any decision by the Appeals Board, whichever is later. A suspended student is not allowed to return to campus without written permission of the dean of students.

(2) As a guide, general recommended ranges of sanctions for individual violations are listed below. However, individual sanctions may be combined to address Material Sexual Misconduct (e.g. a period of suspension from the College may be combined with disciplinary probation and social probation upon return to the College).

Recommended Ranges of Sanctions

Violation	Recommended Range of Sanctions for Students	Recommended Range of Sanctions for Employees
Sexual Harassment	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
Sexual Exploitation	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
Sexual Intimidation, Stalking, Dating Violence, Domestic Violence	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 program
Sexual Assault*	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.

(3) **Implementation of Sanctions.** Sanctions imposed are effective immediately upon issuance of the Final Outcome Letter described below. However, if it is advisable in order to protect the welfare of the Complainant or the College community, the Hearing Board may recommend and/or the Assigned Title IX Deputy Coordinator may determine that any sanctions be effective at any time after the conclusion of the hearing and continue in effect until the issuance of the Final Outcome Letter.

(iii) **Final Outcome Letter.** Within five business days following the conclusion of the hearing, the Assigned Title IX Deputy Coordinator will issue a written decision letter (the "Final Outcome Letter") concurrently to the Respondent and the Complainant.

For employee and third-party Respondents, the Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible or a statement that the Respondent was found not to have violated this Policy, and (3) the sanctions imposed on the Respondent, if any, and (4) the rationale for the finding and the sanctions. Where appropriate, the Final Outcome Letter may set forth names of other individuals, such as a Complainant or witness, if such other individuals provide their written consent to such inclusion.

For student Respondents, the Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible or a statement that the Respondent was found not to have violated this Policy, (3) the rationale for the finding, and (4) the sanctions imposed on the Respondent, if any (setting forth only a description of the disciplinary action taken, the date of its imposition, its duration, and the rationale for such action), and where appropriate, it may set forth names of other individuals, such as a Complainant or witness, if such other individuals provide their written consent to such inclusion. For student respondents alleged to have committed a violation or violations other than Dating Violence or Sexual Assault, the College will redact, when appropriate, information about sanctions that do not directly relate to the Complainant. The Respondent will not be notified of individual remedies provided or offered to the Complainant.

- (iv) **Final Accommodations and Corrective Action.** In addition to any sanctions imposed on the Respondent, promptly following the conclusion of the hearing(s) and the Hearing Board's issuance of a Final Outcome Letter, 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 him or her, 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 school community, and providing Sexual Misconduct or other 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 Sexual Misconduct 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 7.03 Appeals.

The Complainant or the Respondent may appeal the decision of the Hearing Board and/or the sanction imposed on the Respondent within 3 calendar days from the date of the Final Outcome Letter. The decision of the Hearing Board 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 Hearing Board's finding of responsible or not responsible are (a) availability of germane new evidence not available at the time of the hearing(s) that could significantly impact the outcome of the hearing and/or (b) procedural errors that significantly impacted the outcome.
 - (ii)** **Appeals of Sanctions.** The sanctions imposed on the Respondent may be appealed on grounds that the severity of the sanction imposed is incommensurate to the gravity of the Sexual Misconduct for which the Respondent was found responsible.
- (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.
- (c)** The Title IX Coordinator and the Assigned Deputy Title IX Coordinator will review the appeal to determine whether it meets the permissible grounds for appeal.
- (d)** The Title IX Coordinator, in consultation with the Vice President of Student Affairs (if the Complaint involves students) or the Director of Human Resources (if the Complaint does not involve students) will appoint the members of the "Appeals Board," to include at least three trained faculty and/or staff members, of which one will be designated at the Chair. The Assigned Title IX Deputy Coordinator will share the Complaint, the Investigative Report, any audio recordings of the hearing, any written statements or other evidence introduced at the hearing, the written findings of the Hearing Board, and the written appeal with the Appeals Board.
- (e)** Within ten days of the receipt of the appeal (or as soon as is reasonably practicable), the Appeals Board will make a determination by majority vote (a) that the decision of the Hearing Board should stand, or (b) that the decision of the Hearing Board should be overturned.
- (f)** In the event that the Appeals Board determines that the decision of the Hearing Board should be overturned, the Appeals Board will specify, after consultation with the Assigned Title IX Deputy Coordinator, the Title IX Coordinator, and other College administrators, as necessary, the appropriate steps to be taken to come to a final resolution of the Complaint (which may or may not include an additional hearing before a different Hearing Board, or a hearing before the same Hearing Board solely on sanctions). The Assigned Title IX Deputy Coordinator will notify the Complainant and the Respondent of the Appeals Board's decision concurrently and in writing. If another hearing is convened before the Hearing Board for the sole purpose of considering sanctions, the final sanctions set by the Hearing Board and approved by the Title IX Coordinator will not be subject to further appeal.

ARTICLE VIII. INFORMAL RESOLUTION

Informal resolution is only appropriate if (i) the Respondent agrees to such 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 informal resolution is an appropriate mechanism for resolving the Complaint, and (iv) the Complaint does not involve **Sexual Assault**.

Informal 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 informal resolution process for all other claims). If the parties agree to informal resolution (and informal resolution is appropriate for all of the claims at issue), then all of the claims must be resolved according to the informal resolution process.

The Complainant has the right to terminate the informal 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 informal resolution, and proceed with the formal resolution process instead. In such cases, statements or disclosures made by the parties in the course of the informal resolution process may be considered in the subsequent formal resolution proceedings.

Section 8.01 Respondent's Acknowledgement of Responsibility.

At any time prior to the imposition of sanctions, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Assigned Title IX Deputy Coordinator will, in consultation with the Title IX Coordinator, propose sanction(s) for the Respondent. If both the Complainant and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without any further rights of appeal by either party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then a Hearing Board will convene for the exclusive purpose of determining sanctions, which determination may be subject to appeal by either party pursuant to Section 7.03 of this Policy. For purposes of this sanction hearing, all of the other provisions of this Policy relating to the imposition of a sanction for Material Sexual Misconduct shall apply.

Section 8.02 The Informal Resolution Process.

- (a) **The Presiding Officer.** When the Complainant's Complaint is to be resolved according to the informal 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 Informal Resolution.** The Assigned Title IX Deputy Coordinator will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time, and location of the informal resolution (which will generally be no more than ten days, or as soon as reasonably practicable, following the conclusion of the investigation). If only a portion of the alleged misconduct justifies continuing to resolution, the Assigned Title IX Deputy Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the informal resolution process.

Any party may challenge the participation of the Assigned Title IX Deputy Coordinator by submitting a written objection to the Title IX Coordinator within three days of receipt of

the notice of the informal 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 Title IX Deputy Coordinator as the presiding officer. Any substitution of the Title IX Deputy Coordinator serving as the presiding officer will be provided in writing to both parties prior to the date of the informal resolution.

- (c) **No Contact Prior to Informal Resolution.** The Complainant and the Respondent may not contact each other outside of the informal resolution process, even to discuss the process.
- (d) **Attendance.** Both the Complainant and the Respondent are expected to attend the informal resolution. If either party fails to appear at the informal resolution, and such party was provided proper notice of the informal resolution as set forth above, 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 the informal resolution.
- (e) **The Informal Resolution.**
 - (i) **The Parties' Rights.** During the informal resolution process, the parties may:
 - 1) engage one another in the presence of, and facilitated by, the Assigned Title IX Deputy Coordinator;
 - 2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the Assigned Title IX Deputy Coordinator); and/or
 - 3) relay their wishes and expectations regarding the future.
 - (ii) **Support Persons.** As provided in Section 5.03, both the Complainant and the Respondent may have a support person present to support and assist them during the informal resolution process.
 - (iii) **Resolution.** During the informal resolution, the Assigned Title IX Deputy Coordinator will attempt to facilitate the parties' resolution of the Complaint. If this process results in a resolution between the parties and the Assigned Title IX Deputy Coordinator and the Title IX Coordinator find the resolution to be appropriate under the circumstances (giving consideration to the extent to which the resolution will protect the safety of the Complainant and the entire school community), the informal disciplinary procedure will be concluded and the Complaint will be closed. If the parties are unable to reach a resolution, the formal resolution process outlined in Article VII of this Policy will promptly commence.

For the avoidance of doubt, a resolution that is reached pursuant to this Section 8.02 will not be included in a student Respondent's student conduct record or in an employee's personnel record, unless the inclusion of such information is agreed to as part of the informal resolution of the matter.

EXHIBIT A

Wofford College Sexual Misconduct Policy

Suggested Actions for Victims of Sexual Assault

While all types of Sexual Misconduct are inappropriate and taken seriously by the College, actions involving **Sexual Assault** (as defined in Exhibit B) 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 can also 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 perform 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 should also 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 sort through 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 can also 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 strictly confidential 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.

Important Contact Information

College 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, Wednesday, and Friday (8:30 a.m. until 5:00 p.m.) by phone at 864-597-4046 or in person in the Campus Life Building. She can also be contacted by email at 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 can also contact the staff member on call.

Medical Services 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. until 5:00 p.m. Monday through Friday during the academic term.

The **Division of 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. until 5:00 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. until 5:00 p.m. Monday through Friday.

Counseling Services 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. until 5:00 p.m. Monday through Friday.

Important Contact Information

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.

EMS can be reached at 911.

Safe Homes Rape Crisis 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 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.

EXHIBIT B

Wofford College Sexual Misconduct Policy

Definitions

- (a) **Appeals Board.** “Appeals Board” is defined in Section 7.03(a)(ii). All members of the Appeals Board will receive regular professional training in hearing practices and procedures. More specifically, the members of the Appeals Board will receive annual training on (1) issues related to **Dating Violence, Domestic Violence, Sexual Assault**, and Stalking, and (2) how to conduct a hearing process that protects the safety of victims and promotes accountability.
- (b) **Assigned Title IX Deputy Coordinator.** The “Assigned Deputy Title IX 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 alleged victim of Sexual Misconduct who files a Complaint or on whose behalf a Complaint is filed.
- (e) **Complaint.** A “Complaint” is an allegation of Sexual Misconduct asserted against another party and initiated pursuant to Section 6.01.
- (f) **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:

- (i) Silence, passivity, or lack of resistance alone;
- (ii) A current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else);
- (iii) Attire;
- (iv) The buying of dinner or the spending of money on a date; or
- (v) 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.

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Consent may never be given by:

- (1) Minors, even if the other participant did not know the minor's age.
- (2) Mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled.
- (3) 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 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.

(g) 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.

(h) Day. A "day" is a business day, unless otherwise specified.

(i) Title IX Deputy Coordinator(s). The College's "Title IX Deputy Coordinators" are:

(i) Chee Lee, Director of Human Resources. Ms. Lee may be reached by telephone at 864.597.4230, by email at leecj@wofford.edu, or in person in the Snyder House.

(ii) Matt Hammett, Assistant Dean of Students for Student Involvement. Dean Hammett can be reached at telephone 864.597.4048, by email at hammettmk@wofford.edu, or in person in Office #15 of the Campus Life Building.

(iii) Demario Watts, Assistant Dean of Students for Diversity and Leadership Development. Mr. Watts may be reached by telephone at 864.597.4066, by email at wattsdl@wofford.edu, or in person on the 2nd floor of the Campus Life Building. 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 his or her 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 to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct a resolution process that protects the safety of victims and promotes accountability.

(j) 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,

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- (iv) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of South Carolina, or
- (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.
- (k) **Education Record.** "Education Record" has the meaning assigned to it under FERPA.
- (l) **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.
- (m) **Final Outcome Letter.** "Final Outcome Letter" is defined in Section 7.02(c)(iii).
- (n) **Hearing Board.** "Hearing Board" is defined in Section 7.02(a)(i). All members of the Hearing Board will receive regular professional training in hearing practices and procedures. More specifically, the members of the Hearing Board will receive annual training on (1) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (2) how to conduct a hearing process that protects the safety of victims and promotes accountability.
- (o) **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.
- (p) **Investigative Report.** "Investigative Report" is defined in Section 6.04(d).
- (q) **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, (2) issues related to Dating Violence, Domestic Violence, Sexual Assault, and Stalking, and (3) how to conduct an investigation that protects the safety of victims and promotes accountability.
- (r) **Material Sexual Misconduct.** "Material Sexual Misconduct" is Sexual 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 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.
- (s) **Personally Identifiable Information.** "Personally Identifiable Information" (as that term is defined by FERPA) includes, but is not limited to:
 - (i) a student's name;
 - (ii) the name of a student's parent(s) or other family members;
 - (iii) the address of a student or a student's family;

- (iv) a personal identifier, such as a student's social security number, student number, or biometric record;
- (v) other indirect identifiers, such as a student's date of birth, place of birth, or mother's maiden name;
- (vi) 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
- (vii) information requested by a person whom the College reasonably believes knows the identity of the student to whom the Education Record relates.
- (t) **Rape.** "Rape" is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.
- (u) **Respondent.** A "Respondent" is an individual who has been accused in a Complaint of committing Sexual Misconduct.
- (v) **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 Misconduct of which he or she becomes aware. Strictly Confidential Resources are not Responsible Employees.

The following individuals are the College's Responsible Employees:

- (i) All Vice Presidents, Assistant Vice Presidents, Associate Vice Presidents, Provosts, Deans Department Chairs, Directors, and Coaches;
- (ii) All Title IX Deputy Coordinators;
- (iii) All Human Resources staff;
- (iv) All Student Affairs staff (including, for purposes of clarity, Resident Assistants and First Year Advisors (FRADs));
- (v) All employees serving in a supervisory or management role (including, for purposes of clarity, all employees who supervise activities or programs that involve direct contact with students, such as advisors to recognized student organizations);
- (vi) All members of the faculty; and
- (vii) All Wofford College Campus Safety Officers and contracted security personnel.
- (w) **Retaliation.** "Retaliation" means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, 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 Sexual Misconduct. Retaliatory behavior is not limited to behavior by the accused individual and covers behaviors by his or her associates, as well as third parties. Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct.
- (x) **Sexual Assault.** "Sexual Assault" means any actual, attempted, or threatened sexual act with another person without that person's Consent. By way of example and not limitation, Sexual Assault includes:

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- (i) Fondling (the touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances in which the victim is incapable of giving Consent because of his or her age or because he or she is temporarily or permanently Incapacitated),
 - (ii) Incest (sexual intercourse between persons who are related to each other within degrees wherein marriage is prohibited by South Carolina law),
 - (iii) Statutory Rape (sexual intercourse with an individual under the statutory age of consent, as defined by South Carolina law), and
 - (iv) Rape.
- (y) **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:
- (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.
- (z) **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:
 - (1) pressuring an individual to engage in sexual behavior for some educational or employment benefit, or
 - (2) 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:
 - (1) one or more instances of Sexual Assault;

- (2) persistent unwelcome efforts to develop a romantic or sexual relationship;
- (3) unwelcome sexual advances or requests for sexual favors;
- (4) unwelcome commentary about an individual's body or sexual activities;
- (5) repeated and unwelcome sexually-oriented teasing, joking, or flirting; and
- (6) verbal abuse of a sexual nature.

Sexual Harassment also includes acts of intimidation, bullying, aggression or hostility based on gender or gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

(aa) Sexual Intimidation. “Sexual Intimidation” includes but is not limited to:

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

(bb) Sexual Misconduct. “Sexual Misconduct” means any unwelcome conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women, and it can occur between people of the same or different sex. The College encourages reporting of all Sexual Misconduct. Sexual Misconduct includes but is not limited to:

- (i) Dating Violence;
- (ii) Domestic Violence;
- (iii) Sexual Assault;
- (iv) Sexual Exploitation;
- (v) Sexual Harassment;
- (vi) Sexual Intimidation; and
- (vii) Stalking.

(cc) Stalking. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her 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.

(dd) Strictly Confidential Resource. “Strictly Confidential Resource” is defined in Section 3.01(a).

- (ee) **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 Misconduct.
- (ff) **Title IX Coordinator.** The College’s “Title IX Coordinator” is Ms. Amanda Estabrook. Ms. 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. 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 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 Misconduct. All allegations involving Sexual 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 resolution process that protects the safety of victims and promotes accountability

EXHIBIT C

Wofford College Sexual Misconduct Policy

SEXUAL MISCONDUCT COMPLAINT FORM

Today's date: _____

Information Regarding the Complainant:

Name of the Complainant: _____

The Complainant is (please check one): [] a faculty member [] a student (current /former)
[] a staff member [] not affiliated with the College

For faculty, staff, & students, indicate whether [] current or [] former

Information Regarding the Respondent:

Name of the Respondent: _____

The Respondent is (please check one): [] a faculty member [] a student (current /former)
[] a staff member [] not affiliated with the College

For faculty, staff, & students, indicate whether [] current or [] former

Information Regarding the Alleged Sexual Misconduct:

When did this occur? Time and date: _____

Where did this happen?

[] on campus: _____
[] off campus: _____

Witnesses or third parties who may have information regarding the alleged Sexual Misconduct:

Please provide a brief description of the alleged Sexual Misconduct:

You may wish to consider including, among other things, some or all the following information in your description: the gender of the parties, the relationship between the parties, whether one or more of the parties were under the influence of alcohol or drugs at the time of the alleged Sexual Misconduct, whether the Respondent used pressure or force (physical or otherwise) in the course of the alleged Sexual Misconduct, and the frequency (if applicable) of the alleged Sexual Misconduct.

Please feel free to use the reverse side of this form or separate pages to continue your description, if desired.

Signature of the Complainant:

Sexual assault is never the fault of the victim. The Counselors at the Wellness Center can assist you in working through emotions and in beginning the recovery process. The Title IX Coordinator can provide accommodations and information about your options.

[Type here]

EXHIBIT D

**Wofford College
Sexual Misconduct Policy**

SEXUAL MISCONDUCT EDUCATION

at
Wofford College

| OUTREACH & PREVENTION |

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

| TRAINING |

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

- Title IX Coordinator & Title IX Deputy Coordinators
- Investigators
- Members of the Hearing Board & the Appeals Board
- Employees
- Students
- Campus Safety Officers

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

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