



AGNES
SCOTT
COLLEGE



Gender-Based Discrimination,
Harassment and Sexual
Misconduct Policy (Title IX)

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Introduction

Agnes Scott College is committed to providing a healthy learning and work environment that is safe and characterized by mutual trust and respect for all members of our community. This commitment, as well as the College's obligations under federal law, means that the College will not tolerate discrimination against or harassment of any individual or group based upon race, color, national origin, religion, sex, sexual orientation, gender identity, gender expression, age, disability or veteran status or any other prohibited factor under law.

Pursuant to this Gender-Based Discrimination, Harassment and Sexual Misconduct Policy ("Sexual Misconduct Policy"), Agnes Scott College prohibits and will act to prevent, address, and eliminate all forms of gender-based and sexual discrimination, harassment, violence and bullying.¹ 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 provide resources to promote awareness, literacy and prevention of sexual violence and harassment; as well as support to members of our community who experience, encounter, and/or witness behavior that violates this Sexual Misconduct policy and the ethics of our institution. To foster this discrimination-free environment, the institution has appointed a Title IX Coordinator and Deputy Title IX Coordinators who will work with a trained team to ensure that all students, faculty, staff, and guests are not subjected to sexual misconduct. The Title IX Coordinator oversees compliance with all aspects of this policy.

Sexual misconduct by any faculty member, staff member, student, student organization or a third party who is a participant in a College-sponsored program, event, or activity, is a violation of both state and federal law as well as College policy and will not be tolerated by Agnes Scott College. Sexual misconduct is broadly defined by the College on page 6 of this policy. Sexual misconduct can occur between strangers or acquaintances, including people who have been 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. It is not possible for a person to give consent if incapacitated by drugs, alcohol, or other physical or mental impairment; or if they have been threatened or coerced into giving consent; or if the person is under the age of 16. Contact of any sexual nature without affirmative consent is a violation of this policy.

Title IX of the Education Amendments of 1972 protects people from discrimination based on sex, including sexual harassment and sexual violence, in education programs or activities which receive Federal financial assistance. Agnes Scott College has jurisdiction over complaints pursuant to Title IX or this policy. Sexual misconduct that might not be held to violate this statute (or Title VII of the Civil Rights Act of 1964) may nonetheless be considered sexual misconduct under Agnes Scott Policies and the College condemns and prohibits such conduct even if such conduct would not be adjudged illegal under Federal law.

¹Hereinafter, the policy will refer to sexual misconduct to include all harassment, discrimination, bullying and violence based upon gender, gender identity, sex and sexual orientation. The term sexual misconduct additionally will specifically encompass the crimes of dating violence, domestic violence, sexual assault and bullying.

Members of the community who believe they have been subjected to sexual misconduct are strongly encouraged to report these incidents. Third-party and anonymous reports are also welcome. The report of sexual misconduct may be verbal or in writing. Once a report is received, the Title IX Coordinator or Deputy Title IX Coordinator for Faculty/Staff will act promptly and equitably to ensure the safety and wellness of the potential victim as well as the Agnes Scott community. **A list of on-campus and local resources available to victims of sexual misconduct can be found in [Appendix A](#).**

Academic freedom respected: The College is committed to academic freedom as stated in Section III of the Faculty Handbook, Statement on Academic Freedom and Responsibility; and any complaints of sexual misconduct will be evaluated consistently with this policy. The College's sex/gender harassment, discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of germane academic material. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern. Material germane to a course may sometimes offend or disturb; however, intimidation and harassment are inconsistent with the maintenance of academic freedom on campus and violate the ethical and professional responsibilities of faculty members to avoid any exploitation of students for private advantage.

Retaliation: The College strictly prohibits retaliation of any kind against any member of the Agnes Scott College community. The College will take action to protect anyone who submits a report ("Reporting Party"), complaint ("Complainant" and can also be referred to as the Reporting Party) or any investigation participant from retaliation in any form. Harassment, intimidation, shunning, threats, or coercion or in the form of any materially adverse harm that would dissuade a reasonable student, faculty or employee from filing a sexual misconduct complaint or participating in a sexual misconduct investigation is strictly prohibited. Any person who feels they have been subjected to retaliation should make a report to the Title IX Coordinator or any Deputy Title IX Coordinator.

Applicability. This policy applies to the entire college. It applies to sexual harassment, discrimination and violence (defined pursuant to this policy as sexual misconduct) committed or experienced by students, faculty, staff or employees that occurs in connection with all academic, educational, extracurricular, athletic, and other programs of Agnes Scott College, whether the programs take place in College facilities, at a program sponsored by the College at another location, or elsewhere.

If the College determines following an investigation that proceedings or sanctions are required for faculty or employees, the [Agnes Scott Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol](#) will govern. All investigations, proceedings and/or sanctions for students are governed herein. This policy is intended to contain all pre-hearing common procedures for all students, faculty and employees.

Questions, reports or concerns should be communicated to T9Coordinator@agnesscott.edu or:

Title IX Coordinator

Marti Fessenden
Special Counsel to the President
mfessenden@agnesscott.edu
(404) 471-6547, Hopkins Hall 207

Deputy Title IX Coordinator for Faculty/Staff

Karen Gilbert
Associate Vice President for Human Resources
kgilbert@agnesscott.edu
(404) 471-6435, Hopkins Hall 214

Deputy Title IX Coordinator for Students

Karen Goff
VP for Student Life and Dean of Students
kgoff@agnesscott.edu
(404) 471-6449
Main 100

You may also contact (within 180 days):

Department of Education

Office of Civil Rights
Lyndon Baines Johnson Department of Education
Building
400 Maryland Avenue, S.W.,
Washington, D.C. 20202-1100
www.ed.gov or email to OCR@ed.gov

Statement of Privacy and Confidentiality

Agnes Scott College strives to respect an individual's request for confidentiality when reporting sexual misconduct. The College will take all reasonable steps to investigate and respond to a complaint in a manner that is consistent with the Complainant's request for confidentiality or request not to pursue an investigation. Individuals should be aware however, that requests for confidentiality may limit the College's ability to investigate the report.

In some cases, confidentiality is not possible or appropriate. The College has the responsibility to balance the request for confidentiality with our institutional responsibility of ensuring a safe educational environment and workplace. The College's obligation to conduct an investigation into a potential violation of this policy in these instances is not a criminal process. When appropriate, a Complainant's request for confidentiality of a report of sexual misconduct will be considered in determining an appropriate response. Some examples of factors the College will consider when making this assessment include: the seriousness and/or frequency of the alleged sexual misconduct, whether the Complainant is a minor, and whether there have been other sexual misconduct complaints about the same individual.

If the College determines that it cannot maintain the Complainant's confidentiality, the College will inform the Complainant and will, to the extent possible, only share information with people responsible for handling the College's response. At all times, the College will endeavor to protect the Complainant's **privacy** by sharing the information only with College personnel **who need to know**. If a report of sexual misconduct triggers the College's obligation to issue a timely safety warning to the Agnes Scott community, the privacy of the Complainant will be respected and the Complainant's identity will not be disclosed in conjunction with the safety warning.

Agnes Scott College staff within offices that hold legally-designated confidentiality, such as Counseling and Psychological Services, the College Chaplain, or Health Services (“Confidential Resources”) will not have an obligation to disclose facts about a complaint when a Complaint requests confidentiality, except as otherwise required by law. *The College strongly urges members of the Agnes Scott community to utilize these Confidential Resources rather than seeking no support out of confidentiality concerns.* Unless the Complainant gives consent for disclosure of their identity or any information provided to professionals within the Confidential Resources, no disclosure will be made except in instances potentially required by law such as an ongoing threat or court order. Because content of discussions with Confidential Resources noted above are not reported, such discussions do not serve as notice to the College to address the alleged discrimination or sexual misconduct.

All employees of the College are required to report instances of sexual misconduct (“Mandatory Reporters”) that they witness or that are reported to them except the following:

- **Confidential Resources**
- **Non-management unionized staff** (Union staff includes all non-management dining service personnel and all non-management facilities personnel)

Educational Programs

Agnes Scott College provides education and training to students and employees to prevent and remedy sexual misconduct. Educational opportunities to participate in ongoing prevention and awareness campaigns are provided to all Agnes Scott community members annually and throughout each academic year. Sexual misconduct risk reduction is central to the College’s education efforts. **A summary of some risk reduction tips can be found in [Appendix B](#).**

Policy Definitions

Sexual misconduct is the overarching term Agnes Scott College uses to identify conduct by individuals, groups, or organizations that is prohibited by Title IX. Sexual misconduct as defined by this policy may also be a crime under federal and/or Georgia law. The College recognizes that anyone can be a victim or offender regardless of sex, gender, or gender identification. This policy, and the related [Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol](#), is utilized by Agnes Scott College to comply with Title IX and to respond promptly, thoroughly and equitably to reports of potential sexual misconduct, including sexual violence.

Allegation: A statement by a Complainant or Reporter that sexual misconduct has occurred.

Business Day: A Business Day is any day of the week other than a Saturday, Sunday, or legal holiday observed by the College.

Bullying: Unwanted aggressive behavior that involves a real or perceived power imbalance that is repeated, or has the potential to be repeated, over time.

Coercion: Unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in sexual behavior, or that they do not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive.

Complainant: The person making an allegation or complaint of sexual misconduct. This person may also be referred to as a Reporting Party if they are the only reporter of the allegations about sexual misconduct directed at themselves.

Complaint: A report of sexual misconduct made to Agnes Scott College. Report and complaint are often used interchangeably in this policy.

Consent: The presence of consent involves explicit communication and mutual approval for the act in which the parties are/were involved.

- A sexual encounter is considered consensual when individuals willingly and knowingly engage in sexual activity.
- Consent cannot be procured by the use of physical force, compelling threats, intimidating behavior, or coercion.
- The use of coercion can involve the use of pressure, manipulation, substances, and/or force. Ignoring the objections of another person or pressuring them is a form of coercion.
- Knowingly engaging in sexual activity with someone who is incapacitated (by alcohol or drug use, unconsciousness or other forms of helplessness) does not constitute consent and is a violation of policy. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand their decision. Incapacity can result from a person's disability, involuntary physical constraint, sleep, or alcohol and other drugs.
- This policy also covers a person whose incapacity to give consent results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of "rape drugs." Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga or similar drugs is prohibited by the College and administering one of these drugs to another student is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org>.
- Previous relationships or consent for sexual activity cannot imply consent to subsequent sexual activity. Consent to one form of activity does not imply consent to other forms of sexual activity.
- Silence cannot be interpreted as consent.
- Affirmative consent is required under this policy. **See more helpful information about consent in [Appendix C](#).**

Cyber-stalking: A particular form of stalking and/or bullying in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcomed contact with another person in an unsolicited fashion. Some examples of cyber-stalking include, but are not limited to, unwelcomed/unsolicited emails, instant messages, and messages or posts on on-line bulletin boards or social media sites. It also includes, but is not limited to, unsolicited communications about a person, their family, friends, or co-workers, or sending/posting unwelcomed and unsolicited messages with another username. Agnes Scott College considers cyber-stalking to be a form of prohibited stalking as defined below.

Domestic Violence: Asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly-situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Dating Violence: Means violence by a person who is or has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

Force: The use of physical violence and/or imposing on someone physically to gain sexual access. Force can also include threats, intimidation (implied threats), and coercion that are used to overcome resistance.

Hostile environment caused by sexual harassment: Harassing conduct that is sufficiently severe or pervasive to deny or limit the ability for a student to participate in or benefit from the college's programs or activities based on sex.

Intimate Partner Violence (IPV): Physical, sexual, or psychological harm by a current or former partner (or spouse). This type of violence can occur between heterosexual or same-sex couples whether cohabitating or not, and does not require sexual intimacy. IPV can vary in frequency and severity and can include acts of physical violence, sexual violence, threats of violence, or psychological or emotional violence. Psychological or emotional violence is a broad term that results in trauma to a victim caused by acts, threats of acts, or coercive tactics, and can include acts of humiliation, intimidation, isolation, stalking, and harassment. *The term IPV can be used interchangeably or to include Dating Violence and Domestic Violence.*

Non-Consensual Sexual Contact: Having or attempting to have contact of a sexual nature with another person without consent and/or by force. Sexual contact can include, but is not limited to, touching or kissing another individual.

Notice: Notice given to any party or individual pursuant to this policy shall be by electronic means. Unless agreed upon by the College, and acknowledged by the recipient, all electronic communications and notices will be sent to students, faculty and employees at their Agnes Scott College email address. Electronic notice will be deemed received on the same date sent. In-person notice is not precluded by this policy but not required.

Parties: A term referring collectively to the Complainant and Respondent.

Reporter: The person reporting an allegation or a complaint of sexual misconduct suffered by someone other than themselves.

Respondent: The person against whom an allegation or complaint of sexual misconduct has been made. A Respondent may also be referred to as a Responding Party.

Retaliation: To take an adverse action against someone because that person has made a report or participated in an investigation or disciplinary proceeding under this policy.

Sexual Assault: Any involuntary sexual act in which a person is coerced or physically forced to

engage against their will, any non-consensual sexual contact of a person, or non-consensual sexual intercourse.

Sexual Exploitation: An act or acts attempted or committed by a person for sexual gratification, financial gain, or advancement through the abuse or exploitation of another person's sexuality. Examples include observing individuals without consent, non-consensual audio or videotaping of sexual activity, unauthorized presentation of recordings of a sexual nature, prostituting another person, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmittable infection or virus without his or her knowledge.

Sexual Harassment: Unwelcome verbal or physical conduct (whether of a sexual nature or not) that is directed at individuals on the basis of their gender, or that demeans persons because of their gender, constitutes sexual harassment when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic treatment or status in a course or other college activity. This includes when: (1) Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting that individual's employment, academic status, or participation in any college activity; or (2) Such conduct significantly interferes with an individual's work performance or academic performance or with an individual's ability to participate in or benefit from any college activity.

Sexual harassment may occur in a single egregious instance or may be the cumulative result of a series of incidents and may include, but is not limited to, acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, sexual orientation, or gender presentation, even if those acts do not involve conduct of a sexual nature, as prohibited by Title IX. Although sexual harassment most frequently occurs when there is an authority differential between the persons involved (e.g. faculty member and student, supervisor and staff member), it may also occur between persons of the same status (e.g. faculty and faculty, student and student, staff and staff). Both men and women may be victims of sexual harassment and sexual harassment may occur between individuals of the same gender.

Examples of Sexual Harassment

Sexual harassment may create a hostile, demeaning or intimidating environment. It can be verbal and/or physical actions, including gestures and other symbolic conduct. Sexual harassment can also be subtle. Previously welcomed advances may become unwelcome.

Examples of sexual harassment may include, but are not limited to, the following:

- repeated unwanted comments of a sexual nature;
- repeated unwanted touching or brushing against a person;
- non-sexual slurs about one's gender;
- leering or staring at another's body;
- contrived work or study assignments and assigning more onerous or unpleasant tasks predominately to employees or students of one gender or aimed at demanding excessive intimate interaction or contact unnecessary to work or academic assignments;
- use of sexual jokes, graffiti, images, objects, comments, emails or other communications
- repeated inappropriate social invitations or requests for sexual favors;

Sexual Misconduct: Sexual misconduct encompasses sexual harassment, non-consensual sexual contact (or attempts at such contact); non-consensual sexual intercourse (or attempts at such intercourse), and sexual exploitation. All gender-based discrimination, harassment and violence prohibited by Title IX is defined as sexual misconduct under this policy. Examples of specific crimes that constitute sexual misconduct pursuant to this policy include rape; sexual assault; domestic, dating or intimate partner violence; bullying; and stalking. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by persons of any gender or sex, and it can occur between people of the same or different sex. **Some example scenarios of sexual misconduct can be found in [Appendix D](#).**

Stalking: Under Georgia law, “[a] person commits the offense of stalking when he or she follows, places under surveillance, or contacts another person at or about a place or places without the consent of the other person for the purpose of harassing and intimidating the other person.” O.C.G.A. § 16-5-90. Agnes Scott College further defines stalking as a course (more than once) of non-consensual conduct directed toward another person that could be reasonably regarded as likely to alarm, harass, or cause reasonable fear of harm or injury in that person, or in a third party, such as a roommate or friend. The feared harm or injury may be to physical, emotional, or mental health, to personal safety, to property, to education, or to employment. Stalking may include, but is not limited to, unwelcomed and repeated visual or physical proximity to a person, repeatedly conveying oral or written threats, extorting money or valuables, implicitly threatening physical conduct, or any combination of these behaviors directed at or toward a person. Stalking includes cyber-stalking as defined herein.

Student: Any student enrolled at Agnes Scott College at the time of the alleged sexual misconduct. For the purposes of this policy, student status begins when a student has accepted an offer for admission to the College and ends when the student has graduated, withdrawn, been expelled, or otherwise separated permanently from the College.

If an individual wishes to pursue criminal charges for rape, stalking or other sexual offenses in the State of Georgia, some of the above definitions may be useful for both the individual and the professionals involved in the Sexual Misconduct protocol or investigation. However, Agnes Scott College defines sexual misconduct beyond and in some cases more broadly than Georgia law. The Agnes Scott College Sexual Misconduct policy and procedures operate independently (but cooperatively as required) of the criminal justice system. **If you have experienced sexual misconduct, you should report it to officials of Agnes Scott College, to law enforcement, or to both.**

The Role of Alcohol and Other Drugs in Sexual Misconduct

The use of alcohol and other drugs can have unintended consequences. Alcohol and other drugs can lower inhibitions and can create an atmosphere of confusion about whether consent is freely and affirmatively given. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of alcohol and other drugs on another person’s ability to give consent. The use of alcohol and other drugs never makes someone at fault for being sexually assaulted. See Agnes Scott College’s [Drug and Alcohol Use Policy](#).

Filing a Sexual Misconduct Report

File Sexual Misconduct Report Here:

<https://report.myredflag.com/reporter/login/client/asc-titleix>

Agnes Scott College encourages all individuals to report any incident of sexual misconduct. **You may file a report to T9Coordinator@agnesscott.edu, or communicate to any of the individuals identified below.** The College cannot take appropriate action unless a Mandatory Reporter of the College is informed of the allegation. Any individual may report incidents of sexual misconduct on a confidential/anonymous or non-confidential basis. However, the College's ability to respond effectively may be limited by an anonymous report or a Reporter's request for confidentiality.

A complaint or report of sexual misconduct may be made directly to the Title IX Coordinator or the Deputy Title IX Coordinators. A complaint or report may also be made to any faculty member, Student Life staff, professional staff or college official at Agnes Scott College who will promptly inform the Title IX Coordinator or Deputy Title IX Coordinators.

All reports of sexual misconduct of any kind will be taken seriously and each Complainant will be treated with dignity, respect, and in a non-judgmental manner. Similarly, an individual accused of sexual misconduct, referred to as a Respondent for the purposes of this policy, can expect to be treated fairly and respectfully. *Anyone who knowingly makes false accusations will be subject to appropriate disciplinary action consistent with College policies and procedures.*

All reports of sexual misconduct will be handled as privately as possible (not necessarily confidentially) consistent with the College's responsibility to investigate reports and provide an environment free from sexual misconduct.

Emergency Reporting Options

The first priority for anyone suffering sexual misconduct should be personal safety and well-being. Agnes Scott College encourages all individuals to seek assistance from 911, campus or local law enforcement, and/or a medical facility immediately after an incident of sexual misconduct. This is the best option to preserve evidence and preserves the subsequent options available to a victim.

The College will help any Agnes Scott community member get to a safe place and coordinate with law enforcement about on-and off-campus resources as well as options available for investigation and resolution. Agnes Scott Title IX coordinators, Public Safety and other College officials are trained in issues related to sexual misconduct and work cooperatively to prevent, address and remedy sexual misconduct. The college also urges those who have experienced sexual misconduct to preserve any evidence that might be helpful to explain the misconduct such as waiting to wash, bathe, brush your teeth/hair or change clothes until speaking with officials.

Where to Make a Report in the Event of an Emergency

Any of the Following:

Decatur/ Georgia Police Department:
Dial 911
Agnes Scott Department of Public Safety:
404-471-6400
Agnes Scott Wellness Center:
404-471-7100

Other 24-Hour Resources

Day League (DeKalb Rape Crisis Center):
404-377-1428
Grady Rape Crisis Center:
404-616-4861

Report of Sexual Misconduct for Action by Agnes Scott College

All members of the Agnes Scott community are encouraged to promptly report incidents of sexual misconduct. No one should assume that a representative of the College is already aware of any given instance of alleged sexual misconduct. Every College faculty member, Student Life staff member, professional staff and college official who is informed about an allegation of sexual misconduct is required to promptly notify the Title IX Coordinator or Deputy Title IX Coordinators either directly or through their relevant reporting structure. However, College employees who serve in a professional role in which communications are afforded confidentiality under the law (e.g., medical providers, therapists, and professional and pastoral counselors) are not bound by this requirement but may, consistent with their ethical and legal obligations, be required to report limited information about incidents without revealing the identities of the individuals involved, to the Title IX Coordinator.

You may report – verbally or in writing – to any of the following campus officials:

Title IX Coordinator
Marti Fessenden
Special Counsel to the President
mfessenden@agnesscott.edu
or, T9Coordinator@agnesscott.edu
(404) 471-6547, Hopkins Hall 207
Office of the President

Deputy Title IX Coordinator for Faculty/Staff
Karen Gilbert
Associate Vice President for Human Resources
kgilbert@agnesscott.edu
(404) 471-6435, Hopkins Hall 214
Office of Human Resources

Deputy Title IX Coordinator for Students
Karen Goff
VP for Student Life and Dean of Students
kgoff@agnesscott.edu
(404) 471-6449, Main 100
Dean of Students

You are encouraged to report sexual misconduct promptly as a substantial delay in reporting may limit the College's ability to respond effectively.

Individuals also can communicate directly with the Title IX Coordinator or the Deputy Title IX Coordinator for Faculty/Staff or the following departments and offices can be contacted to support students concerning any incidents of sexual misconduct:

Students	Faculty and Staff	Third Party Visitors
<ul style="list-style-type: none"> · Public Safety · Residence Life · Health Services · Counseling and Psychological Services (CAPS) · Dean of Students · Academic Advising 	<ul style="list-style-type: none"> · Human Resources · Public Safety · Dean of Students · Dean of the College 	<ul style="list-style-type: none"> · Public Safety · Dean of Students · Dean of the College

Once the Title IX Coordinator or a Deputy Title IX Coordinator is notified of a sexual misconduct report they will begin an initial inquiry with due diligence. Reports and complaints of sexual misconduct should be initiated as soon as possible after the incident(s) occurs in order to aid effective investigation. All reports and complaints will be promptly, thoroughly and impartially investigated and appropriate action will be taken to remedy the problem as expeditiously as possible. In most cases, the investigation will be completed, including any formal proceedings that occur, within 60 calendar days from the time a formal report is initiated. On rare occasions – such as unusual case complexities, parallel criminal proceedings, parties’ or material witnesses’ absence from campus or unforeseen circumstances – a longer length of time may be required.

The College will make every reasonable effort to protect the rights of both Complainants and Respondents. Investigations and procedures undertaken pursuant to this policy are not criminal proceedings but rather institutional disciplinary in nature.

Investigation and Adjudication Procedures

The Title IX Coordinator and/or Title IX Deputy Coordinator for Students will ensure prompt, fair, and impartial investigations and resolutions of complaints alleging violations of this policy. The investigation and adjudication procedures will be conducted by College officials or designees who are trained in investigations including issues related to sexual assault, dating and domestic violence and stalking. No College official with a conflict of interest may take part in any part of the resolution process. The investigation and adjudication proceeding will be conducted in a manner that seeks to protect the safety of victim and promote accountability. Any member of the College community who is found to have engaged in sexual misconduct is subject to disciplinary action up to and including expulsion or dismissal in accordance with this policy and any other applicable College protocol.

Advisors. The Complainant and Respondent may each be assisted by an advisor of choice during any investigative meeting, pre-hearing conference and/or at any time following the filing of a complaint. The advisor may be a mentor, family member, friend, attorney or any other supporter so long as they are not in any way involved in the resolution process, such as serving as a witness. The role of the advisor is to serve as a support for the Complainant or Respondent

and not to serve as a representative or advocate in interactions with College officials. The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. An advisor may not make a presentation or represent the Complainant or the Respondent during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process.

Alcohol or Drug Use. The College's focus during the investigation will be to promptly and effectively address the reported sexual misconduct and not other issues such as violations of the alcohol or drug policy. Agnes Scott College encourages reporting of known or potential sexual misconduct and seeks to remove any barriers to reporting. A person who reports sexual misconduct, either as a Complainant or a third party, will not be subject to disciplinary action for consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not put others at risk.

If a Complainant believes they have suffered sexual misconduct that violates this policy and/or federal or state laws, their options include:

- Invoking both the College's Sexual Misconduct Policy hearing process and the criminal justice system;
- Invoking the criminal justice system but not the College's Sexual Misconduct Policy hearing process;
- Invoking the College's Sexual Misconduct Policy hearing process but not the criminal justice system; and
- Voluntary informal resolution;

A Complainant may also request not to pursue informal or formal resolution through the College hearing process or through the criminal justice system. If such a request is made, the College may nonetheless be obligated to pursue institutional resolution pursuant to its Title IX obligation.

Initial Inquiry

Following a report of sexual misconduct, the College will, as soon as practicable, conduct an initial inquiry. The initial inquiry will include an explanation of resources and reporting options and processes available to the Complainant as well as an effort to interview the Complainant or person who reported the sexual misconduct ("Reporter"). The initial inquiry will gather further information about the incident in an effort to promptly ensure the well-being of the individuals involved. Following the initial inquiry, the Title IX Coordinator or Deputy Title IX Coordinator for Faculty/Staff will determine if there is reasonable cause to believe this policy may have been violated, thereby triggering further investigation.

Informal Resolution. Following the initial inquiry, the Title IX Coordinator or Deputy Title IX Coordinator may also determine that no further investigation is necessary. By way of example, no further investigation may be necessary when the Complainant or Respondent misunderstood this policy, where no other facts are needed to resolve the issue and/or it is evident that the issue is based upon a lack of communication between parties or other conduct that does not constitute sexual misconduct. This determination, with consent from those involved, may allow the individuals to resolve the matter informally with assistance from a trained mediator or independently. Absent consent from the Complainant and Respondent, the College will not require direct interaction between the parties nor submission to an informal process. An acceptance of responsibility by the Respondent may occur at any time following a report of sexual misconduct and the Respondent should follow the Acceptance of Responsibility procedures defined herein or in the [*Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol*](#) to record such acceptance.

At any point during the process of informal resolution, any individual who believes they have experienced sexual misconduct may initiate the formal process of investigation and resolution by clearly requesting, in writing or verbally, an end to the informal process and to the start of formal proceedings. Cases of sexual violence are not to be resolved by informal resolution or mediation.

Interim Measures. Upon receipt of a report of sexual misconduct, the College may impose reasonable and appropriate interim measures to protect the parties involved. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or the College. A Complainant or Respondent may request a “no contact” measure or other protection, or the College may choose to impose interim measures at its discretion. By way of example, discretionary interim measures may include an escort when needed, assistance with setting up initial counseling appointment, referral to and assistance with police and community resources, rescheduling of assignments or exams in conjunction with faculty, change in classes or class times, an approved “incomplete” or drop without penalty, refunds, transcript adjustments, change in job assignment or schedule, change in on-campus housing; issuance of a “no contact” letter, voluntary leave of absence, provision of academic (such as tutoring) and other support services, and interim suspension or imposed leave of absence.

If an interim suspension is imposed, the Respondent will be given the opportunity to meet with the Title IX Coordinator prior to such suspension, or as soon thereafter as is practicable, to show cause why such suspension should not be imposed. The Title IX Coordinator, in consultation with the Deputy Title IX Coordinator, has sole discretion to implement or stay the interim suspension. **Failure to comply with interim measures may constitute a separate violation of this policy.**

Timely Campus Warning. If a report of sexual misconduct indicates a serious or continuing threat to the Agnes Scott community, the College may issue a campus-wide timely warning (which can take the form of an email to campus and other methods) to protect the health or safety of the community. The timely warning will not include any identifying information about the Complainant. At no time will the College release the name of the Complainant to the general public without the express consent of the Complainant. The release of the Respondent’s name to the general public is guided by Georgia law, FERPA and the Clery Act.

Formal Investigation of a Complaint

For all complaints by or against a student, faculty member or employee from which it is determined by the College that a formal investigation is requested or required, the Respondent(s) will receive a Notice of Investigation within two (2) business days of the determination. The Notice of Investigation will include the date of the complaint, the identity of the Complainant or Reporter, the basic allegations of the complaint, the policy which is alleged to have been violated, a statement that an investigation is being undertaken, a statement that the Respondent may have an advisor of choice, and a copy of, or reference to, this policy. If interim measures applicable to the Respondent are warranted, the Notice of Investigation will also identify the interim measures.

The Title IX Coordinator or Deputy Title IX Coordinator for Faculty/Staff will assign a trained investigator or team of two (2) trained investigators to conduct the investigation. The investigator(s) will conduct a prompt, thorough, fair and impartial investigation. The investigation will include, where feasible, interviews of the Complainant, Reporter (if other than the Complainant), Respondent and material third parties, collection and review of documents or other physical or electronic evidence, and, any other reasonable steps to an investigation. All individuals contacted during the investigation will be advised that the matter is confidential and should not be discussed with anyone. The parties may receive periodic information about the status of the investigation.

While the Complainant and Respondent are encouraged to provide information and suggestions regarding corroborating evidence to the investigator(s), the investigator(s) have complete and full authority as to how the investigation will be conducted. No investigation participant, including the Complainant and Respondent, may engage in any investigative conduct that (i) involves having contact with participants regarding the investigation or (ii) duplicating, influencing or thwarting the College's investigation. Such independent investigation is a violation of this policy and may result in sanctions. Investigations are confidential and parties may be advised to treat them as such. No party however is prevented from sharing information with others necessary to support them or to assist them in presenting their case.

At any time during the investigation, the investigator(s) may recommend that interim measures for the parties or third parties be provided by appropriate College officials.

At the conclusion of the investigation:

- 1) The College will provide an Initial Report of Factual Findings ("Initial Report") to the Complainant(s) and Respondent. This is a confidential document. The parties should not discuss or disclose the contents of this Initial Report with others on campus, with the exception of their advisors.
- 2) Each party will have two (2) business days to conduct a review of the Initial Report, and to provide a written response. The Complainant(s) and the Respondent shall have an opportunity through a written response to address the facts set forth in the Initial Report to point out anything they contend to be inaccurate. A written response is not mandatory.
 - The first business day of this two-day review period will be the business day following the day the Initial Report is electronically provided to the parties.

3) Should either party submit a written response to the Initial Report, the investigators will review and consider the written response within two (2) business days.

4) After considering any written response from the parties, the College will have five (5) business days to provide a written Final Investigative Report to the Complainant and the Respondent. This is a confidential document. The parties should not discuss or disclose the contents of this Final Investigative Report with others on campus, with the exception of their advisors.

The preponderance of the evidence standard will be used by the College and/or investigators for making findings and conclusions in the Final Investigative Report.

The Final Investigative Report will set forth (a) the investigator's findings and conclusions, (b) recommended sanctions, if any, to be taken against the Respondent as a result of the complaint(s), and (c) other measures, if any, to prevent recurrence of any misconduct against the Complainant or others.

5) The parties shall have two (2) business days after receiving the Final Investigative Report to submit a written objection to its conclusions and recommended action, if any, against the Respondent.

6) If neither party objects to the conclusions and recommended action as set forth in the Final Investigative Report, the complaint(s) will be resolved pursuant to that document and the investigation will be closed. There will be no appeal rights if the matter is resolved at this stage.

(7) If an objection is submitted by either party, the matter will be sent to the Agnes Scott College Investigation Board if the Respondent is a faculty member or employee (see [*Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol*](#)). If the Respondent is a student, the matter will be sent to the Title IX/Conduct Hearing Panel.

- Each party will receive a timely notice of the objection informing them that the Investigation Board or Hearing Panel will be convened as soon as practicable.

Student Acceptance of Responsibility. If the Respondent has not already accepted responsibility or a resolution earlier in the process, within two (2) business days after receipt of the Final Investigative Report, the Respondent has an opportunity to accept or not accept responsibility, as well as the findings and sanctions. The Respondent must inform the Deputy Title IX Coordinator for Faculty/Staff of her/his decision in writing within those two business (2) days. This is the same time period within which the parties may object to the Final Investigative Report. If a student Respondent accepts responsibility and the Final Investigative Report, the complaint(s) will be resolved pursuant to that document and the investigation will be closed. If the Respondent accepts responsibility for the violations but objects to the sanctions, the sanction determination, other than expulsion, is appealable jointly to the Title IX Coordinator and Deputy Title IX Coordinator for Faculty/Staff within two (2) business days from receipt of the report. The Coordinators will decide upon the sanctions and notify the Respondent within five (5) business days of the sanction appeal. The sanction determination of the Coordinators shall be final and not appealable. If the sanction to which the Respondent objects is expulsion, such objection will be sent to the Conduct Hearing Panel in the same manner as any other objection to the Final Investigative Report. Any time a Respondent accepts responsibility, this notification and objection procedure should be followed.

The Acceptance of Responsibility provision applicable to faculty and employees is contained in the related [*Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol*](#).

Hearing Procedures

Standard of Evidence. For all cases, the standard that shall be used to determine whether a violation was committed is **preponderance of the evidence**, i.e., it is more likely than not that sexual misconduct occurred.

Administrative Proceeding

The purpose of this proceeding is to fairly and equitably determine whether the Respondent is **responsible** or **not responsible** for each alleged policy violation, as well as to determine sanctions.

The hearing will be conducted by a Conduct Hearing Panel trained in Title IX and related issues including, but not limited to, issues related to sexual assault, dating and domestic violence and stalking. The hearing panel will consist of three members of the Vice President for Student Life's Staff ("VPSL") and/or other appropriately-trained College officials as designated by the VPSL. The Chair of the panel shall be appointed by the VPSL, and the Title IX Coordinator or Deputy Title IX Coordinator for Faculty/Staff will serve as advisors to the process. The conduct hearing panel will make the final determination and issue appropriate sanctions.

Hearing Procedure:

- (1) The Complainant and Respondent will be notified of the date, time, and location of the hearing by the Title IX Coordinator. A Complainant may elect not to attend the proceedings with notice to the Title IX Coordinator. If a party does not attend a hearing, for any reason other than an emergency, the hearing may be held in their absence. A request from either party to have the hearing rescheduled, with good cause shown, will be considered by the College. Requests to reschedule must be submitted to the Title IX Coordinator at least seven (7) business days prior to the hearing, whenever possible. Requests must come directly from the individual receiving the Final Investigative Report.
- (2) The hearing generally is closed and typically includes only the Complainant (if they elect to attend), Respondent, key material third parties (only in atypical cases where the hearing panel deems it necessary beyond the information contained in the Final Investigative Report) as well as the panel. The participants may appear sequentially and the Complainant may not be required to appear at the same time as the Respondent, or at all.
- (3) Both parties will be allowed to have one advisor of choice. The advisor(s) may not address the hearing panel or participants.
- (4) Both parties will be given the opportunity to address the Final Investigative Report with the hearing panel. Beyond this opportunity, the manner in which the hearing is conducted and the information considered solely is within the discretion of the hearing panel.
- (5) If the Complainant elects not to attend the hearing, they may address the Final Investigative Report by submitting a written statement prior to the date of the hearing. The Complainant is not required to participate in the hearing but the College's ability to respond to their

complaint(s) and remedy the effects may be limited by their decision not to participate in the proceeding.

- (6) The hearing panel may ask questions of any participant and may consider the statements, interviews and any relevant documents or information received during the investigation. All information collected during the investigation will be available to the hearing panel.
- (7) Neither party may directly question the other but each may submit questions to the hearing panel for consideration.
- (8) All participants involved in the proceeding are required to keep the information learned in preparation for the hearing and at the hearing confidential. No copies of documents provided are to be made or shared with anyone. All copies provided must be returned to the College at the conclusion of the hearing and any appeals. Any breach of this duty is subject to further disciplinary action by the College.
- (9) The hearing panel will determine whether the Respondent is responsible for a violation(s) of the College's Sexual Misconduct Policy. If there is a determination of responsibility, the hearing panel will also determine, after consultation with the appropriate College personnel, any appropriate sanction(s) for the Respondent. The determination will include one or more of the sanctions and/or protective measures identified in this policy and may include the sanction(s) recommended in the Final Investigative Report. The hearing panel will also determine protective measures, if any, appropriate for the Complainant(s) or others impacted in the Agnes Scott College community. The hearing panel shall retain the authority to consider any and all information in the determination of responsibility and in the imposition of sanctions.
- (10) If there is a determination of responsibility, the Complainant(s) may provide to the hearing panel a written impact statement prior to the issuance of sanctions. The impact statement will only be permitted during the sanctioning phase following the determination of responsibility. An impact statement is not required but encouraged by the College.

Notice of Outcome

Within five (5) business days of the conclusion of the hearing, the College will inform the parties of the Investigation Board's decision by electronic transmission of a Notice of Outcome.

The Notice of Outcome to the Respondent will identify (a) the Investigation Board's findings and conclusions, (b) the recommended sanctions, if any, to be taken against the Respondent as a result of the complaint, (c) other measures, if any, to prevent recurrence of any misconduct against the Complainant or others, (d) the opportunity to accept responsibility within two (2) business days, and (e) appeal procedures. The Notice of Outcome to the Respondent will not identify remedial measures or accommodation solely relevant to the Complainant(s).

The Notice of Outcome to the Complainant will identify (a) sanctions or measures, if any, relevant to the Complainant, and (b) appeal procedures. If the Respondent is found responsible for sexual violence, the Notice of Outcome to the Complainant will additionally include all sanctions.

College administrators, faculty or staff who require the information to carry out the disciplinary action and sanction(s) will receive the appropriate information.

Compliance with Title IX and the Clery Act Section 304 (Violence Against Women Act Amendments - VAWA) pursuant to this policy does not violate FERPA.

Sanctions and Protective Measures

Agnes Scott College may impose a broad range of protective measures and/or sanctions following a final determination of a violation of this Sexual Misconduct policy. At any time during the response and resolution process, the factors considered by the College in addition to the facts include any prior complaints against the Respondent as well as the egregiousness of the behavior in question, whether it was repeated, and whether the Respondent accepts responsibility and expresses remorse.

The variety of factors the College will consider in determining which sanction applies include but may not necessarily be limited to, the nature of the conduct at issue, prior disciplinary history of the Respondent, Respondent's willingness to accept responsibility for her or his conduct, the College's response to previous similar findings and the interests of the College. While disciplinary history alone does not dictate findings and sanctions, such history and prior good faith reports of sexual misconduct, may be considered by the College to satisfy its obligation to identify potential sexual misconduct patterns.

Sanctions and Protective Measures for Students:

- **Warning:** Notice to Respondent that continuation or repetition of conduct found to be in violation of the Sexual Misconduct Policy and/or Community Standards may result in further disciplinary action.
- **Temporary or permanent separation of the parties:** By way of example only, this may include a change in classes, reassignment of residence, no contact letters and limiting geography where parties may go on campus. There can be additional sanctions for violating orders;
- **Housing restriction(s) for Respondent:** Housing restriction include, but are not limited to, restricted access to any or all parts of residence halls, the loss of room selection/lottery privileges, relocation to another College residential facility, requirement to move on- or off-campus, as appropriate at an individual's own expense, removal of guest privileges, and/or restriction from specific housing options.
- **Assessment and Treatment:** Referral to the Wellness Center or off-campus agency for assessment and/or treatment. This includes, but is not limited to, services from certified programs who offer: counseling for sex offenders, for sexual awareness, and sensitivity, for substance use, for intimate partner violence, and for violence risk.
- **Volunteer/Community Service Requirements:** In addition to other sanctions, a Respondent may be directed to complete community service. There can be additional sanctions for failing to timely complete community service.
- **Restrictions on Participation or Use:** Restrictions on participation include the revocation, or the loss for a stated period of time or under a stated set of conditions, of a student's ability to participate in certain classes or academic endeavors as well as College-approved activities, including, but not limited to, sports, student organizations, or

leadership positions with such sports, student organizations, resident assistant, orientation council, etc. Restrictions on use include the denial of access to or use of certain College facilities, programs, or equipment for a stated period of time or under a stated set of conditions.

- **Probation:** A specified period of time requiring maintenance of exemplary conduct. Further violations during this time may result in more serious sanctions than are imposed in the absence of probationary status. During a probationary period, the terms imposed on an organization will also be binding on its members.
- **Interim Suspension from the College:** A student suspended from the College on an interim basis may not participate in classes or other College activities and may not be on College property (except by appointment, arranged in advance with the Vice President of Academic Affairs or the Vice President of Student Life) for the period of time specified in the notice of suspension. At the discretion of the College, the College may arrange alternative academic or other arrangements so that the student may continue their coursework of other obligations during the interim suspension.
- **Suspension from the College:** A student suspended from the College may not participate in classes or other College activities and may not be on College property (except by appointment, arranged in advance with the Vice President of Academic Affairs or the Vice President of Student Life) for the period of time specified in the notice of suspension. Suspension extending beyond the semester in which action is taken shall consist of units of full semesters, and/or summer sessions. In no case shall the suspension terminate prior to the end of a semester. Courses taken at another institution during this period of suspension will not be accepted for transfer at the College. Conditions for resuming active status on campus following suspension may be imposed by the College. A sanction of immediate suspension will go into effect within 24 hours of receipt of the outcome letter unless otherwise noted in the outcome letter and shall remain in effect throughout any appeal process.
- **Withholding Administrative Services:** Delays in obtaining administrative services and benefits of the College (e.g., holding transcripts, holding grades, delaying registration, delaying or prohibiting graduation, diplomas);
- **Revocation or Withholding of Diploma and Degree:** If a student has graduated from the College, or has otherwise satisfied the requirements for earning a degree, before violations of the Sexual Misconduct Policy are discovered or before a final determination of violations is complete, the College reserves the right to revoke the diploma and/or degree conferred, or to withhold the conferring of a degree or diploma otherwise earned for a specified period of time or indefinitely.
- **Restitution:** Financial restitution (payments) to any individual(s) who were injured or impacted by the Respondent's conduct;
- **Expulsion:** Permanent termination of student status, which includes exclusion from any College property, College-sponsored, or College-affiliated events. A person expelled from the College is denied the rights and privileges of inclusion in the Agnes Scott College community both as a student and as an alumna. Expulsion will go into effect within 24 hours of receipt of the outcome letter unless otherwise noted in the outcome letter, and shall remain in effect throughout any appeal process. The College also may expel an organization found to be in violation of this policy.

Other: Any other sanctions that relate to the violation or conduct. The College maintains broad discretion to issue sanctions intended to eliminate sexual misconduct, prevent its recurrence, and address its effects.

Failure to timely and fully comply with sanctions or protective measures may constitute a separate violation of this policy.

Student Withdrawal While Charges Pending. The College does not permit a student to withdraw if that student has an allegation pending for violation of this policy without the express written permission of the Title IX Coordinator. Should a student decide to leave and/or not participate in the resolution, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to the College unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Student Appeal Process

The parties may appeal the Notice of Outcome by submitting a written notice within two (2) business days of its receipt. The first business day of this two-day review period will be the business day following the day the Notice of Outcome is electronically provided to the parties.

All protective measures or accommodations imposed or maintained by the hearing panel will be in effect during the appeal process.

An appeal may be based on one of the following grounds:

- a) The existence of new facts that (i) were not available throughout the investigation and adjudication process, and (ii) may have materially affected the hearing panel's decision if they had been available at the time of the investigation and adjudication;
- b) Evidence that procedures set forth here (i) were not followed, and (ii) that the failure to follow these procedures may have materially affected the hearing panel's decision;
- c) That the sanction imposed was outside the range of sanctions authorized by the Agnes Scott Sexual Misconduct Policy or related [*Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol*](#); and/or
- d) That legal rights as provided to a party by Title IX or other applicable law were violated.

When expulsion is recommended by the hearing panel, the Respondent may appeal the decision to the President of the College. The President, or their designee(s), shall conduct the final appeal. The appeal must be in writing, addressed to the President of the College, and be delivered to the Title IX Coordinator or Deputy Title IX Coordinator for Faculty/Staff within five (5) business days from receipt of the Notice of Outcome.

The appeal of expulsion may be based only on the following grounds:

- a) The existence of new facts that (i) were not available throughout the investigation and adjudication process, and (ii) may have materially affected the hearing panel's decision if they had been available at the time of the investigation and adjudication;

- b) Evidence that procedures set forth here (i) were not followed, and (ii) that the failure to follow these procedures may have materially affected the hearing panel's decision;
- c) That the sanction imposed was outside the range of sanctions authorized by the Agnes Scott Sexual Misconduct Policy or related [*Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol*](#);
- d) That the expulsion sanction is irrationally excessive and without basis for the violation(s); and/or;
- e) That legal rights as provided to a party by Title IX or other applicable law were violated.

No other issues may be included within an appeal.

If the student Complainant or Respondent appeals any sanction other than expulsion, the appeal must be timely received in-person or electronically by the Title IX Coordinator, Marti Fessenden, mfessenden@agnesscott.edu (or T9Coordinator@agnesscott.edu) or in her office located in Hopkins Hall:

- Title IX Coordinator will then review the written appeal to determine its timeliness and whether it raises one of the permissible grounds for appeal as set forth above.
- If the Title IX Coordinator determines that the appeal is untimely or that it has not raised a permissible grounds for appeal as set forth above, the appeal will be rejected and the Notice of Outcome from the proceeding will be rendered final.
- If the appeal is timely and it has raised a permissible grounds for appeal, the Vice President for Student Life or designee shall review the appeal (to include the Final Investigative Report, Notice of Outcome and sanctions to be imposed), and, may review any documents or statements presented throughout the investigation and adjudication process.
- The Vice President for Student Life or designee may accept, reject, or modify the finding and/or sanctions based upon one or more of the permissible grounds for appeal. (The Title IX Coordinator retains the authority to monitor the appeal decision solely for compliance purposes.)
- The Vice President for Student Life or her designee will communicate their decision, in writing, to the Title IX Coordinator, who will forward the decision to the Respondent and the Complainant.
- The appeal decision shall be final.

If a faculty member or employee Respondent appeals, the appeal will be to the President of the College and the appeal procedures are governed by the related [*Gender-Based Discrimination, Harassment and Sexual Misconduct Protocol*](#).

Failure to timely and fully comply with policy procedures may constitute a separate violation of this policy.

Final Report and Documentation

Upon completion of a sexual misconduct investigation and related proceedings which does not involve faculty or employees, the file containing all documentation relating to the Complaint will be maintained in the Office of the Title IX Coordinator in a separate confidential file. If the

investigation and proceedings involve faculty or employees, the file will be maintained in the Office of Human Resources in a separate confidential file unless directed by sanction to also be maintained in the faculty member or employee's personnel file. The files will be maintained confidentially except to the extent the College's obligation pursuant to FERPA and its obligation to investigate future reports of sexual harassment under Title IX. Identifying information of the Complainant will be safeguarded consistent with the College's obligation under law.

As required by law, Agnes Scott College Public Safety Department collects and annually reports statistical information concerning sexual misconduct that occurs within its jurisdiction.

Policy Revision

These policies and related procedures will be reviewed and updated periodically by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The College may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, school closures, etc. The Title IX Coordinator may also vary procedures materially with notice (on the College web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

Policy Date

Revised September 26, 2016.

Appendix A: Resources Directory

Agnes Scott College is committed to providing a safe and inclusive space for its community members. If you or someone you know may have experienced any sexual harassment or misconduct, please search for immediate assistance. Remember you can always **dial 911** for the Agnes Scott Public Safety and/or the Decatur Police Department.

Campus Resources	Off-Campus Resources
<p>Agnes Scott Public Safety Open 24/7 for emergency Emergency: 404-471-6400 Monday – Friday, 8:30 am – 4:30 pm (non-emergency) Non-emergency: 404-471-6355 ascpolice@agnesscott.edu</p>	<p>DeKalb Medical Center – North Decatur Campus Open 24/7 404-501-1000 2701 North Decatur Road Decatur, GA 30030</p>
<p><u>Confidential Resources</u></p> <p>Licensed psychologists, health care providers and the Agnes Scott College Chaplain are available for community members to report or discuss sexual misconduct with complete confidentiality. These licensed professionals will not discuss or report their discussions to the college without written consent.</p>	<p>Day League/DeKalb Rape Crisis Center 24/7 Crisis Hotline: 404-377-1428 Office Line: 404-377-1429</p>
<p>Wellness Center (licensed counselors and nurses) Non-emergency: 404-471-7100 Monday – Friday, 9:00 am – 4:30 pm (August 1st – May 31st)</p>	<p>Emory University Hospital Open 24/7 404-712-7100 1364 Clifton Rd NE Atlanta, GA 30329</p>
<p>Chaplain Rev. Kate Colussy-Estes (404)471-6437</p>	<p>Piedmont Urgent Care 404-327-8744 2700 Clairmont Road Atlanta, GA 30329 Monday – Thursday, 9:00 am – 8:00 pm Friday, 9:00 am – 7:00 pm Saturday – Sunday, 10:00 am – 6:00 pm</p> <p>Rape, Abuse & Incest National Network www.rainn.org (online anonymous support chat available) 800.656.HOPE (4673)</p>

Appendix B: Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. The tips below are offered with no intention to victim-blame, with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Give thought to sharing your intimate content, pictures, images and videos with others, even those you may trust. If you do choose to share, clarify your expectations as to how or if those images may be used, shared or disseminated. Whether you share your expectations or not, no one may assume they have permission to share your intimate content with others.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DON'T MAKE ASSUMPTIONS ABOUT CONSENT**; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there are any questions or ambiguity then you **DO NOT** have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or substances.
- Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Don't abuse that power.
- Do not share intimate content, pictures, images and videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

Appendix C: What does consent really look like?

For Agnes Scott Students, consent is:

- **VOLUNTARY.** This means it is enthusiastic, sober, creative, wanted, informed, mutual, honest, and verbal agreement!
- **NOT COERCED.** It is not, “Oh...come one girl” or “I thought you wanted this” Consent is an active, clear, ongoing mutual agreement.
- **IMPORTANT.** For sexuality and sex to be enjoyed and healthy, consent is central.
- **THE ABSENCE OF “NO” DOES NOT MEAN YES! SILENCE IS NOT CONSENT.** Both or all people should be involved in the affirmative decision to have sex.
- **ONGOING.** Consent must be asked for every step of the way; if you want to move to the next level of sexual intimacy, **just ask.**
- **NEVER IMPLIED.** Consent cannot be assumed. *Even if you are in a relationship, you should not assume you have permission to have sex with your partner.*
- **NOT GIVEN WHILE INTOXICATED OR WITHOUT CLEAR JUDGMENT.** If you are too drunk or mentally altered to make decisions or communicate clearly, cannot legally give consent!

Consent is sexual permission. In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, conscious and voluntary consent prior to and during sexual activity. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent does not imply consent to sexual activity in the future. Silence or passivity – without actions demonstrating permission – cannot be assumed to show consent. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Consent can be powerful, intimate, sensual and sexy! Consent is the only legal way you can see, touch, or have sex with someone's body.

- Consent levels the balance of relationship power.
- Obtaining consent acknowledges that you and your partner(s) have sexual needs and desires: Yes, it is okay for women and men to both want and enjoy sex!
- Learning how to get and give consent builds confidence and self-esteem.
- Consent allows each partner to communicate the type of sex or sexual relationship they want.
- Consent affirms your and your partner's values and beliefs about intimacy and sex.
- Consent builds communication. It enhances communication, respect, and honesty, which make sex and relationships better.
- Consent promotes positive views on sex and sexuality that can last a lifetime.
- Consent helps with protecting your partner and yourself against pregnancy and sexually-transmitted diseases.

AWKWARD now saves potential regret, misunderstandings, accusations, charges and conflicting views of whether consent was given later.

How do you know if you've obtained consent or given consent?

The only way to know if someone has given consent is if they tell you. ASK FOR or GIVE CONSENT CLEARLY. One of the best ways to determine if someone is uncomfortable with any situation, especially with a sexual one, is to simply ask. Here are some examples of the questions you might ask:

- Are you okay with this?
- I'm so attracted to you, are you okay if I ____?
- Are you comfortable?
- Are you cool if I touch you?
- Is there anything you don't want to do?
- Can I touch you? Can I kiss you?
- What do you want to do with me?
- Have you ever...? Would you like to try it with me?
- We can stop here or do you want to go any further?
- Do you want to stop?

INSIST UPON THESE QUESTIONS or similar ones so you can clearly GIVE CONSENT. USE THESE QUESTIONS or similar ones to be clear you have OBTAINED CONSENT.

Interested or curious but things are moving too quickly?

If you are enjoying your partner but starting to feel uncomfortable, you *always* have the right to slow things down or stop. Here are some things you could say to let your partner know that you don't want to go any further:

- I don't want to go any further than kissing, hugging, touching, lying down – whatever you are comfortable with.
- I want to just do this for a while. Can we just do this for a while?
- I want to stay like this for a while? Can we stay like this for a while?
- I'm cool with this but I don't want to do anything else.
- Can we slow down?

Below are some things you can say or do if you want to stop:

- No
- I want to stop
- I'm not comfortable doing this anymore
- That's enough for now
- I need to go to the bathroom

KNOW THE CLUES. Non-verbal communication can be a powerful way to show that you do not have consent. Look for these:

- Not responding to your touch.
- Twisted or moving their body to move your hands away.
- Pushing you away.
- Holding their arms around their body.
- Turning away from you or hiding their face.
- Stiffening muscles.
- Tears.

THE ABSENCE OF NO DOES NOT MEAN YES.

“I was so out of it.” - Alcohol, Drugs & Consent. If someone is drunk or “wasted,” including you, they cannot give consent.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. Alcohol and other drugs can affect a person’s ability to make decisions, including whether or not they want to be sexual with someone else. It also impairs the ability to give consent and one's ability to accurately interpret whether the other person you’re with is capable of giving consent. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. “No” always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “no.”

It is no secret that sexual perpetrators use alcohol or drugs to target others, and to excuse their own behavior. Research shows that alcohol does not cause someone to be abusive. Sexual violence and assault is about power and control, not the result of alcohol usage.

Appendix D: Sexual Misconduct Examples

Scenario 1

Sarah is an Agnes Scott student who decided to have a fun night on campus at the biggest party of the year, Red Light, Green Light with her friends. Sarah drinks heavily before reaching the party, and also has some drinks once she gets there. She meets a guy, Nathan, and they dance together for most of the night. Nathan notices that Sarah has slurred speech, stumbles at moments, and needs him to help her to stay balanced. By the end of the night, Nathan and Sarah have been flirting for a few hours and Nathan accompanies Sarah to her dorm room. Although Sarah is incoherent and unresponsive, Nathan has sex with Sarah. The next morning, Nathan is nowhere to be found and Sarah does not remember what happened.

Scenario 2

Shawna and Melissa have been dating since their first year at Agnes Scott. Now juniors, they have consented to having sex with one another many times. One night after a Judicial Board meeting, Shawna is tired and ready to go to bed. Melissa begins to touch Shawna in an attempt to have sex, but Shawna tells her she is not in the mood. Melissa figures that she can put Shawna in the mood and continues to touch her. Again Shawna tells Melissa she doesn't want to have sex, but Melissa continues.

Scenario 3

Leah is a friendly first-year at Agnes Scott and just created a Facebook account since enrolling. She constantly searches for Agnes Scott students, faculty, staff, and alumnae to add to her increasing friend list in an attempt to make connections with people. One day, she adds one of her professors. After class in the following week, the professor tells Leah that she had some really nice pictures on Facebook from her summer in Jamaica. He exclaims that she looks really good in a swimsuit. He offers to take some pictures of Leah because he is into photography as he puts his hands around her waist. Leah is uncomfortable and doesn't know what to say as her professor kisses her on the neck.

Scenario 4

Julia is a first-year dating a senior at Agnes Scott. She tells her friends frequently about the sexual exploits of her very experienced girlfriend, but the claims are so outrageous that Julia's friends do not believe her. To prove it, Julia sets up a camera in her dorm room and lures her girlfriend into the room. They engage in sexual intercourse while the camera is filming. The girlfriend never saw the camera and was not aware that she was being filmed. Julia uploaded the video to "Overheard at Agnes" on Facebook for everyone to see.