BRYN MAWR
COLLEGE

Sex Discrimination and Sex-Based Harassment Policy

1. Purpose

Bryn Mawr College ("Bryn Mawr" or the "College") has adopted this Sex Discrimination and Sex-Based Harassment Policy (the "Policy") in order to advance its goal of maintaining an environment free of Sex Discrimination, including Sex-Based Harassment, as well as related Retaliation. Bryn Mawr encourages individuals who have been affected by Sex Discrimination and/or Retaliation to promptly make a Report using any of the reporting options described in this Policy. Bryn Mawr will respond promptly and equitably to all Reports of Sex Discrimination and/or Retaliation, and will take appropriate steps to eliminate the behavior, prevent its recurrence, and address its effects.

2. Scope

The behavioral expectations of this Policy apply to all Bryn Mawr Students, employees (including faculty and staff), members of the Board of Trustees, officers, applicants for admission or employment, volunteers, independent contractors, and other individuals participating or attempting to participate in Bryn Mawr's Education Program or Activity. The behavioral expectations of this Policy apply to any alleged Prohibited Conduct that impacts the Bryn Mawr community and/or Bryn Mawr's Education Program or Activity wherever it occurs, including on campus, off campus, and online.

The resolution processes of this Policy apply to all matters in which the Respondent is an employee or Student of the College. Non-members of the campus community who engage in discriminatory actions within College Programs or Activities or on College property are not subject to the resolution process of this Policy but can be subject to actions that limit their access and/or involvement with College Programs or Activities as the result of their misconduct.

Haverford College ("Haverford") and Bryn Mawr have a long-standing collaborative relationship which offers students comprehensive access to academics, student organizations, residence hall and dining facilities and social activities on both campuses. Some academic programs and departments are provided only on one campus or structured to share resources between the two institutions. Due to the sometimes overlapping nature of Haverford and Bryn Mawr's Education Programs and Activities, Bryn Mawr and Haverford will implement Sex Discrimination and Sex-Based Harassment Policies which are substantially the same, effective August 1, 2024, and will jointly administer the Alternative Resolution Process or Grievance Procedures, as applicable, as mutually agreed by each institution, if a Complainant is a Student or employee of one institution and the Respondent is a Student or employee of the other; if the Complainant is a Student or employee of one institution and the location of the alleged Prohibited Conduct is the other; or if other facts and circumstances set forth in a Complaint, or which are identified through investigation, suggest the need for joint administration of the resolution processes.

3. Effective Date

This Policy became effective on August 1, 2024. Bryn Mawr has revised its policies pertaining to Sex Discrimination on several occasions. When a Complaint of past Sex Discrimination is made, the College will typically apply the Sex Discrimination policy in place at the time of the alleged Prohibited Conduct and the procedures which are in place at the time the Complaint is made. Final decisions regarding which policy and procedures will apply in any specific case are made by the Title IX Coordinator in their discretion and in accordance with applicable law and/or regulation and are not appealable.

4. Notice of Non-Discrimination; Role of the Title IX Coordinator

a. Notice of Non-Discrimination

Bryn Mawr does not discriminate, nor does it permit discrimination, on the basis of sex, including discrimination on the basis of sex stereotypes, sex characteristics, sexual orientation, or gender identity; Parental, Family, or Marital Status; or Pregnancy or Related Conditions in its Education Program or Activity, including with respect to applications for enrollment and/or employment. The admission of only women in the Undergraduate College is in conformity with a provision of the Civil Rights Act of 1964, as amended. Bryn Mawr has adopted Grievance Procedures, set forward in this Policy, which provide for the prompt and equitable resolution of Complaints alleging any action which would be prohibited by this Policy or by Title IX of the Education Amendments of 1972 ("Title IX"), which provides:

> 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 assistance.

Sex Discrimination is also prohibited by Title VII of the Civil Rights Act of 1964 and state law.

b. Role of the Title IX Coordinator

The College has appointed a Title IX Coordinator to coordinate its compliance with Title IX. Any individual may make a Report of Sex Discrimination, including Sex-Based Harassment, to the Title IX Coordinator. In this Policy, when the term "Title IX Coordinator" is used, it should be understood to include any of the Title IX Coordinator's designees. The Title IX Coordinator may delegate authority under this Policy to one or more designees, while retaining ultimate oversight over the responsibilities of the role. The responsibilities of the Title IX Coordinator include:

- Taking prompt and effective steps to ensure that Sex Discrimination does not continue or recur, and to remedy its effects;
- Monitoring the College's Education Program or Activity for barriers to reporting conduct that may constitute Sex Discrimination and taking steps reasonably calculated to address such barriers;

- Facilitating the provision of a non-discriminatory environment and equal access to individuals experiencing Pregnancy or Related Conditions; and
- When notified of conduct that reasonably may constitute Sex Discrimination,

    - Treating Complainants and Respondents equitably;
    - Offering and coordinating Supportive Measures for the Complainant and, if Alternative Resolution Process or Grievance Procedures are pending, the Respondent;
    - Notifying Complainants or, if different, individuals making Reports, of the Alternative Resolution Process and Grievance Procedures, as available and appropriate;
    - Notifying the Respondent of the Alternative Resolution Process and Grievance Procedures, as available and appropriate, if a Complaint is made;
    - In the event of a Complaint, initiating the Grievance Procedures or, if available and appropriate and requested by all Parties, the Alternative Resolution Process; and
    - In the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, determining whether to initiate a Complaint.

c. Reporting Prohibited Conduct to the Title IX Coordinator

The Title IX Coordinator is available to receive Reports or Complaints about conduct that may constitute Sex Discrimination. The Title IX Coordinator is also available to meet with any individual, including a Complainant, a Respondent, or a third party, to provide information, on- and off-campus resources, and various procedural options. The Title IX Coordinator can be reached, and Reports and Complaints can be made, through any of the following channels:

Kimberly F. Taylor
Bi-Co Title IX Coordinator
Bryn Mawr & Haverford Colleges
ktaylor4@brynmawr.edu
Bryn Mawr College Office location: Gateway 325
Bryn Mawr College Phone: 610-526-7863

An individual may make an anonymous Report to the Title IX Coordinator, without disclosing their name, using the online reporting form listed here: Bryn Mawr Online Reporting Form

IN THE EVENT OF EMERGENCY SITUATIONS AND MATTERS REQUIRING IMMEDIATE LAW ENFORCEMENT ASSISTANCE, PLEASE CONTACT 911.

d. Internal and External Inquiries

Inquiries about the application of Title IX to the College or questions regarding this Policy may be directed to the Title IX Coordinator and may also be directed externally to the United States Department of Education's Office for Civil Rights ("OCR"), contact for which follows.

Office for Civil Rights ("OCR")
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Phone: (800) 421-3481
Fax: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

5. Freedom of Speech

Bryn Mawr recognizes the critical importance of academic freedom at institutions of higher education. The College maintains a policy pertaining to Freedom of Speech and the Limits of Dissent, found in the College's Student Handbook. Nothing in this Policy will be construed to negate any rights afforded by this policy.

6. Privacy and Confidentiality

a. Privacy

Although often conflated, privacy and confidentiality are distinct terms with distinct meanings. Privacy refers to the College's commitment to sharing information related to any Report, Complaint, Supportive Measures, Alternative Resolution Process, or Grievance Procedures under this Policy only:

- To a person with a legal right to receive disclosures of information, or with prior written consent;
- When necessary to effectuate this Policy, or to otherwise address conduct which may reasonably constitute Sex Discrimination;
- As required by Federal law or regulation, including by the terms and conditions of a Federal award (e.g., a grant award or other funding agreement); and/or
- When required or permitted by State or local law or the Family Educational Rights and Privacy Act ("FERPA").

The College also provides training to personnel regarding the safeguarding of private information, instructs Parties and witnesses about its privacy-related expectations, and will take other reasonable steps to prevent and address the Parties' and, if applicable, their Advisors',

unauthorized disclosure of information and evidence obtained solely through the Grievance Procedures (see "Privacy of Documents," below).

In any Grievance Process, other than as provided for herein (for example, with respect to the privacy of documents, and with respect to the College's prohibition on Retaliation), the College will not restrict the ability of either Party to discuss the allegations prompting a Report or Complaint, including for the purposes of obtaining and presenting evidence (such as by speaking to witnesses), consulting with family members, confidential resources, or advisors, or otherwise preparing for or participating in the Grievance Procedures.

b. Privacy of Documents

In order to preserve the privacy of the Parties and witnesses, documents prepared in connection with an investigation and adjudication (including, but not limited to, Complaints; Notices of Allegation; draft and final interview summaries; draft and final descriptions of evidence and/or investigative reports; notices of hearing; notices of outcome; notices of Sanctions and/or Remedies; and any appeals-related documents), as well as audio and/or audiovisual recordings or transcripts thereof made of any proceedings under this Policy, may not be disclosed by Parties or others acting on their behalf other than as provided for herein, and as may be required or authorized by law. Any violation of this provision may result in discipline.

c. Confidential Resources

Confidential communications are those exchanged with individuals belonging to certain professions (such as healthcare providers, professional counselors, or pastoral counselors) which require maintaining the confidentiality of communications disclosed to the individual in the context of providing professional services. Such individuals cannot disclose the content of those communications, or records of same, to any third party without the disclosing individual's prior written consent, or if permitted or required by law or relevant professional ethical obligations (such as "duty to warn"). These communications are privileged under Federal or State law. Employees of the College who serve in such roles ("Confidential Resources") include the following:

- Mental health care providers in Counseling Services
- Health care providers in Health Services
- Licensed/ordained religious advisers

Confidential Resources are not required to notify the Title IX Coordinator when a person informs them of conduct that may constitute Sex Discrimination if that information is provided while the Confidential Resource is functioning within the scope of their duties to which confidentiality applies.

Also included in the category of Confidential Resources are individuals who conduct human subjects-research studies that have been approved by the Institutional Review Board ("IRB") and which are designed to gather information about Sex Discrimination, with respect to information disclosed in the course of conducting the approved study.

Importantly, Confidential Resources still must, upon receipt of such information, explain that they are a Confidential Resource; provide contact information for the Title IX Coordinator; explain how to report Sex Discrimination; and inform the disclosing individual that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an Alternative Resolution Process or investigation under the Grievance Procedures.

7. Participation In Activities Based on Gender Identity

Under the limited circumstances in which Title IX permits different treatment or separation on the basis of sex (such as sex-separate housing or sex-related eligibility criteria for male and female athletic teams), individuals may be permitted to participate in a manner consistent with their gender identity, but failure to permit such participation does not constitute Sex Discrimination under Title IX or this Policy. Failure to permit participation consistent with gender identity under all other circumstances subjects an individual to more than de minimis harm and could constitute Sex Discrimination under Title IX and this Policy.

8. Responsible Employees; Requirement to Provide Information

All other College employees who are not Confidential Resources must, upon receipt of information about conduct that may constitute Sex Discrimination, notify the Title IX Coordinator.

i. Expectations of Responsible Employees

A Responsible Employee must promptly report all known information regardless of the manner of receipt, including through a third party. Responsible Employees are *not* permitted to make anonymous Reports in order to satisfy their obligations as a Responsible Employee. Any questions regarding Responsible Employee responsibilities under this Policy should be directed to the Title IX Coordinator.

ii. Student Employees

Students in positions of leadership in the Customs Programs are considered Responsible Employees under this Policy and are therefore required to inform the Title IX Coordinator of any instance of Prohibited Conduct that comes to their attention.

iii. Disclosures at Public Awareness Events

Disclosures at public awareness events such as “Take Back the Night” held on campus or on an online platform sponsored by the College will not prompt the Title IX Coordinator to take responsive action unless the information reveals an immediate and serious threat to the health or safety of a Complainant, any Students, employees, or other persons, or unless the individual affected by the alleged Prohibited Conduct clearly indicates that they desire responsive action be taken. The College will still use the information disclosed to inform its efforts to prevent Sex-Based Harassment.

b. Requirement to Provide Information to Students Experiencing Pregnancy or Related Conditions

As discussed further below, when any College employee is informed by a Student of that Student's Pregnancy or Related Conditions, the employee must promptly make certain required disclosures to the Student.

9. Definitions of Prohibited Conduct

The College prohibits Sex Discrimination against any member of the College community. The following behaviors constitute Prohibited Conduct under this Policy.

a. Sex Discrimination

Subjecting an individual or group to an adverse action – including differential treatment – based on sex, including sex stereotypes, sex characteristics, sexual orientation, and/or gender identity; Parental, Family, or Marital Status; and/or Pregnancy or Related Conditions. Sex-Based Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, is a form of Sex Discrimination, but separately defined under this Policy.

b. Sex-Based Harassment

Harassment based on sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity, and/or Pregnancy or Related Conditions, which falls into one or more of the following categories:

i. Quid Pro Quo

An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College's Education Program or Activity explicitly or implicitly conditions the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct. It does not matter whether or not the person submits.

ii. Hostile Environment

Unwelcome sex-based conduct that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively, the conduct denies or limits a person's ability to participate in or benefit from Bryn Mawr's Education Program or Activity.

Determining whether conduct has created a hostile environment is a fact-specific inquiry which may include many factors such as, but not limited to: the degree to which the conduct affected the Complainant's ability to access the College's Education Program or Activity; the type, frequency, and duration of the conduct; the Parties' ages, roles, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the alleged unwelcome conduct; the

location and context in which the conduct occurred; and other Sex-Based Harassment in the College's Education Program or Activity.

Unwelcome sex-based conduct could include, but is not limited to:

- unwelcome sexual advances or requests for sexual favors;
- observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity in a place where that person would have a reasonable expectation of privacy, without that person's consent;
- recording, and/or distributing (including streaming) of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without that person's consent; and
- exposing one's genitals in non-consensual circumstances.

iii. Sexual Assault, Dating Violence, Domestic Violence, Stalking

Sexual Assault, Dating Violence, Domestic Violence, and Stalking are forms of Sex-Based Harassment, just as Sex-Based Harassment is a form of Sex Discrimination. These types of Prohibited Conduct are separately defined below.

c. Sexual Assault

A forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes the following acts:

i. Rape

The carnal knowledge of a person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

ii. Sodomy

Oral or anal sexual intercourse with another person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

iii. Sexual Assault With An Object

To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

iv. Fondling

The touching of the private body parts of another person for the purpose of sexual gratification without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.

v. Incest

Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

vi. Statutory Rape

Nonforcible sexual intercourse with a person who is under the statutory age of consent.

1. Supporting Definitions: Consent and Incapacitation

a. Consent

For the purposes of this Policy, consent is defined as a freely and affirmatively communicated agreement to participate in sexual activity. Consent can be given by words or by clear, unambiguous action. What is essential is that the individual has affirmatively demonstrated their willingness to participate in sexual activity and, as such, consent may *not* be inferred from silence, passivity, or lack of response or resistance. Importantly, consent must be present at all times: at any time, a person can communicate that they no longer consent to sexual activity, and sexual activity must immediately cease. Consent should be sought before initiating additional sexual acts, such that consent to *some* sexual activity (such as kissing) does not constitute consent to *other* sexual activity (such as intercourse), even if the person has previously agreed to engage in such sexual activity. Consent is not given if it results from the threat or use of physical force, intimidation, or any other factor that negates free choice. Determining whether consent was present during a sexual encounter is a fact- and circumstance-dependent inquiry which may include the larger context, if any, including Relevant (as defined by this Policy) facts regarding the relationship between the Parties.

b. Incapacitation

For the purposes of this Policy, incapacitation is defined as the temporary or permanent inability of a person to consent to sexual activity because the person is asleep, unconscious, otherwise unaware that sexual activity is occurring, involuntarily restrained, and/or mentally and/or physically helpless. This may be, but need not be, due to voluntary or involuntary drug or alcohol consumption. Incapacitation is a state beyond intoxication. A Respondent may not be found responsible for a violation of this Policy if the Complainant was incapacitated, but the Respondent did not know this, and a reasonable person, sober and exercising sound judgment, would not have so known. Being intoxicated or otherwise impaired by drugs or alcohol is not an excuse for engaging in conduct prohibited by this Policy and does not affect the requirement to obtain Consent.

d. Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship is determined based on a consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

e. Domestic Violence

A felony or misdemeanor crime committed by a person who is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the Commonwealth of Pennsylvania, or a person similarly situated to a spouse of the victim; is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the victim; or commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the Commonwealth.

f. Stalking

A course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. Stalking must be sex-based in order to be within the scope of this Policy, and the perspective of a "reasonable person" is defined as that of a person under similar circumstances and with similar identities to the victim.

g. Retaliation

Any intimidation, threats, coercion, or discrimination directed at an individual by the College, a Student or employee of the College, or any other person authorized by the College to provide aid, benefits, or services as part of the College's Education Program or Activity, for the purpose of interfering with that individual's right(s) under this Policy, or because the individual has made a Report or Complaint under this Policy; made a report or complaint based on a sex-based discrimination claim to an external agency or to law enforcement; or participated or refused to participate in any investigation, adjudication, or other proceeding under this Policy, including an Alternative Resolution Process or Grievance Procedures.

Retaliation includes Peer Retaliation, but also Retaliation by a Student against an employee, or by an employee against a Student, as well as by an employee against another employee of more or less senior role. An individual need not be a Complainant or Respondent to have committed or been affected by Retaliation.

It is not Retaliation for the College to require an employee, or other person authorized by the College to provide aid, benefits, or services as part of the College's Education Program or Activity, to participate as a witness in, or otherwise assist with, any investigation or adjudication under this Policy.

10. Other Definitions

a. Applicant

A person who is applying for admission as a Student or other participant in the College's Education Program or Activity, and/or who is applying for employment at the College.

b. Complainant

A Student, employee, or other individual who is alleged to have been subjected to conduct that could constitute Sex Discrimination.

In the event a Complaint is brought by the Title IX Coordinator, the individual affected by the alleged Sex Discrimination that is the subject of the Complaint remains the Complainant, and the Title IX Coordinator does not become the Complainant.

c. Complaint

An oral or written request that objectively can be understood as a request for investigation and adjudication of alleged Sex Discrimination. It is the policy of the College to require that a Complainant confirm a request in writing prior to initiating the Grievance Procedures for Complaints of Sex Discrimination.

A Complaint can be made by a Complainant[1] or the Title IX Coordinator, subject to the following. A Complainant must have been enrolled, employed, or otherwise participating or attempting to participate in the College's Education Program or Activity at the time the alleged Sex Discrimination occurred in order to file a Complaint under this Policy, although the Complainant need not be enrolled, employed, or otherwise participating or attempting to participate in the College's Education Program or Activity at the time the Complaint is made. With respect to allegations of Sex Discrimination other than Sex-Based Harassment, a Complaint may be brought by any Student or employee, or any other person who was participating or attempting to participate in the Education Program or Activity at the time the alleged conduct took place.

d. Day

A business day when the College is open.

e. Sanctions

Consequences imposed on a Respondent following a determination that the Respondent violated the College's prohibition of Sex Discrimination.

[1] A Complaint may also be brought by a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant, where applicable.

f. Education Program or Activity

Conduct that occurs in the College's Education Program or Activity includes all conduct which is subject to the College's policies, and which occurred in the United States, including on-campus or, if applicable, in buildings owned or controlled by a student organization that is officially recognized by the College. Bryn Mawr will address conduct contributing to a sex-based hostile environment even if the underlying conduct itself occurred outside the College's Education Program or Activity, including if it occurred outside the United States. For the avoidance of doubt, this Policy applies to conduct occurring online (via computer and internet networks or on digital platforms, including social media sites).

g. Employee with a Disability

An employee of the College (including both faculty and staff) with a disability as defined by the Americans with Disabilities Act, as amended.

h. Parental, Family, or Marital Status

Parental Status refers to the status of a person who, with respect to another person under the age of 18, or who is 18 or older but incapable of self-care because of a physical or mental disability, is: a biological parent; adoptive parent; foster parent; stepparent; legal custodian or guardian; in loco parentis; or actively seeking legal custody, guardianship, visitation, or adoption.

Family Status refers to the configuration of a person's family or their role in a family.

Marital Status refers to whether or not a person is married.

Importantly, discrimination based on these statuses must be sex-based in order to constitute Sex Discrimination (such as treating married women more or less favorably than married men, treating an unmarried mother more or less favorably than a married mother based on sex stereotypes, or treating a man who is married to a man more or less favorably than a woman who is married to a man).

i. Party

The Complainant or Respondent (collectively, the Parties).

j. Peer Retaliation

Retaliation by a Student against another Student.

k. Pregnancy or Related Conditions

Pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and/or recovery.

l. Relevant

Related to the allegations of Sex Discrimination at issue and whether or not the alleged Sex Discrimination occurred. Questions are Relevant if they may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is Relevant if it may aid a decisionmaker in determining whether the alleged Prohibited Conduct occurred. The following evidence is impermissible (and will not be considered Relevant) even if it would otherwise be considered Relevant:

- evidence protected under a privilege recognized by federal or state law, unless the person holding the privilege has waived it voluntarily in writing;
- records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to a Party or witness, unless the person has voluntarily consented, in writing, to the use of such records in the Grievance Procedures; and/or
- evidence and questions about the Complainant's sexual interests or prior sexual conduct, unless:
    - offered to prove that someone other than the Respondent committed the conduct alleged, or
    - if concerning specific incidents of prior sexual activity with the Respondent which are offered to prove Consent.

Such impermissible evidence will not be accessed, considered, disclosed, or used, except to determine whether one of the preceding exceptions applies.

m. Remedies

Measures provided, as appropriate, to a Complainant or other person whose equal access to the College's Education Program and/or Activity was determined to have been limited or denied by Sex Discrimination, in order to restore or preserve that person's access to the College's Education Program or Activity.

n. Report

Any notice to a Responsible Employee of conduct that may constitute Sex Discrimination. A Report may come from any individual, not just a Complainant. Not every Report is or will result in a Complaint.

o. Respondent

A person who is alleged to have violated the College's prohibition on Sex Discrimination. In the event that a Complaint alleges that a College policy or practice discriminates on the basis of sex, the College is not considered a Respondent. In such cases, the College will follow this Policy, including the Grievance Procedures, although the College will, necessarily, not be entitled to certain procedural rights and steps afforded to individual Respondents. In the event a Complaint against an individual Respondent is based on actions the Respondent took in accordance with a College policy or practice, the Complaint may, in the College's sole discretion, be amended to

substitute the College as Respondent. This determination will be made after a consideration of factors including, but not limited to, whether the individual was, in fact, following the College policy or practice; what actions the individual took; and whether the individual could be subject to Sanctions.

p. Standard of Proof

A preponderance of the evidence, meaning that it is more likely than not, based on all Relevant evidence, that the Respondent engaged in the Prohibited Conduct.

q. Student

A person who has gained admission to the College.

r. Student with a Disability

A Student with a disability as defined by the Rehabilitation Act of 1973.

s. Student Employee

A person who is both a Student and an employee of the College.

11. Anonymous Reporting

Any individual may make an anonymous Report. This means that they may report an incident without disclosing their name, for example, or withholding certain details, including, but not limited to, the identity of the Respondent. However, depending on the information available about a reported incident, the College's ability to respond may be limited. This includes, but is not limited to, the likelihood that the College will not be able to pursue Grievance Procedures against the individual alleged to have engaged in Prohibited Conduct, as typically the identity of the Complainant must be disclosed to the Respondent. When a known Complainant wishes to remain anonymous, the College will seek to respect the request of the Complainant, and where it cannot do so, will explain why.

12. Time Frame for Making a Report

There is no time limit on making a Report, but individuals are strongly encouraged to report incidents of alleged Prohibited Conduct as soon as possible. This will enhance the College's ability to address the conduct at issue, including by extending Supportive Measures, and, if applicable, by conducting an investigation effectively, when Relevant evidence and witnesses are most available.

13. Amnesty for Students Who Report Prohibited Conduct

The health and safety of every Student is of utmost importance. The College recognizes that Students who have been drinking and/or using drugs (whether such use is voluntary or involuntary)

at the time Prohibited Conduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages Students to report incidents of Prohibited Conduct. An individual who experiences Prohibited Conduct, or a witness to such Prohibited Conduct, acting in good faith, who discloses any incident of Prohibited Conduct to College officials or law enforcement will not be sanctioned by the College for violations of alcohol and/or drug use policies occurring at or near the time of the incident(s) of Prohibited Conduct. The College may request that the individual attend an approved alcohol or drug education program, without assessing any charges for such a program. This amnesty provision also applies to student groups making a report of Prohibited Conduct. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

14. Presumption of Non-Responsibility and Good Faith Reporting

a. Presumption of Non-Responsibility

A Respondent is presumed to be not responsible for the alleged Prohibited Conduct unless and until the Respondent is determined to be responsible for a violation of this Policy at the conclusion of the Grievance Procedures.

b. False Allegations and Statements

A determination that a Respondent was not responsible for a Policy violation does not, without more, establish that the Complainant or any other Party or witness has made a false allegation or statement in bad faith.

Deliberately false allegations and statements are, however, a violation of College policy and individuals, including witnesses, who knowingly make false allegations, provide false statements or evidence, tamper with or destroy evidence they were instructed to preserve, or commit similar acts of dishonesty may be subject to disciplinary action.

15. On- and Off- Campus Resources

Resources are available to members of the campus community, both on-campus and off-campus. Available resources are identified on the College's website. On-campus resources include:

- Health and Wellness Center
- Campus Safety
- Title IX Coordinator
- The Impact Center for Community, Equity, and Understanding
- Undergraduate Dean's Office
- Dean of Graduate Studies

The College has developed Memoranda of Understanding (MOUs) with the following rape crisis and domestic violence shelters:

- Victims Services Center of Montgomery County
- Laurel House Domestic Violence Shelter

Additional local resources include, but are not limited to:

- Bryn Mawr Hospital (SANE exams available)
- Lower Merion Township Police Department
- Women's Center of Montgomery County

16. Coordination Across Systems: Medical Treatment and Law Enforcement

Complainants who wish to seek medical care and/or report to law enforcement are encouraged to do so.

a. Seeking Medical Treatment; Preservation of Evidence

Medical care may address physical and mental health concerns, including those related to pregnancy and/or sexually transmitted infections. Medical providers may also be able to assist in the collection and preservation of evidence. The ability to collect and preserve evidence of Sexual Assault is limited in time (typically to a window of 72 hours), so it is essential that care be sought as soon as possible. Individuals should avoid showering/bathing, douching, and, if possible, urinating. In the event of oral sexual contact, individuals should avoid eating, drinking, or brushing teeth. Any soiled clothes, towels, or bedding should be retained in paper bags. Preserving physical evidence in this manner may facilitate a criminal investigation, but seeking medical treatment does not obligate an individual to pursue a criminal complaint.

b. Reporting to Law Enforcement and Pursuing a Criminal Complaint

Similarly, making a report to law enforcement does not generally obligate an individual to pursue a criminal complaint, or to participate in the College's Grievance Procedures. An individual may choose to participate in the processes set forth in this Policy, in an external criminal process, both, or neither. In the event that both criminal and disciplinary processes are at issue, the College may comply with law enforcement requests for temporary delays in the processes set forth in this Policy in order to permit law enforcement to gather evidence for a criminal investigation.

17. College Response to Reports

The College will review and respond to all Reports. Upon receiving a Report, the Title IX Coordinator will promptly contact the Complainant to provide information, advise them of the availability of Supportive Measures and on- and off-campus resources, and discuss the procedural options available to the Complainant under this Policy, including the Alternative Resolution Process and pursuing Grievance Procedures. The College will also assess whether there are any immediate threats to health or safety that must be addressed.

Importantly, if the alleged conduct, if established, would not constitute a violation of this Policy, the Title IX Coordinator will inform the Complainant of other resources and options available, which may include referring the matter for action under a separate college policy. Similarly, in cases in which the Respondent is not a Bryn Mawr Student or Employee and the Alternative Resolution Process and/or Grievance Procedures would not be available to the Complainant, the Title IX Coordinator will offer Supportive Measures and take other action as appropriate, if any, to address the behavior at issue.

At all times, the College will treat Complainants and Respondents equitably.

18. Complaints Involving Responsive Personnel

In the event of concerns pertaining to the conduct of the Title IX Coordinator or other individuals involved in the College's response to Sex Discrimination, Reports and/or Complaints may be directed to:

- Tomiko Jenkins, Dean of Student Life (Student Concerns)
- Timothy Harte, Provost (Faculty Concerns)
- Martin Mastascusa, Director of Human Resources (Staff Concerns)

19. Challenges to Responding Personnel for Bias or Conflict of Interest

If a Party has concerns about bias in favor of or against a specific Complainant or Respondent, bias in favor of or against Complainants or Respondents generally, or a potential conflict of interest which involves the Title IX Coordinator, facilitator of an Alternative Resolution Process, investigator, decisionmaker, or appeals decisionmaker, the Party should direct those concerns to the Title IX Coordinator.

20. Consolidation of Complaints

In its discretion, the College may consolidate Complaints alleging Sex Discrimination, including Sex-Based Harassment, against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations arise out of the same or related facts or circumstances. In addition, the College has discretion to consolidate allegations of other forms of misconduct – including allegations of discrimination or harassment based on another protected category – should they occur in related incidents. If Complaints involving multiple Complainants, multiple Respondents, or multiple allegations are consolidated, each Party will have access to all of the information being considered including as provided by all involved Complainants, all involved Respondents, and all involved witnesses. The decision to consolidate Complaints is not subject to appeal.

21. Supportive Measures

Supportive Measures are non-disciplinary, non-punitive individualized measures offered, as appropriate, as reasonably available, and without fee or charge, to a Complainant or Respondent. Supportive Measures are designed to restore or preserve a Party's access to the College's

Education Program or Activity, including by protecting the safety of the Party/Parties or the College's educational environment, and/or by providing support to the Party/Parties during the Alternative Resolution Process or Grievance Procedures.

Supportive Measures are available before or after the filing of a Complaint, as well as in cases in which no Complaint is ever filed. Supportive Measures are designed to restore or preserve equal access to the College's Education Program or Activity without unreasonably burdening either Party. They may, but may not, be modified or terminated at the conclusion of the Grievance Procedures or Alternative Resolution Process. Examples of Supportive Measures include, but are not limited to, the following:

- Academic accommodations (such as a change in class schedule, modified deadlines, or a leave of absence);
- Workplace accommodations (such as a change in work location or schedule);
- Housing accommodations (such as a change in residence hall assignment or access to temporary emergency housing);
- Referrals for mental or physical healthcare, spiritual and religious resources, and/or training and education programs related to Sex-Based Harassment on- and off-campus;
- Safety-related resources (such as walking escorts, assigned parking, or increased security and monitoring of certain areas of campus); and/or
- No contact orders or agreements, which may be mutual (affecting both Parties), or non-mutual (affecting only one Party), and which may include restrictions on communication in-person, electronically, and via third parties, as well as restrictions on access to the College facilities or activities.

Changes in class, work, housing, extracurricular, and/or other activities may be made regardless of whether there is or is not a comparable alternative.

A Party may seek modification or reversal of decisions to provide, deny, modify, or terminate Supportive Measures applicable to that Party by contacting the Title IX Coordinator. In the event of such challenges, the decisionmaker will be someone other than the person who made the decision being challenged and will have the authority to make the requested modification or reversal. In the event of a material change in circumstances affecting Supportive Measures, subsequent opportunities for review may be sought.

a. Confidentiality of Supportive Measures

Information about Supportive Measures provided to a person will not be disclosed, including informing one Party of Supportive Measures provided to another Party, except when necessary to provide the Supportive Measures, or restore or preserve a Party's access to the College's Education Program or Activity.

22. Accommodations for Students and Employees with Disabilities

If a Party is a Student with a Disability, or an Employee with a Disability, that Party is entitled to reasonable accommodations that would enable them to participate in all processes provided for

under this Policy, including, but not limited to, making a Report or Complaint, participating in an Alternative Resolution Process, and/or participating in an investigation and adjudication under the Grievance Procedures. If a Student or Employee with a Disability requires such reasonable accommodations, they should promptly notify the Title IX Coordinator. In cases in which a Party is a Student with a Disability, the Title IX Coordinator may consult, as appropriate, with the Party or with Access Services; in cases in which a party is an Employee with a Disability, the Title IX Coordinator may consult, as appropriate, with the Party or with Human Resources.

A Party should not assume that the Title IX Coordinator is on notice that they are a Student or Employee with a Disability, even if the Party is registered to receive accommodations via Access Services, Human Resources, or another academic or administrative unit of the College.

23. Emergency Removal; Administrative Leave

a. Emergency Removal

A Respondent may be removed from the College's Education Program or Activity, or certain aspects thereof (such as, but not limited to, access to College facilities, housing, classes, and/or student activities), if, after conducting an individualized safety and risk analysis, the College determines that an immediate and serious threat to the health or safety of a Complainant, any College Students, employees, or other persons, arising from the alleged Sex Discrimination, justifies removal. In the event of such a removal, the Respondent is given the opportunity to seek modification or reversal of the removal.

b. Administrative Leave

With respect to employee Respondents, administrative leave from College employment is permitted during the pendency of Grievance Procedures. Administrative leave may include complete removal from the College's workplace or limitations on access to the workplace and may be imposed with or without pay. In the event administrative leave is imposed, the Respondent is given the opportunity to seek modification or reversal.

24. Advisors

Each Party is entitled to be accompanied by an Advisor of their choosing to any meeting, interview, or proceeding related to a Report or Complaint under this Policy. The Advisor is a non-speaking role present to advise and support the Party and may be, but is not required to be, an attorney.

Delays will not normally be allowed due to scheduling conflicts with Advisors. If, at any point, an Advisor becomes disruptive or fails to comply with the provisions of this Policy or any additional rules of decorum provided by the College, the College may remove the Advisor from the meeting, interview, or proceeding, and, if appropriate, any future meetings, interviews, or proceedings. Such a removal of an Advisor is not appealable. If a Party's Advisor is removed, they may choose another Advisor.

25. Alternative Resolution Process

An Alternative Resolution Process may be offered at any time before a determination has been made regarding whether Sex Discrimination occurred. This includes upon receipt of a Report, or during the pendency of Grievance Procedures. A Complaint need not be made in order to initiate the Alternative Resolution Process. An Alternative Resolution Process is not permitted if such a process would conflict with federal, state, or local law; the College may also decline to permit an Alternative Resolution Process when it determines that the alleged conduct presents a future risk of harm to others. The College's determination is not subject to appeal.

Both Parties must agree to participate in the Alternative Resolution Process, and the College must agree that it is appropriate. As participation is voluntary, the College does not require Parties to waive the right to an investigation and adjudication as a condition of (continuing) enrollment or (continuing) employment, or the exercise of any other right. While every Alternative Resolution Process will be tailored to the facts and circumstances of the individual case, in no case will the facilitator of the Alternative Resolution Process be the same as the investigator or decisionmaker for Grievance Procedures involving the same matter.

Before initiating an Alternative Resolution Process, the College will notify the Parties of:

- the allegations;
- the requirements of the Alternative Resolution Process;
- that each Party has the right to withdraw their agreement to participate in the Alternative Resolution Process prior to agreeing to a resolution, and can at that time initiate or resume the Grievance Procedures, as applicable;
- that agreement to a resolution at the conclusion of the Alternative Resolution Process precludes the Parties from initiating or resuming Grievance Procedures arising from the same allegations;
- the potential terms that may be requested or offered in an Alternative Resolution Process agreement, including notice that an Alternative Resolution Agreement is binding only on the Parties; and
- which records will be maintained as part of the Alternative Resolution Process and circumstances under which such records could be shared in the event that the Alternative Resolution Process is not completed, and Grievance Procedures are initiated or resumed.

26. Grievance Procedures

a. Title IX Coordinator-Initiated Complaints

As noted, in the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, the Title IX Coordinator will determine whether to initiate a Complaint. Such a determination is fact-specific and will be made in consideration of factors including, but not limited to:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex Discrimination would occur if a Complaint is not initiated;
- The severity of the alleged Sex Discrimination, including whether, if established, the College would require the removal of the Respondent from campus or impose another Disciplinary Sanction to end the Sex Discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee;
- The scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing conduct, or conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Sex Discrimination occurred; and
- Whether the College could end the alleged Sex Discrimination and prevent its recurrence without initiating the Grievance Procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint. Prior to doing so, the Title IX Coordinator will notify the Complainant and appropriately address reasonable concerns about their safety or the safety of others, including by providing Supportive Measures. Regardless of whether a Complaint is initiated, the Title IX Coordinator will take other appropriate prompt and effective steps to prevent Sex Discrimination from occurring within the College's Education Program or Activity.

b. Dismissal

A Complaint may be dismissed, in whole or in part, if it is determined, at any time, that:

- Bryn Mawr cannot identify the Respondent after taking reasonable steps to do so;
- The Respondent is not, or is no longer, participating in the College's Education Program or Activity and is not, or is no longer, employed by the College;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint (if any) would not constitute Sex Discrimination even if established; and/or
- The conduct alleged (after reasonable efforts to clarify have been made, as appropriate), if established, would not constitute Sex Discrimination.

In the event of a dismissal, Supportive Measures may still be provided to the Complainant (and Respondent, if already notified of the Complaint), and the Title IX Coordinator may refer the matter to another, appropriate office for review and response. The College will provide written notice to the Complainant (and Respondent, if already notified of the Complaint) of the dismissal, the basis for the dismissal, and the right to appeal the dismissal.

i. Withdrawal of Complaint by Complainant

As noted, a Complaint may be dismissed if the Complainant notifies the Title IX Coordinator that they would like to withdraw the Complaint. Such notice must be in writing. If a Complainant requests dismissal, they can re-file the Complaint at a later date and request a continuation of the Grievance Procedures or voluntarily agree to an Alternative Resolution Process.

The Title IX Coordinator will consider requests in light of the factors laid out in Section (a) above ("Title IX Coordinator-Initiated Complaints"), relating to the Title IX Coordinator's decision to initiate a Complaint when the Complainant does not wish to do so. If the Title IX Coordinator refuses a request by a Complainant to dismiss a Complaint, the Title IX Coordinator will notify the Complainant in writing of the decision and rationale.

ii. Withdrawal or Resignation While Complaint is Pending

Should a Student withdraw from the College while a Complaint is pending, the College reserves the right to continue with the Grievance Procedures in the Student's absence. A determination of responsibility that would have resulted in a Student's suspension or expulsion will be noted in that Student's records.

Should an employee resign with an unresolved Complaint pending, Human Resources records will reflect that status, and the College reserves the right to continue with the Grievance Procedures in the employee's absence.

c. Notice of Allegations

The Grievance Procedures begin with the sending of a Notice of Allegations to the Complainant and Respondent. If the Complaint was signed by the Title IX Coordinator, the Complainant will still receive the Notice of Allegations, but is not required to participate in the investigation or related activities. The Notice of Allegations will include:

- information about the Alternative Resolution Process and Grievance Procedures;
- the identities of the Parties involved, the conduct alleged to constitute Sex Discrimination, and the date(s) and location(s) of the alleged incident(s), if known;
- information about the College's prohibition on Retaliation;
- a statement that the Parties are entitled to an investigative report summarizing all Relevant (not otherwise impermissible) evidence and retain the equal right to access such evidence upon request;
- a statement that the Respondent is presumed not responsible for the alleged Sex-Based Harassment unless a determination is made at the conclusion of the Grievance Procedures, after the Parties have had an opportunity to present Relevant (not otherwise impermissible) evidence to a trained, impartial decisionmaker;
- Notice that the Parties have the right to be accompanied by an Advisor of choice, who may be but need not be an attorney;
- notice that knowingly making false statements or submitting false information is prohibited;

- information about Supportive Measures;
- a statement regarding the Standard of Proof to be used in considering the facts and evidence;
- the range of possible Sanctions and Remedies; and
- information about the appeals process.

If, in the course of an investigation, the College decides to investigate additional allegations of Sex Discrimination not included in the original Notice of Allegations about the Respondent's conduct toward the Complainant, or which are otherwise consolidated with the ongoing investigation, the College will provide notice of the additional allegations to the Parties whose identities are known. If the College has reasonable concerns for the safety of any person as a result of providing this Notice of Allegations, it may reasonably delay in providing it in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

d. Acceptance of Responsibility

At any time prior to the rendering of a finding as to responsibility by a decisionmaker, the Respondent may indicate that they do not wish to contest the disciplinary case against them and accept responsibility for all or part of the Prohibited Conduct alleged. In the event that a Respondent accepts responsibility, the Complainant will be notified in writing. The Complainant and Respondent may each submit, respectively, an impact statement or a mitigation statement which will be reviewed by the decisionmaker of Sanctions and/or Remedies. The Parties will thereafter be notified simultaneously of the Sanctions imposed and whether any Remedies will be provided. This decision is not appealable and is final. In the event that the Respondent accepts responsibility for only part of the Prohibited Conduct alleged, the remaining allegations will proceed to the decisionmaker for a finding, and Remedies and Sanctions for all the Prohibited Conduct at issue will be assigned at the conclusion of the matter in its entirety.

e. Investigation

i. Time Frames

The investigation will be adequate, reliable, and impartial, and will be completed in a reasonably prompt timeframe, typically ninety (90) Days. Any timelines provided herein create no rights for the Parties and may be extended or changed by the College for good cause shown, in the College's sole discretion. In the event a deadline is extended or changed, both Parties will be notified in writing regarding the reason for and expected duration of the delay.

ii. Investigation

Bryn Mawr will charge a trained investigator with the task of gathering facts about the allegations raised in the Complaint, objectively evaluating the Relevance of all evidence, and preparing an investigative report which contains a fair summary of the Relevant evidence.

The investigator will meet with each Party and Relevant witnesses. The investigator will, prior to any interviews or meetings with the Parties, provide written notice of the date, time, location, and purpose of the interview or meeting, with sufficient time for the Party to prepare for the interview or meeting. Each Party will have the equal opportunity to gather and present Relevant evidence (both inculpatory and exculpatory) and fact witnesses to the investigator. However, the burden of gathering evidence, and satisfying the Standard of Proof, is on the College.

Expert witnesses are not generally permitted. However, if a Party presents a compelling justification for the inclusion of an expert witness to elucidate a discrete point not reasonably discernible by a lay witness, the Title IX Coordinator may approve such inclusion. Such approvals are within the Title IX Coordinator's discretion and are not subject to appeal. If approved, the other Party will also be permitted the inclusion of an expert witness to speak to the same discrete point, if they wish to do so.

Providing information to the investigator through an interview, through the submission of documents, or both, is voluntary. the College does not compel Parties or non-employee witnesses to answer questions during the interview or submit documents, although all Parties and witnesses are encouraged to do so. A person's decision not to participate in the investigation, in whole or in part, will be documented in the investigative report.

An investigative report containing a fair summary of the Relevant evidence collected during the investigation will be submitted to both Parties for their review and response. The Parties may access the Relevant (not otherwise impermissible) evidence upon request. The Parties will have five (5) Days to provide written feedback to the investigator, who will consider such responses before completing a report. In the event that there are material additions or changes as between the draft document and final version, the Parties will have five (5) Days to review any such additions and provide a final written response if they choose to do so.

f. Adjudication

Upon completion of the investigation, the Title IX Coordinator reviews the investigative report. If there is no basis for dismissal or reassignment to another, more appropriate office, the matter is submitted for adjudication. The adjudication process varies based on the status of the Complainant and Respondent (i.e., Student or employee), and the type of conduct at issue (i.e., Sex-Based Harassment or other forms of Sex Discrimination).

Matters involving Complaints of Sex-Based Harassment with a Student Complainant and/or a Student Respondent are adjudicated through the live hearing process described below, while both Complaints of Sex Discrimination other than Sex-Based Harassment and Complaints of Sex-Based Harassment involving only employees and/or third parties are adjudicated through the non-hearing process described below.

When a Complainant or Respondent is a Student Employee, the College will undertake a fact- and circumstance-specific inquiry to determine how the matter will be adjudicated, including consideration of whether the Party's primary relationship with the College is to receive an education, and whether the alleged Sex-Based Harassment occurred while the Party was

performing employment-related work. Typically, if a Respondent who is a Student Employee may experience a change in their employment status as a result of the outcome of a Grievance Process, but not a change in their Student status, the matter will proceed as though the Respondent was an employee.

i. Non-Hearing Adjudication Process

For all matters other than those involving allegations of Sex-Based Harassment in which the Complainant and/or the Respondent is a Student

In all matters other than those involving allegations of Sex-Based Harassment in which the Complainant and/or the Respondent is a Student, a non-hearing adjudication process is used. In this process, the decisionmaker, who will be a trained individual identified by the Title IX Coordinator, will objectively evaluate all Relevant evidence, both inculpatory and exculpatory, and reach a determination regarding responsibility pursuant to the Standard of Proof.

The decisionmaker will assess the credibility of the Parties and witnesses, to the extent credibility is both in dispute and Relevant to evaluating the allegations. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The decisionmaker may accomplish this by holding meetings, at their discretion, with any Party or witness, at which questions are posed. These meetings are private and individual.

The decisionmaker will prepare a written determination, with rationale, and appeals information. In the event the Respondent is found responsible for a violation of this Policy, the determination will include the Sanctions imposed and/or whether Remedies will be provided, as appropriate. The decision will generally be issued within ten (10) Days of submission of the matter to the decisionmaker by the Title IX Coordinator, but this time period may be extended by the decisionmaker for good cause.

ii. Live Hearing Adjudication Process

For all matters involving allegations of Sex-Based Harassment in which the Complainant and/or the Respondent is a Student

1. Scheduling and Preparing for the Hearing

In matters involving allegations of Sex-Based Harassment in which the Complainant and/or the Respondent is a Student, a live hearing adjudication process is used. For any adjudication via live hearing, the Parties will be notified in writing of the date, time, and location of the hearing. The hearing may be scheduled, in the College's discretion, to take place in-person or via an online platform through which each Party, witness, their Advisors, and the decisionmaker (Hearing Panel) can see and hear each other in real-time. An audio or audiovisual recording, or transcript, of any live hearing will be made by the College; no other recording or transcription is permitted. If the matter involves more than one Respondent, the Title IX Coordinator, in their discretion, may permit the hearing concerning each Respondent to be conducted either jointly or separately.

2. Non-Appearance of Parties or Witnesses; Refusal to Respond to Questions

If a Party or witness, after being provided notice, does not appear at the hearing, the hearing will take place in their absence. In such a case, or in the event that a Party or witness appears at the hearing but refuses to answer questions, the Hearing Panel will make its determination using the evidence available. The Hearing Panel may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant (and not otherwise impermissible). The Hearing Panel must not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to questions.

3. Conduct at the Hearing

The College expects all Parties, witnesses, and Advisors to refrain from abusive or disruptive behavior, and will provide notice of any additional rules of decorum, which will be applied equally to the Parties. Inappropriate behavior may result in a suspension of the hearing until the abusive or disruptive behavior has been addressed and may involve the exclusion and replacement of an Advisor.

Hearings are overseen by the Hearing Panel, which will consist of three (3) trained decision-makers: a Hearing Panel Chair, and two Hearing Panel members. The Hearing Panel Chair may be a College administrator or an outside consultant, contracted by the College. Hearing Panel members will be faculty or staff members appointed by the College.

- No member of the Hearing Panel will also have served as the Title IX Coordinator, investigator, facilitator of an Alternative Resolution Process, a Witness, or an Advisor to any Party in the case.
- No member of the Hearing Panel may serve on the Appeals Panel in the case.
- No member of the Hearing Panel will have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against any of the Parties to the case.
- The Parties will have an opportunity to raise any objections regarding a Hearing Panel member's actual or perceived conflicts of interest or bias at the commencement of the Hearing.

At the live hearing, the Hearing Panel will question Parties and witnesses to adequately assess a Party's or witness's credibility, to the extent credibility is both in dispute and Relevant to evaluating the allegations of Sex-Based Harassment. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The Hearing Panel will accomplish this by asking the Parties and witnesses Relevant (not otherwise impermissible questions) and follow-up questions, including questions challenging credibility. The Parties may propose questions to the Hearing Panel that the Party wants asked of any Party or witness and have those questions asked.

The Hearing Panel Chair will determine whether a proposed question is Relevant (and not otherwise impermissible) before it is answered and will explain any decision to exclude a question as not Relevant or as otherwise impermissible. All Relevant (not otherwise impermissible) questions will be asked. Questions that are unclear or harassing of the Party or witness being questioned may be excluded, but prior to doing so, the Hearing Panel will give the Party posing the question the opportunity to clarify or revise the question.

Rules of evidence, such as those applied in criminal or civil court, are not applicable to hearings conducted under this Policy. Evidence not previously provided in advance of the hearing may be accepted for consideration at the discretion of the Hearing Panel Chair. Promptly upon conclusion of the hearing, the Complainant and Respondent may each submit, respectively, a brief written impact statement or a mitigation statement which will be reviewed by the Hearing Panel in the event of a finding of responsibility, for the purposes of determining Sanctions and/or Remedies.

4. Hearing Framework

Hearings will proceed according to the following framework:

- The Hearing Panel Chair will open and establish rules and expectations for the hearing.
- The Parties will each be given the opportunity to provide opening statements.
- The Hearing Panel will ask questions of the Parties and witnesses.
    - Parties will be given the opportunity to submit questions to the Hearing Panel that they wish asked of the other Party and any witnesses after the Hearing Panel conducts their initial round of questioning.
    - Questions will be submitted in a written format to be determined by the Hearing Panel Chair.
- The Parties will each be given the opportunity to provide closing statements.
- The Hearing Panel Chair may pause the hearing at any time to address violations of expectations related to decorum.

5. Decision-making

The Hearing Panel will objectively evaluate all Relevant evidence, both inculpatory and exculpatory, and reach a majority determination regarding responsibility pursuant to the Standard of Proof. The Hearing Panel will prepare a written decision, which will be communicated simultaneously to the Parties within ten (10) Days of the hearing, including:

- a description of the alleged Sex-Based Harassment;
- information about the policy and procedures used to evaluate the allegations;
- the Hearing Panel's evaluation of the Relevant (not otherwise impermissible) evidence;
- the determination of whether the Respondent was responsible or not responsible for Prohibited Conduct;
- if responsible, the specific behaviors for which Respondent was found to be responsible; and
- appeals information.

In the event the Respondent is found responsible for a violation of this Policy, the determination will include the Sanctions imposed and/or whether Remedies will be provided, as appropriate.

g. Sanctions; Remedies

Sanctions are designed to stop the misconduct, prevent its recurrence, and remedy its effects, and will consider factors including the nature and gravity of the misconduct, and any record of prior misconduct, if applicable. Sanctions may include, but are not limited to, the following:

- Permanent separation
- Time-limited separation
- Deferred separation
- Performance improvement plan
- Loss of campus housing or other privileges
- Removal from organization, team, and/or committee
- Revocation of leadership or supervisory position
- Disciplinary probation
- Community service or other work assignments
- Writing assignment
- External program attendance or facilitation
- Warning – written or oral
- Revocation of degree
- Withholding of diploma and/or transcripts
- Prohibition from participation in Commencement and/or Senior Week activities

The College may continue Supportive Measures and may also provide Remedies to the Complainant or others, in the event their equal access to the College's Education Program and/or Activity was determined to have been limited or denied by Sex Discrimination. Remedies are designed to restore or preserve that person's access and may include safety measures; adjustments to class or work schedules; adjustments to housing; resources, services, or support; and any other Remedies the College deems appropriate.

The determination regarding responsibility becomes final either on the date that the College provides the Parties with the written determination of the results of any appeals, or, if no appeal filed, the date on which an appeal would no longer be considered timely. Any Sanctions and/or Remedies will be implemented at this time.

h. Appeals

Dismissals and determinations regarding responsibility can be appealed based on one or more of the following grounds:

- Procedural irregularity that affected the outcome of the matter;

- New evidence that was not reasonably available at the time of the dismissal or the determination regarding responsibility that could affect the outcome of the matter; and/or
- The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or an individual Party in particular, and that bias affected the outcome of the matter.

Appeals must be submitted in electronic form to the Dean of the Undergraduate College of the campus on which the hearing was held within five (5) Days of the date of the written outcome determination or dismissal. The Dean shall immediately provide notice of any appeal(s) to the other Party, who has five (5) Days to submit a written response, limited to the grounds alleged in the appeal. Any extended time for appeal shall be offered equitably to all Parties but shall not be extended for any Party solely because the other Party filed an appeal. The submission of an appeal stays any Sanctions and/or Remedies for the pendency of the appeal. Supportive Measures remain available during the pendency of the appeal.

The Dean will then submit the appeal and response, if any, to an Appeals Panel to be convened by the Dean, which consists of three (3) trained faculty or staff members who were not the same individuals who, as applicable, conducted the investigation, issued the dismissal, and/or made the finding of responsibility.

The Appeals Panel's review will be based only on the written record, as well as any recordings or transcripts. Any alleged new evidence related to the grounds for the appeal should be appended to the appeal. The appeal is not an opportunity for a re-investigation or re-hearing. The Appeals Panel will submit a final written decision on the appeal, including a rationale, generally within ten (10) Days of receipt of the appeals materials, but this time period may be extended by the Appeals Panel for good cause. The decision will be simultaneously distributed to the Parties.

For an appeal related to the dismissal of a Complaint, the Appeals Panel will decide whether to approve or reject the decision and, if rejected, return the Complaint to the Title IX Coordinator for further process. For an appeal of a finding of responsibility, the Appeals Panel will decide whether to uphold, reverse, or modify the decision and/or Sanctions and/or Remedies, and may remand the case for further proceedings consistent with the appeals decision. A majority decision by the Appeals Panel is final, and no subsequent appeals are permitted.

27. Additional Provisions Pertaining to Parental, Family, or Marital Status, and Pregnancy or Related Conditions

a. Nondiscrimination of Applicants, Students, and Employees

In determining whether a person satisfies any Bryn Mawr admissions policy or criterion, or in making any offer of employment, the College will treat Pregnancy or Related Conditions in the same manner and under the same policies as any other temporary medical condition. Bryn Mawr will not make pre-admission or pre-employment inquiry as to the Marital Status of an Applicant, including whether an Applicant is "Miss or Mrs." Bryn Mawr may ask an Applicant to self-identify their sex, but only when asking this question of all Applicants. The response will not be used as a basis for discrimination.

Bryn Mawr will not adopt or apply any policy, practice, or procedure, or take any employment action, concerning the current, potential, or past Parental, Family, or Marital Status of a Student, employee, or Applicant that treats persons differently on the basis of sex, or which is based upon whether an employee or Applicant for employment is the head of household or principal wage earner in such employee's or Applicant's family unit. The College will not discriminate against, establish or follow any policy, practice, or procedure that discriminates against, or exclude from employment any person on the basis of current, potential, or past Pregnancy or Related Conditions.

b. Voluntary Student Participation in Separate Education Programs or Activities

The College may offer Students experiencing Pregnancy or Related Conditions voluntary participation in a separate portion of its Education Program or Activity, if any, when comparable to what is offered to Students who are not experiencing Pregnancy or Related Conditions.

c. No Requirement of Medical Certification for Student Participation

The College will not require a Student, due to Pregnancy or Related Conditions, to provide certification from a physician or other licensed healthcare provider that the Student is physically able to participate in classes, programs, or student activities unless necessary, required for all participating Students, and not used as a basis for discrimination.

d. Leaves of Absence

i. Student Leaves of Absence

A Bryn Mawr Student experiencing Pregnancy or Related Conditions is allowed a voluntary leave of absence to cover, at minimum, the period of time deemed medically necessary by the Student's physician or other licensed healthcare provider. If another College leave policy allows a greater span of time than this period, the Student is permitted to take leave under that policy instead. Upon return, the Student will be reinstated to the academic and as practicable, extracurricular status that the Student held when the leave began.

ii. Employee Leaves of Absence

Bryn Mawr offers a Parental Leave Policy, which provides paid leave tofull-time staff members, and faculty members, who give birth, for childbirth and medical recovery therefrom. This medical leave will commence when the employee's healthcare provider determines that the employee is unable to work and generally extends for a continuous period of six weeks (absent medical complications) past the date of the child's birth. Unlike the College's Parental Leave Policy, which is applicable only to full-time employees with at least six (6) months of continuous eligible employment as of the date the leave is to commence, the Childbirth Medical Leave Policy applies to employees regardless of duration of employment.

For the avoidance of doubt, irrespective of the policies or any future changes to such policies, in the event a Bryn Mawr employee – faculty or staff – is for any reason not qualified for a leave, or

if no leave or insufficient leave is available, Pregnancy or Related Conditions is a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

e. Lactation-Related Accommodations for Students and Employees

The College will provide reasonable break time for a Student or employee to express breast milk or breastfeed as needed, and make available a lactation space, other than a bathroom, which is clean, shielded from view, free from intrusion from others, and may be used by a Student or employee for expressing breast milk or breastfeeding as needed.

f. Student and Employee Rights to Reasonable Modifications or Temporary Adjustments

Students are entitled to reasonable modifications to the College's policies, practices, or procedures because of Pregnancy or Related Conditions on an individualized and voluntary basis depending on the Student's needs when necessary to prevent discrimination and ensure equal access, unless the modification would fundamentally alter the Education Program or Activity. These may include but are not limited to: breaks to attend to health needs, including for expressing breast milk or breastfeeding; excused absences to attend medical appointments; changes in schedule or course sequence; extensions of time for coursework; rescheduling of tests and examinations; counseling; changes in physical space or supplies; or elevator access. Such modifications will be comparable to the treatment of other temporary disabilities or conditions.

Bryn Mawr will not require Students to provide supporting documentation unless necessary and reasonable to determine reasonable modifications. It will by definition be not necessary and reasonable when the need for the specific action is obvious; when the Student has previously provided sufficient supporting documentation; when the reasonable modification relates to drinking water, using a bigger desk, and/or the need to sit, stand, or take breaks to eat, drink, or use the restroom; when the Student has lactation needs; or when the requested specific action is available to Students for reasons other than Pregnancy or Related Conditions without the submission of supporting documentation.

The College will provide reasonable accommodations for employees experiencing Pregnancy or Related Conditions. Please contact Human Resources for information regarding such accommodations.

g. Requirement to Provide Information to Students Experiencing Pregnancy or Related Conditions

When any Bryn Mawr employee is informed by a Student of that Student's Pregnancy or Related Conditions, the employee must, unless the employee reasonably believes the Title IX Coordinator has already been notified, promptly inform the Student of:

- the Title IX Coordinator's contact information and
- that the Title IX Coordinator can coordinate specific actions to prevent Sex Discrimination and ensure equal access to the Education Program or Activity by promptly providing the Notice of Non-Discrimination and informing the Student of the College's relevant obligations.

The obligations of the College to Students experiencing Pregnancy or Related Conditions include:

- Prohibiting Sex Discrimination, including Sex-Based Harassment;
- Allowing access, on a voluntary basis, to any separate and comparable portion of the College's Education Program or Activity;
- Referring Students experiencing Pregnancy or Related Conditions to the Title IX Coordinator;
- Taking specific actions to promptly and effectively prevent Sex Discrimination and ensure equal access to the Education Program or Activity, including providing the option of making reasonable modifications to College policies, practices, or procedures because of Pregnancy or Related Conditions;
- Allowing a voluntary leave of absence;
- Ensuring the availability of lactation space; and
- Maintaining Grievance Procedures that provide for the prompt and equitable resolution of complaints of Sex Discrimination.

28. Recordkeeping

There is a seven-year record retention period for:

- Reports; Complaints; and records documenting the response to Reports and Complaints, including any Supportive Measures provided, any emergency removals or administrative leave imposed, and any Alternative Resolution Process or Grievance Procedures undertaken, including the resulting outcome (e.g., the result of any Alternative Resolution Process, determinations of responsibility, Sanctions imposed on the Respondent, Remedies provided to the Complainant, appeals and the results of such appeals);
- Any records documenting action taken by the College to address Reports of Sex Discrimination, prevent its recurrence, and remedy its effects; to address any barriers identified to reporting such conduct; and to educate employees about their Responsible Employee responsibilities;
- All materials used to provide required training;
- Any audio or audiovisual recording or transcript required to be retained; and
- Any other records documenting the actions taken to satisfy the College's obligations to prevent discrimination and ensure equal access for individuals due to Pregnancy or Related Conditions, including facilitating reasonable modifications for Students and facilitating temporary adjustments, leave, and/or lactation time and space for employees.