



BRYN ATHYN  
COLLEGE

# Title IX Policy & Procedures

## Reporting Sexual Assault & Sexual Misconduct

**POLICY – 2019**



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## Statement of Institutional Values

Sexual misconduct of any form is a violation of a person's rights, dignity, and integrity. An act of sexual misconduct represents a fundamental failure by a community member to recognize and respect the intrinsic worth and dignity of another. Acts of sexual misconduct are harmful and illegal and will not be tolerated at Bryn Athyn College. Such acts corrupt the integrity of the educational process and are contrary to the mission and values of the College.

All members of the Bryn Athyn College community should be free from sexual misconduct in the classroom; the social, recreational, and residential environment; and the workplace. The College seeks to foster a climate free from sexual misconduct through a coordinated education and prevention program, the promulgation of clear and effective policies, as well as investigative and grievance procedures that are prompt, equitable, and accessible to all. In response to any reported sexual misconduct, the College will take all appropriate steps to eliminate the misconduct, prevent its recurrence, and address its effects.

In order to foster a climate of respect for oneself and for one another and provide for the safety and security of our community, the College expects all community members to take action to prevent acts of sexual misconduct. Creating a safe campus environment is the responsibility of all members of the College community, both individually and collectively.

In order to foster a climate that encourages reporting of sexual misconduct, the College will actively educate the community, respond to all allegations promptly, will provide interim measures to address safety and emotional well-being, and will act in a manner that recognizes the inherent dignity of the individuals involved.

In order to achieve equitable results, the College will carefully review and/or investigate all reports with an earnest intent to understand the perspective and experiences of each individual involved, and provide for fair and impartial evaluation and resolution.

## Purpose of Policy

The purpose of this policy is to provide the Bryn Athyn College community with a clearly articulated set of behavioral standards, common understandings of definitions and key concepts, and descriptions of prohibited conduct. **The policy applies to all community members, including students, faculty, staff, and volunteers.** It is intended to protect and guide students, faculty, staff, and volunteers who have been affected by sexual misconduct, whether as a Complainant, a Respondent, or a third party.

When used in this policy, a Complainant refers to the individual who believes him or herself to have been the subject of sexual misconduct. A Respondent refers to the individual who has been accused of sexual misconduct. A third party refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of

someone else. A report refers to any incident or concern regarding sexual misconduct that is reported to the College. A complaint is an allegation of sexual misconduct filed against a faculty or staff member or student that initiates the appropriate disciplinary process.

In addition to defining sexual harassment and the forms of sexual misconduct that violate the standards of our community, this policy will also:

- Identify resources and support for all members of the College community
- Identify the Title IX Coordinator, and define the role
- Provide information about where a College community member can obtain support or access resources in a confidential manner
- Provide information about how a College community member can make a report on-campus or off-campus
- Provide information about how a report against a College community member will be investigated, evaluated, and resolved

### Scope of Policy

Bryn Athyn College prohibits harassment of and discrimination against any and all community members. This policy applies to all members of the College community, including students, employees<sup>1</sup>, volunteers, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the College.

All community members have a responsibility to adhere to College policies and local, state, and federal law. **This policy applies to conduct occurring on Bryn Athyn College property or at College-sanctioned events or programs that take place off campus, including study abroad and internship programs.** This policy also applies to off-campus conduct that is likely to have a substantial adverse effect on any member of the Bryn Athyn College community.

The purpose of this policy is to provide community members with the structure, tools, and guidance to assist those who have experienced or been affected by sexual assault or harassment whether as a complainant, a respondent, or a third party.

Sexual assault and harassment can be committed by any member of the Bryn Athyn College community. The College has jurisdiction to take disciplinary action against a respondent who is a current student or employee. There are specific procedures for resolving a report under this policy against a student, faculty, staff, or administration respondent. For details

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<sup>1</sup> For the purpose of this policy, employee refers to all full-time, percent-time, and part-time members of the faculty, staff (including instructional-staff), and administration of Bryn Athyn College.

regarding this procedure see [Procedures for Review, Investigation, and Resolution of Discrimination, Harassment, Retaliation, or Sexual Misconduct Complaints](#).

### **Notice of Non-Discrimination**

The College expressly prohibits any form of discrimination and harassment on the basis of any College-recognized protected classification, including sex, race, color, age, religion, national or ethnic origin, or disability in any decision regarding admissions, employment, or involvement in a College program or activity in accordance with the letter and spirit of federal, state, and local non-discrimination and equal opportunity laws, such as titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, The Americans with Disabilities Act and ADA Amendments Act. This policy addresses all forms of sexual discrimination, including sexual assault and harassment. Bryn Athyn College does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of admissions or employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that:

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.

Bryn Athyn College, as an educational community, will promptly and equitably respond to all reports of sexual assault and harassment in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

Inquiries or complaints about the application of Title IX may be directed to the College's Title IX Coordinator and/or to the U.S. Department of Education's Office for Civil Rights:

#### **Renée L. Rosenfeld**

*Title IX Coordinator*

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*Title IX Deputy Coordinator*

College Center, Lower Level

P. O. Box 717

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[scott.jones@brynathyn.edu](mailto:scott.jones@brynathyn.edu)

**Office for Civil Rights**

The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323  
215-656-8541  
215-656-8605 (fax)  
[OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

**Privacy and Confidentiality on Title IX Procedures*****Privacy***

Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those College employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

***Confidentiality***

Confidentiality means that information shared by an individual with designated campus or community professionals (known as confidential reporters) cannot be revealed to any other individual without express permission of the individual. Confidential reporters include medical providers, mental health providers, and ordained clergy, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, or the individual is under the age of 18.

When a report involves suspected abuse of a minor under the age of 18, these confidential resources are required by state law to notify Pennsylvania Department of Public Welfare division of Child Welfare Services and/or local law enforcement. See policy on *Reporting Child Abuse*.

Any college employee who is not considered a confidential resource is considered a mandated reporter. When a mandated reporter becomes aware of an incident of sexual assault or harassment, he or she is required to report the incident to the Title IX coordinator.

The College will seek action consistent with the complainant’s request where possible. If the complainant is reluctant to report identifying information, Bryn Athyn College’s response may be limited.

If the safety of others in the community could be at risk, the College’s duty to the safety of the entire college community may outweigh the request for confidentiality.

## Definitions and Examples

**Sexual Harassment** - is any unwelcome sexual advance, request for sexual favors, or other unwanted verbal or physical conduct of a sexual nature when one or more of the following conditions are present:

- Submission to or rejection of such conduct is an explicit or implicit condition of an individual's employment, evaluation of academic work, or any aspect of a College program or activity
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e. it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both an objective and subjective standard

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

Sexual harassment can take many forms. Sexual harassment:

- may be blatant and intentional and involve an overt action, a threat of reprisal, or may be subtle and indirect, with a coercive aspect that is unstated
- does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents
- may be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context
- may be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship
- may be committed by or against an individual or may be a result of the actions of an organization or group

- may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation
- may occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting
- may be a one-time event or part of a pattern of behavior
- may be committed in the presence of others or when the parties are alone
- may affect the complainant and/or third parties who witness or observe harassment type and severity. Key determining factors are that the behavior is unwelcome, is gender-based, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct

**Sexual Assault** - is defined as having sexual intercourse or sexual contact with another individual without consent, including:

- by the use or threat of force or coercion
- without effective consent
- where that individual is incapacitated

*Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand, etc.) or object, or oral penetration involving mouth to genital contact.

*Sexual contact* includes intentional contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

**Sexual Exploitation** - is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include:

- observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved

- non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved
- prostituting another individual
- exposing one's genitals in non-consensual circumstances
- knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Physical Assault** - is a purposeful action meant to hurt another person. Examples include, but are not limited to, kicking, punching, hitting with or throwing an object, or biting. When these acts occur in the context of intimate-partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under the Sexual Assault and Harassment Policy.

**Bullying** - includes any intentional electronic, written, verbal, or physical act or a series of acts directed at another student or students that is severe, persistent, or pervasive and that has the intended effect of doing any of the following:

- i. substantially interfering with a student's education
- ii. creating a threatening environment
- iii. substantially disrupting the orderly operation of the College. Bullying is prohibited, and participating in such acts will result in disciplinary action

**Intimidation** - is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person(s) in the group to fear for her/his physical well-being. Intimidation is prohibited and will result in disciplinary action.

Anyone who attempts to use bullying or intimidation to retaliate against someone who reports an incident, brings a complaint, or participates in an investigation in an attempt to influence the judicial process will be in violation of retaliation as described within this policy and will be subject to disciplinary action.

**Stalking** - occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances that demonstrate either of the following:

- place the person in reasonable fear of bodily injury
- reasonably cause substantial emotional distress to the person

Stalking includes the concept of cyber-stalking, a particular form of stalking 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 unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

- unwelcome and repeated visual or physical proximity to a person
- repeated oral or written threats
- extortion of money or valuables
- unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on online bulletin boards
- unwelcome/unsolicited communications about a person, their family, friends, or co-workers
- sending/posting unwelcome/unsolicited messages with an assumed identity
- implicitly threatening physical contact
- or any combination of these behaviors directed toward an individual person

**Intimate Partner Violence (IPV)** - is defined as **physical**, sexual or psychological harm by a current or former partner or spouse. This type of violence can occur among heterosexual or same-sex couples and does not require sexual intimacy. It occurs on a continuum, ranging from one hit that may impact the victim to chronic, severe battering.

There are four main types of IPV: physical, sexual violence, threats of physical, or sexual violence, and psychological/emotional violence.

**Indecent Exposure** - is when a person exposes her/his genitals in any public place or in any place where there are present other persons under circumstances in which one knows or should know that this conduct is likely to offend, affront, or alarm.

**Retaliation** - is any act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of a sexual assault or harassment allegation. Retaliation can take many forms, including continued abuse or violence, threats, and intimidation. Any individual or group of individuals, not just a complainant or respondent, can engage in retaliation.

## Consent and Non-Consent

**Consent** - to engage in sexual activity must be knowing and voluntary; it must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact.

Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Consent is active, not passive.

**Guidance for Consent:**

- Each participant in a sexual encounter is expected to obtain and give consent to each act of sexual activity. Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive
- If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of the other individual to proceed, both parties should stop and clarify verbally the other’s willingness to continue before continuing such activity
- Either party may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease
- Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity
- Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual’s ability to exercise her/his own free will to choose whether or not to have sexual contact

**Force** - is the use or threat of physical violence or intimidation to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

**Coercion** - is the use of pressure to compel another individual to initiate or continue sexual activity against an individual’s will. Coercion can include a wide range of behaviors, including

intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

**Incapacitation** - when an individual lacks the ability to make informed, rational judgments and cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional instability. Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- decision-making ability
- awareness of consequences
- ability to make informed judgments
- capacity to appreciate the nature and the quality of the act

Evaluating incapacitation also requires an assessment of whether a respondent should have been aware of the complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, misconduct, or intimate-partner violence and does not diminish one's responsibility to obtain informed and freely given consent.

### **Title IX Coordinator Core Duties**

Pursuant to Title IX of the Educational Amendments of 1972, the following statement reflects the broad compliance responsibilities that fall on administrators charged with Title IX compliance by outlining the most commonly agreed-upon duties, responsibilities and essential competencies related to Title IX coordination. Job descriptions are intended to present a descriptive list of the range of duties typically performed by employees in the position and are not intended to reflect all duties performed within the job or in a particular

educational setting. Guidelines as to who should (and should not) be named to this position due to inherent conflicts of interest are also incorporated into this statement.

### **Core Job Duties and Responsibilities**

- Coordinate Title IX efforts including the development, implementation, and monitoring of appropriate disclosures, policies, procedures and practices designed to comply with federal and state legislation, regulation, and case law requiring the prompt and equitable resolution of all complaints pursuant to Title IX
- Provide leadership, direction and supervision for all activities and personnel of the Title IX program including consulting with relevant policy-making bodies and senior personnel for the purpose of advising, clarifying and identifying necessary action to eliminate sex and/or gender-based discrimination in all educational programs and activities, to ensure that access to facilities, opportunities, and resources is gender equitable throughout the campus
- Provide ongoing training, consultation, and technical assistance on Title IX for all students and employees, with specialized training content for hearing officers/boards, investigators, campus public safety officers and appeals officers
- Develop, implement and coordinate campus-based strategic efforts aimed at the prevention of sexual violence and other forms of sex and/or gender-based discrimination
- Develop and disseminate educational materials, including brochures, posters, and web-based materials that inform members of the school or campus community (students, faculty, administrators, staff, and parents) of Title IX rights, responsibilities and resources both within and external to campus premises
- Oversee prompt, effective, and equitable intake, investigation, processing, issuing of findings of fact, and timely resolution of all instances of sex/gender discrimination made known to responsible employees and/or reported or filed by students, faculty, staff and administration, third parties, or by members of the broader community
- Oversee Title IX compliance efforts of other campus delegates, departments and offices (e.g., investigators, student conduct/discipline, safety, nurse/health services, counseling services, student affairs, human resources, faculty/academic affairs, athletics, etc.)
- Provide appropriate notice of an investigation; determine the extent of an investigation; appoint, train, and supervise Title IX investigators and any deputy coordinators; oversee investigation efforts; ensure provision of initial remedial actions; assure compliance with timelines; deliver appropriate notice of charge,

notice of hearing, notice of outcome, duty to warn, and remedies, and provide a repository for and source of institutional record-keeping (may also be delegated)

- Provide guidance and assistance to alleged victims of sexual violence and sex/gender discrimination including referral to support resources, notice of right to file internal grievances, notice of the right to grieve to the US Department of Education Office for Civil Rights, and notice of the right to report incidents to law enforcement
- Monitor institutional compliance with and provide ongoing consultation on Section 504 of the Rehabilitation Act of 1973 and related federal and state laws prohibiting discrimination and harassment against all protected classes
- Organize and maintain grievance files, disposition reports, and other records regarding Title IX compliance, including annual reports of the number and nature of filed complaints and the disposition of said complaints, data collection, climate assessment, pattern monitoring; and serve as principal contact for government inquiries pursuant to Title IX

### **Deputy Title IX Coordinator Core Duties**

Bryn Athyn College has identified the Deputy Title IX Coordinator who will serve as an important point of contact to advise students, faculty, employees, third parties, or members of the College community. He/she also can receive reports of sexual misconduct and serve in the absence of the Title IX Coordinator. The Deputy Coordinator reports to the Title IX Coordinator and assists in applying the college's sexual misconduct policy and procedure. The Deputy Coordinator is responsible for assisting the Title IX Coordinator in the following areas:

- Directing students or other complainants to appropriate campus and community resources, including the processes for filing complaints
- Conducting outreach and education within their areas related to Title IX
- Assisting with the development and implementation of College efforts aimed at the prevention of sexual violence and other forms of sex and/or gender-based discrimination
- Tracking and monitoring incidents within their area
- Identifying and facilitating any necessary sanctions or remedies to mitigate the effects of any discrimination on the complainant and/or larger College community
- Ensuring the commitment to a safe and respectful learning, working and living environment within their areas and the College as a whole

## **Campus and Community Resources**

The College is committed to treating all members of the community with dignity, care, and respect. Any individual affected by sexual assault or harassment, whether as a complainant, a respondent, or a third party will have equal access to support and counseling services through the College. The College recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. The College encourages any individual who has questions or concerns to seek the support of campus and community resources. These professionals can provide information about available resources and procedural options and assistance to any party in the event that a report and/or resolution under this policy are pursued. Individuals are encouraged to use all available resources, regardless of when or where the incident occurred.

## **Education and Prevention Programs**

Bryn Athyn College is committed to the prevention of sexual misconduct, intimate-partner violence, and stalking through education and awareness programs. Throughout the year, programs designed to promote awareness are presented by a variety of campus resources. Prevention programs include an overview of the College's policies and procedures, relevant definitions, including prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention, and information about risk reduction.

Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training on a periodic basis. Bryn Athyn College's Title IX Coordinator oversees the education and prevention calendar and tailors programming to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty, and staff.

## **Emergency Support Services in the Event of a Sexual Assault**

### **What should you do if you have been sexually assaulted?**

1. Get to a safe place
2. Reach out for support
3. Seek medical attention
4. Consider having evidence collected

5. Consider reporting the assault to Bryn Athyn College's Department of Public Safety or the police.
6. Consider reaching out to other campus resources at Bryn Athyn College
7. Remember: It was NOT your fault

If you are the complainant of sexual assault, you are encouraged to seek assistance from a medical provider and/or law enforcement as soon as possible. This is the best option to provide physical safety, emotional support, and medical care. It is also the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The College will escort any Bryn Athyn College community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the College's resources and complaint processes. Complaints may be filed with the Title IX Coordinator.

If you bring forward a complaint within the College judicial process, you always have the option of pursuing civil or criminal action with law enforcement, the courts, or with the Office for Civil Rights.

Anyone can request that a member of the Department of Public Safety and/or Bryn Athyn Borough Police respond and take a report 24-hours-a-day, year-round.

### **Confidential Resources and Support**

For individuals who are seeking confidential consultation, there are several resources available to provide confidential support, both on campus and in the local community. The trained professionals designated below can provide counseling, information, and support under legally protected confidentiality.

Because these relationships involve privileged conversations, these confidential resources will not share information with the Title IX coordinator or any other employee of the College without the individual's express permission. They may, however, submit non-identifying information about the incident for purposes of making a statistical report under the Clery Act, as described below.

### **On Campus Confidential Resources**

When a mandated reporter thinks that a student may be about to report an act of sexual harassment, discrimination or assault, the employee should, if at all possible, tell the student that the College will maintain the privacy of the information, but the employee cannot maintain complete confidentiality and is required to report the act and may be required to reveal the names of the parties involved. If the student wishes to proceed, the employee should inform the student of the implications of sharing the names of the parties involved, which puts the College on notice.

Rather than speaking to the student about confidential information, the employee should offer to refer or accompany the student to Counseling Services or Health Services during the hours that those offices are open. Students may also contact and speak with members of the clergy, who also do not have obligation to report to the Title IX Coordinator.

The College encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible after a sexual assault. This is the best option to provide physical safety, emotional support, and medical care to the complainant. It is also the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The College will escort any Bryn Athyn College community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the College's resources and complaint processes.

Assistance is available from the College's Department of Public Safety or local law enforcement 24 hours a day, year-round. Any individual can request that a member of the Department of Public Safety and/or Bryn Athyn Borough Police respond and take a report.

An individual can also contact a Health and Wellness Center nurse practitioner (during the academic year) and/or a local medical provider 24 hours/day.

Health and Wellness Center <http://brynathyn.edu/student-life/campus-services/student-health-services/>

The Health and Wellness center is available (during the academic year) to assist students as a confidential resource. Please see website for current hours. Employees should seek assistance with the local medical provider.

The complainant will be interviewed and evaluated by a nurse who will assess the complainant's injuries. If the complainant does not have injuries requiring emergency attention, the complainant still has the option—and is encouraged—to go to the hospital for care. The complainant, if a student, can later follow up with the College's campus nurse for medical care. While with the College nurse, the complainant (if a student) may request to speak with the College counselor.

The Health and Wellness Center will provide non-identifying information about an incident to the College for the purposes of compliance with the Clery Act.

### **Off-campus Confidential Resources**

A medical provider, such as Abington Memorial Hospital or Holy Redeemer Hospital, can provide emergency and/ or follow-up medical services and provide a forum to discuss any health care concerns related to the incident in a confidential medical setting. These are the current local hospitals which identify as having Sexual Assault Nurse Examiner (SANE) nurses who are trained to work to collect evidence in a manner consistent with evidence-collecting requirements in Pennsylvania.

Under Pennsylvania law, a medical provider may be required to notify law enforcement of a sexual assault under certain circumstances. The medical provider, however, will share limited information with law enforcement, and a complainant may decline to speak with a law enforcement officer or participate in a criminal prosecution. The medical provider will typically also notify the local rape crisis counseling center.

The medical exam obtained from a hospital or sexual-assault response center has two goals: first, to diagnose and treat the full extent of any injury or physical effect (sexually transmitted infection [STI] or possibility of pregnancy) and, second, to properly collect and preserve evidence.

The exam may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a vaginal examination; collecting fingernail scrapings and/or clippings; examining for injuries; and a blood draw. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any course of action. The decision to seek medical attention and gather any evidence will preserve the full range of options to seek resolution through the College's complaint processes or criminal action.

A student or employee can also be referred to The Pennsylvania Coalition Against Rape (PCAR), who works in concert with a statewide network of rape crisis centers that provide immediate and long-term services to victims of sexual assault. For immediate crisis hotline assistance, call Victim Services of Montgomery Hotline: (610) 277-5200 or (888) 521-0983. For more hotline options, PCAR can be directly reached at (888) 772-7227.

Employees may seek counseling via the College's Employee Assistance Program (EAP), Growth Opportunity Center by calling (215) 947-8654.

### **Mandatory Reporting Under the Clery Act, Title VII and Title IX:**

1. The College expects all employees to report incidents in a manner consistent with their category of reporter (mandatory/confidential).
2. When an employee becomes aware of an alleged act of sexual harassment, discrimination or assault, the employee must promptly contact the Title IX Coordinator, Renée L. Rosenfeld, located in Brickman Center, Room 123. The employee should use the [College Incident Report Form](#) located at the end of this policy. Alternatively, the employee may call the Title IX Coordinator (267-502-6038) and then follow-up by filing the form.

3. The Title IX Coordinator will promptly inform the Department of Public Safety about the report.
4. When an employee thinks that a student or another employee (colleague) may be about to report an act of sexual harassment, discrimination or assault, the employee should, if at all possible, tell the student or colleague that the College will maintain the privacy of the information, but the employee cannot maintain complete confidentiality, and is required to report the act and may be required to reveal the names of the parties involved. If the student or colleague wishes to proceed, the employee should inform the student or colleague of the implications of sharing the names of the parties involved, which puts the College on notice.
  - a. Rather than speaking to the student or colleague about confidential information, the employee should offer to refer or accompany the student or colleague to Counseling Services, Health Services, or the EAP center during the hours that those offices are open.
  - b. A student or employee can also be referred to The Pennsylvania Coalition Against Rape (PCAR) - see Off-Campus Confidential Resources section above.
5. Under the Clery Act, College employees are mandatory reporters for a broader array of serious crimes, including the following:
  - a. Murder & Non-Negligent Manslaughter--The willful killing of one human being by another.
  - b. Negligent Manslaughter--The killing of another person through gross negligence.
  - c. Robbery--The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
  - d. Aggravated Assault--An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

- e. Burglary--The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- f. Motor Vehicle Theft--The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)
- g. Arson--Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- h. Arrests for Weapon Law Violations--The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.
- i. Arrests for Drug Abuse Violations--violations of State and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).
- j. Arrests for Liquor Law Violations--The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Drunkenness & driving under the influence are not included in this definition.)
- k. Disciplinary Referrals for Weapon Law Violations

- l. Disciplinary Referrals for Drug Abuse Violations
- m. Disciplinary Referrals for Liquor Law Violations
- n. Hate Crimes
- o. Sex Offenses
  - i. Forcible--Any sexual act directed against another person, forcibly and/or against their will. Forcible--Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.
  - ii. Non-forcible--Unlawful, non-forcible sexual intercourse.
    - 1. **Incest.** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - 2. **Statutory Rape.** Non-forcible sexual intercourse with a person who is under the statutory age of consent.

#### Reporting to Law Enforcement

The College encourages complainants to pursue criminal action for incidents of sexual assault or harassment that may also be crimes under Pennsylvania criminal statutes. The College will assist a complainant, at the complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law. Except where the complainant is less than 18 years old, the College will generally respect a complainant's choice whether or not to report an incident to local law enforcement, unless the College determines that there is an overriding issue with respect to the safety or welfare of the College community. Where a report involves suspected abuse of a minor less than 18, the College is required by state law to notify law enforcement and the Pennsylvania Department of Public Welfare division of Child Welfare Services.

The College's policy, definitions, and burden of proof may differ from Pennsylvania criminal law. A complainant may seek resolution through the College's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination whether or not to prosecute a respondent nor the outcome of any criminal prosecution are determinative of whether sexual assault or harassment has occurred under this policy. Proceedings under the College's Sexual Assault and Harassment Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

### Timeliness of Report, Location of Incident

Complainants and third-party witnesses are encouraged to report sexual assault and harassment as soon as possible in order to maximize the College's ability to respond promptly and effectively. The College does not, however, limit the timeframe for reporting. If the respondent is no longer a student or employee, the College may not be able to take judicial action against the respondent, but it will still seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and address its effects.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct that is likely to have a substantial adverse effect on any member of the Bryn Athyn College community may be covered under this policy.

### Amnesty for Personal Use of Alcohol or Other Drugs

Pennsylvania's Good Samaritan Law creates protection from prosecution for individuals in the case of underage drinking or drug use under the following conditions: law enforcement, including campus safety personnel, became aware of the possession or consumption solely because the individual was seeking medical assistance for someone else. The person seeking assistance must reasonably believe he or she is the first to call for assistance, must use his/her own name with authorities, and must stay with the individual needing medical assistance until help arrives.

Designed to encourage students to seek help in an alcohol or overdose emergency without the worry of receiving school policy violation sanctions, the law also applies to a crime or assault victim who also may be intoxicated or under the influence of drugs and is therefore reluctant to report the crime or assault. It is important to note that amnesty, in the case of underage drinking, does not apply to the person who needs the medical assistance – only to the caller if the above-listed conditions are met.

The well-being of every individual within the College community is the overwhelming priority, and students are encouraged to immediately seek medical assistance by calling 911 or the Department of Public Safety for a fellow student whose health may be at risk due to the overconsumption of alcohol or drugs. The College will offer a student who reports sexual assault or harassment limited immunity from being charged for policy violations related to the personal ingestion of alcohol or other drugs, provided that such violations do/did not place the health and safety of any person at risk.

Records kept as a result of this policy will not be noted on the student's conduct record as a policy violation. Students involved will be required to meet with Residence Life staff or other College officials for a review of the incident, but this meeting will not result in disciplinary sanctions from the College. The College may, however, choose to pursue educational or therapeutic remedies for those individuals.

### Statement Against Retaliation

Retaliation is a violation of College policy. The College recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a respondent or third party may also be the subject of retaliation by another individual, including the complainant.

An individual reporting sexual assault or harassment is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is not later substantiated.

### False Reporting

The College takes validity of information very seriously as a charge of sexual assault or harassment may have severe consequences. A complainant who makes a report that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation. Similarly, a respondent or witness who is later proven to have intentionally given false information during the course of an investigation or judicial action may be subject to disciplinary action.

### Reports Involving Minors

Any Bryn Athyn College employee who has reasonable cause to suspect abuse of a child (an individual under the age of 18) that the employee has come into contact with during the course of employment must make a report to the Department of Public Safety, which will facilitate a report to local law enforcement and the Pennsylvania Department of Public Welfare division of Child Welfare Services. All other members of the Bryn Athyn College community (students, visitors, guests, etc.) are strongly encouraged to report whenever child abuse is suspected. See the Bryn Athyn College [Employee Handbook](#), section 3.9.3 for further details.

Reports directly to the Pennsylvania Department of Public Welfare's Child Line and Abuse Registry can be made anonymously by calling 800-932-0313 or reporting online at [www.compass.state.pa.us/cwis/public/home](http://www.compass.state.pa.us/cwis/public/home). In order to ensure that the College gives the suspected abuse appropriate attention, employees are also required to report suspected abuse internally to the Chair or a sub-chairs of the College Conduct Hearing Panel (CCHP) or the College President. See the Bryn Athyn College Employee Handbook, section 3.9.3 for further details.

Internal reports will be handled with discretion and in cooperation with the state's Department of Public Welfare or local authorities.

**To report suspected abuse if the child is in immediate danger, call 911.**

**To report suspected abuse, if the child is not in immediate danger, call** the Department of Public Safety at (267)502-2424 and/or Pennsylvania Department of Public Welfare's Child Line at (800) 932-0313. See details for contact information on the [College Contact Resources Guide](#) of this policy.

### **Anonymous Reporting – Non-emergency Situation**

Any individual may make an anonymous report concerning an act of sexual assault or harassment. An individual may report the incident without disclosing one's name, identifying the respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact the College's ability to respond or take further action.

The College has created an online form for reporting. It is located on the Behavior Intervention Team link at <http://brynathyn.edu/student-life/behavior-intervention-team/>. As with all other reports, all anonymous reports will go to the Department of Public Safety and the Title IX Coordinator for review and appropriate response and action. Where there is sufficient information, the College will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

### **Procedure for Review, Investigation, and Resolution of Discrimination, Harassment, Retaliation, or Sexual Misconduct Complaints**

#### **Summary of Procedure**

This procedure for review, investigation and resolution of discrimination, harassment, retaliation or sexual misconduct complaints ("Procedure") provides information applicable to students, faculty, staff, administration, visitors and others who may be on the College premises. If you have any questions regarding this policy, call or email the Title IX Coordinator at 267-502-6038 or [renee.rosenfeld@bryanathyn.edu](mailto:renee.rosenfeld@bryanathyn.edu). The Policy is comprised of the following components:

- Complaints of possible violations of the Policy may be made to the Title IX Coordinator or the Department of Public Safety by completing a [College Incident Report Form](#).
- An Advisor is assigned to student complainants and respondents only in instances of complaints of sexual misconduct.
- An initial assessment of the complaint is made by the Title IX Coordinator or designee within five (5) business days of receipt of the complaints.

- A full investigation follows if there is sufficient evidence to warrant it.
- An investigation is completed within approximately sixty (60) days, subject to reasonable delays (for example, end of term breaks or holidays).
- The investigative report will assist the Title IX Coordinator to determine if the matter should proceed to a hearing for judicial resolution.
- Following receipt of a complaint, the Title IX Coordinator will determine whether interim measures are appropriate while the Investigation is ongoing.
- An investigative report is reviewed by the College Conduct Hearing Panel, the Title IX team and/or the Dean of Students (if students of the College are involved) with the Title IX Coordinator to determine if there is sufficient Information upon which a hearing panel might find a violation of the policy.
- Depending on the allegations involved, judicial resolutions of Policy violations may be achieved [without a hearing](#), via an [informal hearing](#), or via a [formal hearing](#). (Only formal hearings involve the [College Conduct Hearing Panel](#).)
- When a formal hearing process is necessary, there are [pre-hearing procedures](#) and [pre-hearing review of documents](#).
- Following deliberation and decision of the external adjudicator or the formal hearing panel, the [notice of outcome](#) and [sanctions](#) are sent to both the complainant and respondent.
- A complainant or respondent may desire to withdraw from the College prior to completion of the investigation and hearing process. If a complainant withdraws, depending on an assessment of the facts involved, the College may continue with the investigation and hearing process. If a respondent [withdraws prior to completion](#) of the investigation and hearing process, the process will proceed. Transcripts may be held and notated if a withdrawal occurs.
- An appeal to the President is permitted.

## **Definitions**

[Judicial Resolution](#) – When a respondent admits to the violation of the Policy, an informal hearing occurs for less serious violations of the Policy. A formal hearing is conducted by the College Conduct Hearing Panel for more serious violations of the Policy.

[External Adjudicator](#) – In lieu of a hearing before the College Conduct Hearing Panel, the Title IX Coordinator may retain an external adjudicator.

## **Complete Outline of Procedure**

The Title IX Coordinator (“Coordinator”) oversees consistent application of its procedure to all faculty, staff, administrators, students, and campus visitors and allows the College to respond promptly and equitably to eliminate the misconduct, prevent its recurrence and address its effects. He/she coordinates the review, investigation, resolution of the report and the implementation of all appropriate interim measures.

## **Filing a Complaint**

An individual who wishes to make a report of discrimination, harassment, retaliation, or sexual misconduct must make a report directly to the Title IX Coordinator or the Department of Public Safety.

To make an official complaint, the complainant must complete a [College Incident Report Form](#). (For a confidential report, you may leave fields marked with an asterisk blank.) Following receipt of a complaint and incident form, the Coordinator will assign a College Conduct Hearing Panel (Hearing Panel) member to work as an advisor to the student who reports a sexual misconduct complaint. The advisor’s purpose is to provide guidance regarding the policies and procedures of a sexual misconduct complaint to any student who officially files a report. The advisor serves in an impartial role and will not serve as a voting member of the Hearing Panel for the case in which he/she is advising. See the list of panel members in Appendix K of the [Employee Handbook](#).

Complaints of discrimination, harassment, or retaliation that are of a non-sexual nature, will not have an advisor assigned to the complainant. Advisors are only assigned to students making a sexual misconduct complaint and are not assigned to employees.

Normally, within five (5) business days of receipt of the complaint, an initial assessment is made by the Coordinator or designee whether a Policy violation may have occurred and/or whether a judicial resolution might be appropriate. If the complaint does not appear to allege a Policy violation or if judicial resolution is not desired by the complainant, and it appears appropriate given the nature of the alleged behavior, then the complaint does not proceed to investigation.

If a complaint be made against the Coordinator or the Coordinator is otherwise unavailable or unable to fulfill his/her duties, the Coordinator may designate another person to oversee the process below.

A full investigation will be pursued if there is evidence of a pattern of discrimination, harassment, retaliation, or sexual misconduct or a perceived threat of further harm to the college community. The College aims to complete all investigations within sixty (60) days. However, this time period can be extended as necessary for reasonable cause by the Coordinator with notice to the parties. Delays may occur when the College is closed or during academic breaks.

In every report of discrimination, harassment, retaliation, or sexual misconduct, the College, through the coordinated efforts of the Office of Director of Human Resources, Dean of Students, and/or the Hearing Panel, will conduct an initial assessment. At the conclusion of the assessment, the report will be referred to the Coordinator for an investigation to determine if there is sufficient information to proceed with judicial resolution. Judicial resolution is a sanctions-based approach that may involve discipline up to and including expulsion or termination of employment.

### **Request for Confidentiality**

As described in the Privacy Appendix C of the [Employee Handbook](#), all College investigations will respect individual privacy concerns.

Information gathered during the investigation will be used to evaluate the responsibility of the respondent, provide for the safety of the individual and the College campus community, and impose reasonable remedies to address the effects of the alleged conduct. The investigative report will serve as the foundation for all related resolution processes.

If the complainant requests that his/her identity remain confidential or that the College not pursue an investigation, the College must balance this request in the context of its responsibility to provide a safe and non-discriminatory environment for all College community members. The College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to investigate may be limited by the request for confidentiality. Under these circumstances, the College will weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment, any potential threats to community safety, the respective ages and positions of the complainant and the respondent, previous history of harassment complaints against the respondent, and the respondent's right to receive information under applicable law.

At all times, the College will seek to respect the request of the complainant, and where it cannot do so, the College will consult with the complainant and keep him/her/them informed about the chosen course of action.

If a complainant prefers confidentiality, he/she may speak with one or more of the following confidential reporters: on-campus counselors, college health service providers, off-campus local rape crisis counselors, domestic violence resources, private agencies, and or members

of the clergy/chaplains all of whom will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Students may confidentially access the college counselors in the Health and Wellness Center. These resources are available free of charge and can be seen on an emergency basis during normal business hours. See [College Contact Resources Guide](#) for detailed information.

## **Non-Confidential Reporting**

Complainants are encouraged to report incidents to any administrator, faculty or staff member, the Department of Public Safety or the Bryn Athyn Police Department. Information will only be shared as necessary with investigators, witnesses and the accused student/respondent. The circle of people with this knowledge will be kept as tight as possible to preserve a complainant's rights and privacy.

## **Federal Timely Warning and/or Emergency Notification Obligations**

Complainants of sexual misconduct should be aware that College administrators must issue timely warnings and/or emergency notifications for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the college community. When reporting, complainants may request that personally identifiable information be withheld. The College will make every effort to ensure that a complainant's name and other personally identifying information is not disclosed, while still providing enough information for community members to make decisions in light of the potential danger.

## **Initial Assessment**

Upon receipt of a discrimination, harassment, retaliation, or sexual misconduct report, the College will conduct an initial assessment. The first step of the assessment will usually be a preliminary meeting with the complainant and the Coordinator and a designee (Title IX team member or hearing panel member). The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full forensic interview. At this meeting, the complainant will be provided with information about resources, procedural options, and interim remedies.

This initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, the assessment may continue depending on a variety of factors, such as the complainant's wish to pursue disciplinary action, the risk posed to any individual or the college community by not proceeding, and the nature of the allegation.

In the course of this assessment, the College will consider the interest of the complainant and the complainant's expressed preference for the manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, the College will seek action consistent with the complainant's request.

As part of the initial assessment of the facts, the Coordinator and a designee will:

- Assess the nature and circumstances of the allegation.
- Address immediate physical safety and emotional well-being of the complainant.
- Notify the complainant of the right to contact law enforcement and seek medical treatment.
- Notify the complainant of the importance of preservation of evidence.
- Assess the reported conduct for the need of a timely warning and/or emergency notification under the Clery Act.
- Provide the complainant with information about on- and off-campus resources.
- Notify the complainant of the range of interim accommodations and remedies.
- Provide the complainant with an explanation of the procedural options, including judicial resolution.
- Identify an Advisor, advocate, and/or support person for the complainant and the respondent (if a student, in sexual assault complaint only).
- Assess for pattern evidence or other similar conduct by respondent.
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding.
- Explain the College's policy prohibiting retaliation.

Where a complainant requests that a name or other identifiable information not be shared with the respondent or that no formal action be taken, the College will balance this request with its dual obligations to provide a safe and non-discriminatory environment for all College community members and to afford a respondent fundamental fairness by providing notice and an opportunity to respond before action is taken against a respondent.

### **Initial Assessment Outcomes**

The Title IX team will determine appropriate manner of resolution and if appropriate, recommend a remedies-based resolution or further investigation to determine if there is sufficient information to pursue judicial resolutions.

The determination as to how to proceed will be communicated to the complainant in writing. Depending on the circumstances and requested resolution, the respondent may or may not be notified of the report or resolution. A respondent will be notified when the College seeks action that would impact a respondent, such as protective measures that restrict the respondent's movement on campus, the initiation of an investigation, or the decision to involve the respondent in remedies-based resolution.

Even if judicial resolution is not pursued, the College will have the discretion to require the respondent to participate in remedial measures in order to provide counselling and education regarding the College's policies.

## **Interim Measures**

Upon receipt of a discrimination, harassment, retaliation, or sexual misconduct report, the College will provide interim support and reasonable protective measures to prevent further acts of misconduct, and to provide a safe educational and work environment. The College will determine the necessity and scope of any interim measures. Even when a complainant or respondent does not specifically request that protective action be taken, the College may choose to impose interim measures on the respondent at its discretion to ensure the safety of any individual, the broader College community, or the integrity of the review process.

Employees and/or students seeking such assistance should speak with the Title IX Coordinator, who will coordinate such requests on the behalf of the individual. The College will maintain contact with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure.

The College may impose any remedy that can be tailored to the involved parties to achieve the goals of this policy, even if not specifically listed here. The range of interim measures may include a no contact order, emotional support and/or interim separation.

## **No Contact Order**

A complainant or respondent may request, or the College may impose, communication and contact restrictions to prevent further potentially harmful interaction. These communication and contact restrictions generally preclude in-person, telephone, electronic or third-party communications. In some cases, an individual may also wish to consider an Abuse Prevention Order or a Harassment Prevention Order from the local courts. This is a civil proceeding independent of the College. If a court order is issued, the College will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order. The College may also limit an individual or organization's access to certain College facilities or activities as part of the no contact order.

## **Academic, Employment or Residence Modifications**

A Complainant or Respondent may request, or the college may impose, an academic or employment accommodation or a change in residence after a report of sexual misconduct. An individual who requests assistance in changing their academic or living situation after an incident of sexual misconduct will receive appropriate and reasonably available accommodations. These may include:

- Change in class schedule, taking an incomplete, dropping a course without penalty, attending a class via Skype or other alternative means, providing an academic tutor, or extending deadlines for assignments.

- Change of dormitory assignment; restriction of visitation to other party's residence.
- Change in work assignment or schedule.
- Providing an escort to ensure safe movement between classes and activities.

### **Emotional Support**

The College will provide counseling services through the Counseling Center or will assist in providing a referral to off-campus agencies as detailed in the Campus and Community Resources section of this policy. Counseling and emotional support are available to any member of the campus community.

### **Interim Separation**

If either the President or the dean of students decides at any point that the well-being of a student or of any member of the College community is at stake, an interim suspension may be imposed on a student who is suspected of violating the Student Code of Conduct (as outlined in the Student Handbook), any rules, regulations, or procedures of the College, or otherwise poses a risk of safety to the campus, until the time judicial resolution, disciplinary action, or a hearing can be completed. This action assumes no determination of guilt and the hearing will be held as soon as possible.

Similarly, the College may impose leave for any employee. Such leave will be structured at the College's discretion.

### **Conducting an Investigation**

Based upon the initial assessment, the Coordinator or designee may determine if an investigation of the alleged discrimination, harassment, retaliation, or sexual misconduct report is necessary. This determination is based on a variety of factors, such as the complainant's wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

If found necessary, the investigation will proceed with the gathering of information from the complainant, the respondent, and any other individuals who may have information relevant to the determination. The investigator will also gather any available physical or medical evidence, including but not limited to, documents, communications between the parties, and other electronic records as appropriate. The investigator may also consider prior allegations of, or findings of responsibility for, sexual misconduct by the respondent.

Information gathered during the investigation will be used to evaluate the allegations of the complainant, provide for the safety of the individual and the college community, and impose interim remedies as necessary to address the effects of the alleged conduct. Any investigative report will serve as the foundation for all related resolution processes.

The complainant and respondent will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information.

The investigation will be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect.

As described in the [Privacy](#) section of this policy, all College investigations will respect individual privacy concerns.

At the conclusion of the investigation, the investigator/Coordinator will prepare a report setting forth the facts gathered. The report will be factual in nature and will not make a finding of responsibility or an assessment of credibility. The complainant and respondent will have the opportunity to submit to the Coordinator a written response to the investigation report.

### **Timeframe for Investigation**

The investigation and resolution will usually be completed within sixty (60) business days of receiving the complaint, but this time frame may be extended depending on the complexity of the circumstances of each case. All time frames expressed in this policy are meant to be guidelines rather than rigid requirements.

Circumstances for extensions may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In the event that the investigation and resolution exceed this time frame, the College will notify all parties of the reason for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the College may agree to defer its fact-gathering until after the initial stages of a criminal investigation. The College will nevertheless communicate with the complainant regarding Title IX rights, procedural options, and the implementation of interim measures to ensure safety and well-being. The College will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

### **Hearing and Resolution Options**

The College Conduct Hearing Panel, the Title IX team, and/or the Dean of Students (for student complaints only) in consultation with the Coordinator, will review the investigation report and make a threshold determination as to whether the allegations, if proven, would provide sufficient information upon which the hearing panel could find a violation of this Policy. If the Coordinator or Dean of Students (for student complaints only) determines that

this threshold has been reached, a notice of charge will be issued to begin the judicial resolution process.

If the Coordinator decides that no policy violation has occurred or that the preponderance of evidence collected by the investigator/Coordinator does not support a finding of a Policy violation, then the process will end unless the Coordinator is convinced by new evidence to re-open the investigation or to forward the matter for a hearing. This decision lies in the sole discretion of the Coordinator. If there is reasonable cause to believe the Policy has been violated, the Coordinator will direct the investigation to continue, or if there is evidence of a preponderance of a violation, then the Coordinator may recommend a resolution without a hearing, with an informal hearing, or with a formal hearing, with hearings by run by the Hearing Panel or an external adjudicator.

Because the relationship of students, staff, and faculty to the College differ in nature, the procedures that apply when seeking disciplinary action necessarily differ as well.

Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under these procedural guidelines.

Disciplinary action against a respondent may only be taken through a judicial resolution procedure, by means of a formal conduct panel hearing or an external adjudicator.

The investigative report will serve as the primary evidence in making a determination of responsibility. Both parties must have notice, the opportunity to review the investigative report in advance, and the opportunity to present relevant information to the Coordinator or designee, and/or the College Conduct Hearing Panel.

Hearing and or judicial resolutions should occur within sixty (60) days of receiving the complaint. Extenuating circumstances may pose a delay and will be communicated to all parties should more time be required.

## **Judicial Resolutions**

### *Without a Hearing*

A judicial resolution without a hearing is particularly appropriate when the respondent has admitted to the harassment or misconduct and there is no discernible dispute in the relevant facts of the investigation report; however, at the discretion of the Coordinator, it may also be used when the facts are in dispute. In reaching a determination as to whether this policy has been violated, the Coordinator will reach a determination by a preponderance of the evidence— that is, whether the conduct was more likely than not to have occurred as alleged.

Resolution without a hearing can be pursued for any behavior that falls within the Non-Discrimination, Non-Harassment, and Non-Retaliation Policies, at any time during the process. The accused may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If so, the Coordinator will render a finding that the individual is in violation of College policy for the admitted conduct, and may or may not

proceed to convene a formal hearing on any remaining disputed violations. A formal hearing will only be convened if the violation is one of gross misconduct, to include sexual misconduct or violent behavior. Resolutions for other less offensive violations will be determined by the Coordinator only.

For admitted violations, the Coordinator and/or designee will recommend an appropriate sanction or disciplinary action. If the sanction/disciplinary action is accepted by both the complainant and respondent, the Coordinator will implement it, and act promptly and effectively to remedy the effects of the admitted conduct upon the complainant and the college community. If either party rejects the sanction/disciplinary action, a College Conduct Panel hearing will be held on the sanction/disciplinary action only, according to the College Conduct Panel hearing procedures below.

### *Informal Hearing*

A judicial resolution informal hearing process is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Coordinator and designee will determine if judicial resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to judicial resolution.

A complainant or respondent may request resolution through an informal hearing, in which the Coordinator and the Deputy Coordinator or a member of College Conduct Hearing Panel will meet with the complainant and respondent to determine responsibility and render a decision as to what sanctions, if applicable, may be implemented. Both parties must agree to the resolution determined by the informal hearing process. If the parties cannot agree to an informal resolution, the Coordinator will refer the case to the formal Hearing Panel.

Depending upon the nature and severity of the allegations, the Coordinator may decline to handle the matter as an informal hearing and refer the case to a Hearing Panel at any time.

### *Formal Hearing*

Formal hearings processes are **NOT** judicial resolutions. Such hearings are initiated by the Coordinator and the Dean of Students (for student reports only) for those complaints that are not appropriate for a judicial resolution and which are not resolved without a hearing. Formal hearings are conducted by the College Conduct Hearing Panel procedures as outlined below.

## **College Conduct Hearing Panel**

A College Conduct Hearing Panel (which will be referred to here as Hearing Panel) is a fact-finding committee comprised of trained faculty, staff, and administrators. The Hearing Panel will have a minimum of three (3) panelists. The individuals who serve as panelists are chosen from a pool of eligible faculty, staff, and administrative members recommended by the Coordinator and the administration and are approved by their respective supervisors/department chairs and the President. No member of the panel may be a

practicing attorney. The College legal counsel may serve as a consultant throughout the process but may not be present at a hearing.

The Hearing Panel is overseen and supported by the Title IX Coordinator; however, the Dean of Students will serve as the convener and the observer for all student-related cases, while the Coordinator or designee will serve as the convener and the observer for all employee-related cases

The Coordinator and the Dean of Students (if student complaint only) or designee will be present during the hearing to serve as a resource for the Hearing Panel on issues of policy and procedure, and to see that policy and procedures are appropriately followed throughout the hearing. They will NOT serve as voting members of the panel.

### ***Role of College Conduct Hearing Panel***

Members of the Hearing Panel are trained in Title IX, Title VII, and all aspects of the grievance process, and can serve in any of the following roles, at the direction of the Coordinator:

- Assist in investigation of complaints
- Serve as substitute hearing adjudicator
- Provide sensitive intake and initial counseling of complaints
- Serve in a mediation role in judicial resolution
- Act as advisors to those involved in complaints
- Serve on Hearing Panels for complaints
- Serve on appeal panels for complaints

Hearing Panel members also recommend proactive policies and serve in an educational role for the college community. Hearing Panel members receive annual training organized by the Coordinator, including a review of College policies and procedures, so that they are able to provide accurate information to members of the college community. All panel members are required to attend this annual training internally on campus or per external training resources.

For a complete listing of College Conduct Hearing Panel members please see Appendix K of the Employee Handbook.

## **Hearing Process Details**

### ***Pre-Hearing Procedures for Formal Hearing Process***

When a hearing is deemed necessary based on the review of the investigation report, the Coordinator or the Dean of Students will contact the complainant and respondent in writing to schedule separate meetings with each party (the initiation of charges).

### **Initiation of Charges**

If the Coordinator makes the threshold determination to resolve the complaint through a panel hearing, the Coordinator or the Dean of Students (if a student is involved) will issue an initiation of charges letter to both parties requesting a pre-hearing meeting. It will include the following information:

- A description of the alleged violation(s), a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result.
- The time, date and location of the pre-hearing meeting and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Coordinator or the Dean of Students may reschedule the hearing.
- The parties may have the assistance of an Advisor at the hearing. Typically, Advisors are members of the college community or a member of College Conduct Hearing Panel, but the Coordinator or Dean of Students may grant permission for an outside advisor upon request. The Advisor may not be a practicing attorney. The complainant/respondent are expected to ask and respond to any questions they may have regarding the hearing process.
- Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College to remain within the 60-day goal for resolution.

At this pre-hearing meeting, each party will receive an explanation of the hearing process and have the opportunity to ask any questions before the hearing occurs. If the complainant and/or respondent have elected to have Advisors throughout the hearing process, the Advisor is encouraged to be present at this initial meeting.

### ***Pre-Hearing Review of Documents***

The complainant and the respondent will each have the opportunity to review all investigative documents, subject to the privacy limitations imposed by state and federal law, at least ten (10) business days prior to the hearing. The investigative documents will include the investigation report, any witness statements, any other documentary information, and the initiation of charges that will be presented at the hearing.

The complainant is not required to write a complaint in preparation for the pre-hearing. Both the complainant and the respondent will be given notice of the specific charges and the opportunity to be heard before a final determination is reached.

### ***Notice of Hearing***

Following the pre-hearing meeting after each party has met with the Coordinator and/or the Dean of Students, a notice of hearing is sent to the complainant and the respondent. The notice of hearing provides each party with a statement of the policy violation(s) that is/are alleged to have taken place and a summary of the facts underlying the allegations.

In addition, the notice provides the parties with the designated manner of adjudication (judicial resolution, hearing, or external adjudicator), the name of the adjudicator or panel members, and the date, time, and place of the hearing. The notice will inform the complainant and the respondent that each may bring an Advisor, support person or witnesses to speak on their behalf as a character witness. In general, the hearing will be scheduled within approximately fifteen (15) business days after the notice of hearing is sent. Under extenuating circumstances, this time frame may be extended.

### ***External Adjudicator***

At the discretion of the Coordinator, the College may retain an external adjudicator, whenever, in the exercise of judgment, doing so will best serve the fair and equitable resolution of the complaint. In such cases, unless otherwise stated in this policy, the external adjudicator will assume the role of convener of a Hearing Panel. In making the determination to select an external adjudicator, the Coordinator will consider the nature of the allegations, the complexity of the case, whether there is any issue of conflict of interest, the availability of trained panel members for the hearing, whether the College is in session or on break, and any other appropriate factors.

The external adjudicator, if selected, will be a neutral party, usually an attorney, who is familiar with dispute resolution, the dynamics of sexual assault and harassment, and is trained in the College's policies and procedures.

The external adjudicator is supported by the Coordinator or the Dean of Students, who will meet with all involved parties prior to the hearing, be present during the hearing to serve as a resource for the external adjudicator on issues of policy and procedure, and to see that policy and procedure are appropriately followed throughout the hearing.

### ***Composition of the Hearing Panel***

The complainant and the respondent may submit a written request to the Coordinator or the Dean of Students to remove a member of the Hearing Panel or contest the external adjudicator, if there are reasonable articulable grounds to suspect bias, conflict of interest, or an inability to be fair and impartial. This challenge must be raised within four (4) business days of receipt of the notice of hearing. All objections must be raised prior to the commencement of the hearing. The Coordinator or the Dean of Students will make the determination whether to remove the panelist or seek an alternative external adjudicator.

### ***Hearing Procedures***

A hearing is intended to provide a full and fair opportunity for the complainant and respondent to present their account of events and for the panelists to determine the facts of

the case, make a determination regarding the alleged violations of College regulations, and to recommend appropriate sanctions, if necessary.

The Hearing Panel/external adjudicator is expected to review all information pertinent to the incident in question. The investigative report will be made available for the hearing panel/ adjudicator/ to review at least five (5) business days prior to the hearing. Other relevant information supporting the violation(s) alleged may be offered in the form of written statements, documents, items, or oral information from the complainant, the respondent, and witnesses.

A hearing will be called to order by the Coordinator and/ or the Dean of Students (if a student is involved), who will explain the hearing process and will provide an opportunity for all parties to ask procedural questions prior to initial statements and the presentation of information. The Coordinator will provide a brief opening statement summarizing the investigation. The opening statement should focus on the areas of agreement and disagreement in order to assist the panelists in prioritizing areas of inquiry.

The external adjudicator/ panelists, complainant, or respondent may make only brief inquiries of the investigator at this juncture, as there will be additional opportunity to ask questions of the investigator after the Hearing Panel has heard from the complainant, the respondent, and any witnesses.

The complainant may present a brief written and/or oral narrative statement. The external adjudicator/Hearing Panel may pose questions to the complainant. The respondent is encouraged to compile a written list of questions to pose to the complainant. The list will be provided to the external adjudicator/Hearing Panel, who will determine the relevance of the questions and ask the complainant those questions deemed relevant and appropriate.

After the complainant is finished, the respondent may present a brief written and/or oral narrative statement. The external adjudicator/Hearing Panel may pose questions to the respondent. The complainant is encouraged to compile a written list of questions to pose to the respondent. The list will be provided to the external adjudicator/Hearing Panel, who will determine the relevance of the questions and ask the respondent those questions deemed relevant and appropriate.

Witnesses on behalf of the complainant and the respondent may then be proffered. Each witness will be permitted to give a brief narrative statement but need not do so. Each witness will then be questioned by the external adjudicator/Hearing Panel. The complainant or respondent may present a list of written questions to be posed to the witness to the external adjudicator/Hearing Panel, who will determine the relevance of the questions and pose any questions deemed relevant.

The external adjudicator/Hearing Panel, complainant, and respondent may then question the investigator.

At the conclusion of the presentation of all witnesses, the complainant and respondent will each be given the opportunity to give a brief closing statement.

### **Attendance at Hearing**

If a party misses a hearing for any non-emergency or non-compelling reason, the hearing may be held in the individual's absence at the discretion of the Coordinator.

If a respondent chooses to withdraw from the College prior to the conclusion of an investigation or judicial resolution under this policy, for non-medical- or non-disability-related reasons, the student will not be permitted to return to Bryn Athyn College until completion of the hearing process unless all sanctions (if any) have been satisfied.

If employee respondent chooses to resign from the College prior to the conclusion of an investigation or final resolution, the employee personnel files will be documented accordingly and he/she will be prohibited from rehire.

A complainant or respondent may request participation by other suitable means that would not require physical proximity to the other party. This can include, but is not limited to, partitioning a hearing room or using technology, such as Skype, to facilitate participation. Any proposed alternative must be reviewed in advance to ensure that it is consistent with the goals of a fair and equitable process.

### **Participants in Hearing Procedures**

The hearing is closed, meaning it is not open to the public. The complainant, the respondent, any individuals serving as Advisors, and any individuals who are witnesses may appear before the Hearing Panel. Witnesses may only be present for their own testimony. Attorneys are not permitted.

### **Safeguarding of Privacy**

All parties involved in a hearing are required to keep the information learned in preparation for the hearing and at the hearing private. Consistent with the Family Educational Rights and Privacy Act (FERPA) regulations, the parties, panel members, and external adjudicators may not share any copies of documents. 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 disciplinary action by the College.

### **Questioning of Witnesses**

It is the responsibility of the external adjudicator/ Hearing Panel to assure that the information necessary to make an informed decision is presented. The external adjudicator/panel members may play an active role in questioning both parties and witnesses involved in the case. At times, the external adjudicator/panel members may need to ask difficult or sensitive questions in order to understand areas of factual dispute or gain a full understanding of the context.

At no time will the complainant or the respondent be permitted to directly question one another. As outlined above, the parties may submit questions to the external

adjudicator/Hearing Panel in writing, which may be posed at the discretion of the external adjudicator/Hearing Panel. Similarly, the external adjudicator/panel members are under no obligation to allow either party to directly question witnesses, and the external adjudicator/panel may require that questions to witnesses be submitted in writing.

Parties and other individuals who offer information at a hearing are expected to respond honestly and to the best of their knowledge. The external adjudicator/ panel reserves the right to recall any party or witness for further questions and to seek additional information necessary to make a decision. A complainant, respondent, or witness who intentionally provides false or misleading information may be subject to discipline under this policy.

### **Recording of Proceedings**

The College will not audio record the judicial proceedings or deliberations, nor is any other individual permitted to record the proceedings.

### ***Deliberation & Decision***

After all of the information has been presented, all parties will be dismissed from the hearing room so that the external adjudicator/Hearing Panel may deliberate in private. The Coordinator or Dean of Students may remain for deliberations but may not participate in the deliberations and may not vote. In the case of an external adjudicator, the external adjudicator will make a decision.

In the case of a panel, the Hearing Panel will first try to reach a determination by consensus, but a simple majority vote as to responsibility will suffice. Only the decision on responsibility will be shared with the complainant and the respondent. The vote itself shall not be shared with the parties.

The external adjudicator/Hearing Panel will determine a respondent's responsibility by a preponderance of the evidence. This means that the external adjudicator/Hearing Panel will decide whether it is "more likely than not," based upon the evidence provided at the hearing, that the respondent is responsible for the alleged violation(s).

The findings of the external adjudicator/Hearing Panel will be reduced to writing by the external adjudicator or Hearing Panel. The report will detail the findings of fact and determination of responsibility, making reference to the evidence that led to the finding.

### ***Notice of Outcome***

The Coordinator will communicate the decision of the Hearing Panel to the respondent and the complainant simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties' college-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

The notice will include notification of appeal options.

Any change in the outcome that occurs prior to the time that the outcome becomes final will also be communicated simultaneously in writing. Generally, the outcome of the hearing will be final and communicated to the parties within five (5) business days from the date the hearing is concluded.

The respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The complainant will be informed of any sanctions that directly relate to the complainant. The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of the appeal.

## **Sanctions**

If the Hearing Panel or external adjudicator finds an employee, student, group, department, or organization responsible for a violation of the Policy, the panel or the adjudicator will decide on appropriate sanctions. The Hearing Panel or external adjudicator will make the determination of sanctions in consultation with the Coordinator or Dean of Students.

The sanctions may include, but are not limited to, those set forth in the Student Handbook, Employee Handbook or Faculty Handbook. In particular, a violation of this policy may result in employment termination, suspension, or expulsion from the College.

The sanctions may include remedial or corrective actions as warranted. Listed below are various sanctions for students and employees:

The Hearing Panel (or the Coordinator when an external adjudicator is used) may broaden or lessen any range of recommended sanctions based on serious mitigating circumstances or egregiously offensive behavior.

The Hearing Panel (or the Coordinator) will not deviate from the range of recommended outcomes unless compelling justification exists to do so. The Hearing Panel or the Coordinator may issue a single sanction or a combination of sanctions.

In considering the appropriate sanction within the recommended outcomes for students and employees, the Hearing Panel or the Coordinator will consider the following factors:

1. The respondent's prior discipline history
2. How the college has sanctioned similar incidents in the past
3. The nature and violence of the conduct at issue
4. The impact of the conduct on the complainant
5. The impact of the conduct on the community, its members, or its property

6. Whether the respondent has accepted responsibility
7. Whether the respondent is reasonably likely to engage in such conduct in the future
8. The need to deter similar conduct by others
9. Any other mitigating or aggravating circumstances, including the college's standards and values

Absent compelling justifications, if the respondent has engaged in the same or similar conduct in the past, the sanction will be expulsion.

The Hearing Panel or the Coordinator may also consider other remedial actions that may be taken to address and resolve any incident of discrimination or harassment and to prevent the recurrence of any discrimination, including strategies to protect the complainant and any witnesses from retaliation; provide counseling for the complainant; other steps to address any impact on the complainant, any witnesses, and the broader student body; and any other necessary steps reasonably calculated to prevent future occurrences of harassment.

### ***Student Sanctions***

The following are the usual sanctions per the student handbook that may be imposed upon students or student organizations singularly or in combination:

- *Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation:* A written reprimand for violation of the Code of Student Conduct, providing for more severe conduct sanctions in the event that the student or organization is found in violation of any College policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the College. A suspension is noted on transcripts during the time it is in effect.

For further details regarding student sanctions, please refer to the Bryn Athyn College Student Handbook.

### ***Employee Sanctions***

Disciplinary actions for an employee who has engaged in discrimination, harassment and/or retaliation include warning, required counseling, demotion, suspension with pay, suspension without pay, and termination. See the Corrective Actions & Corrective Counseling policy in the [Employee Handbook](#) for details.

### **Withdrawal or Resignation While Charges are Pending**

The College will not permit a student to withdraw if that student has a complaint pending for violation of the Policy or for charges under the Code of Student Conduct. Should a student decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Bryn Athyn College until completion of the hearing process unless (if any) all sanctions have been satisfied. A hold may be placed on the student's account to prohibit re-enrollment and the release of transcripts.

In compliance with FERPA and the Clery Act a notation of student misconduct or college expulsion may be placed on a student's transcript.

### ***Appeals***

Either party may appeal the determination of responsibility or sanction (s) in writing to the President or designee. The appeal must be filed within five (5) business days of receiving the written notice of outcome.

The complainant and/or respondent may appeal only the parts of the determination of responsibility or sanctions directly relating to him/her. Dissatisfaction with the outcome of the hearing is not grounds for appeal. The limited grounds for appeal are as follows:

- New evidence that could affect the outcome of the hearing which was unavailable at the time of the hearing
- Procedural error(s) that had a material impact on the fairness of the hearing
- Sanctions imposed were grossly disproportionate to the violation committed

The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. Upon receipt of an appeal, the President will notify both parties. Each party has an opportunity to respond in writing to the appeal. Any response to the appeal must be submitted within five (5) business days from receipt of the appeal.

The appeal will be conducted in an impartial manner by an impartial decision-maker. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter.

The President shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal and supporting information provided in the written request for appeal

and the record of the original hearing. The President can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal.

If the appeal is based on procedures not having been followed in a material manner, the President can ask that a new hearing occur before a newly constituted Hearing Panel.

In the case of new and relevant information, the President can recommend that the case be returned to the original Hearing Panel/external adjudicator to assess the weight and effect of the new information and render a determination after considering the new facts.

The President will communicate the result of the appeal to the complainant and respondent within ten (10) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

### ***Failure to Complete Sanctions/Comply with Disciplinary Actions***

All respondents are expected to comply with conduct sanctions (disciplinary/responsive/corrective actions) within the time frame specified by the Coordinator. Failure to follow through on these sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension, expulsion and/or termination from the College (which would be noted on a student's official transcript or in an employee's personnel records). A suspension will only be lifted when compliance is achieved to the satisfaction of the Coordinator. For students or student organizations this decision will be made in consultation with the Dean of Students.

### ***Records***

The Coordinator will retain records of all reports, allegations, and complaints, regardless of whether the matter is resolved by initial assessment, judicial resolution, or panel hearing process. Complaints resolved by Title IX assessment are not part of a student's conduct file or academic record.

Affirmative findings of responsibility in matters resolved through judicial resolution are part of a student's conduct record. Such records shall be used in reviewing any further conduct or in developing sanctions and shall remain a part of a student's conduct record. The conduct files of students who have been suspended or expelled from the College are maintained in the Dean of Students Office for no fewer than seven years after their departure from the College.

Further questions about record retention should be directed to the Dean of Students.

Employee's records will be kept in the Office of the Title IX Coordinator.

## **Other Important Areas of the Process**

### ***Group Infractions***

When members of an employee/ student group, department, organization, or team of individuals acting collusively operate in concert of a violation of the Policy, they may be charged as a group or as individuals, and a hearing may proceed against the group as joint respondents or against one or more involved individuals as appropriate given available information and the circumstances.

### ***Advisors and Support Persons***

In addition to an **Advisor** (see earlier), the complainant and respondent have the right to be assisted by a **support person** of her/his choice. The person must be a member of the Bryn Athyn College community (current student, faculty member, staff member, or administrator).

To serve as a support person, the individual will be required to meet with the Coordinator or the Dean of Students in advance of any participation in the proceedings, preferably during the pre-hearing meeting.

The support person cannot be a witness in the proceedings. The support person is a silent and non-participating presence who is there solely to observe and provide moral support during the pre-hearing itself. This person is not to address the panel, except to ask for a short recess if one of the parties requires some time to compose her/himself or collect her/his thoughts. The Coordinator or the Dean of Students has the right at all times to determine what constitutes appropriate behavior on the part of a support person and whether the person may remain at the proceedings. While the support person may be present to hear testimony, no written materials are to be shared with a support person.

Absent extenuating circumstances, witnesses and others involved in an investigation or hearing are not entitled to have a support person.

### ***Role of the Attorney/Outside Agreements***

A complainant or respondent may choose to seek the advice and assistance of an attorney at their own expense. An attorney may serve as a support person but must abide by the Advisor and support person guidelines (see above). Additionally, the College will not recognize or enforce agreements between the parties reached outside of these procedures. If the support person is an attorney, the College's attorney may also attend the hearing.

### ***Witnesses***

The complainant, respondent, and College Conduct Hearing Panel (or adjudicator) all have the right to call witnesses. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character.

In general, neither party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of the College's investigation. If either party wishes

to call witnesses, whether or not they were previously interviewed as part of the College's investigation, the following must be submitted no later than ten (10) business days before the hearing to the Coordinator or the Dean of Students by email or in hardcopy format:

- The names of any witnesses that either party intends to call
- A written statement and/or description of what each witness observed
- If not already provided during the investigation, a summary of why the witness' presence is relevant to making a decision about responsibility at the hearing
- The reason why the witness was not interviewed by the investigator, if applicable

The Coordinator or the Dean of Students will determine if the proffered witness(es) have relevant information and if there is sufficient justification for permitting a witness who was not interviewed by the investigator. The Coordinator or the Dean of Students may also require the investigator to interview the newly identified witness.

If witnesses are approved to be present by the Coordinator or designee, the complainant and respondent are provided with a list of witnesses and any relevant documents related to their appearance at the hearing no later than five (5) business days before the hearing. All parties have the opportunity to pose questions of witnesses (through the panel), regardless of who called them to the hearing.

### ***Relevance***

The Coordinator will review the investigation report, any witness statements, and any other documentary evidence to determine whether the information contained therein is relevant and material to the determination of responsibility given the nature of the allegation. In general, the Coordinator may redact information that is irrelevant, more prejudicial than probative, or immaterial. The Coordinator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

In cases where an external adjudicator will hear the case, the Coordinator may forego redaction of investigative materials to allow the external adjudicator to determine the relevance and/ or weight to give to any information.

### ***Prior Sexual History and/or Pattern Evidence***

**Prior sexual history of a complainant.** In general, a complainant's prior sexual history is not relevant and will not be admitted as evidence at a hearing. Where there is a current or ongoing relationship between the complainant and the respondent, and the respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties.

As noted in other sections of this policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the complainant with other individuals is typically not relevant and will not be permitted. See the Policy's "[consent](#)" definition for further details.

**Pattern evidence by a respondent.** Where there is evidence of a pattern or conduct similar in nature by the respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the panel's determination of responsibility and/or assigning of a sanction. The determination of relevance will be based on an assessment of whether the previous incident was substantially similar to the present allegation or information and indicates a pattern of behavior and substantial conformity with that pattern by the respondent. Where there is a prior finding of responsibility for a similar act of sexual assault or harassment, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and/or assigning of a sanction.

Any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the investigator at the earliest opportunity. The College, through the Coordinator (or, if the student conduct administrator deems appropriate, through the external adjudicator), may choose to introduce this information, with appropriate notice to the parties.

A party who has provided this information to the investigator may submit a written request to the Coordinator seeking its admission at the hearing. If this information was not previously submitted, the College will refer the new information to the investigator, which may cause the scheduling of the hearing to be delayed.

Where a sufficient informational foundation exists as determined by the Coordinator, the Coordinator, in consultation with the Title IX team or Hearing Panel, will assess the relevance, form, and reliability of the information and determine if it is appropriate for inclusion at the hearing. (In cases heard by an external adjudicator, the Coordinator may decide to have the external adjudicator make this decision.)

To aid in an advance determination of relevance, the following must be submitted to the Coordinator via email or in hardcopy format no later than five (5) business days after the notice of the charge has been made:

- A written statement and/or description of the proposed information, if not already provided during investigation
- A summary of the relevance of this information to making a decision of responsibility at the hearing
- If not provided during the investigation, a brief explanation of why this information was not shared with the investigator

If this information is approved as appropriate for presentation at the hearing, the respondent and complainant will be provided with a brief description of the approved information no later than five (5) business days before the hearing.

### ***Request to Reschedule Hearing***

Either party can request to have a hearing rescheduled. Absent extenuating circumstances, requests to reschedule must be submitted to the student conduct administrator at least three (3) business days prior to the hearing. A request to reschedule a hearing must be supported by a compelling reason for the delay. The student conduct administrator may also reschedule the hearing, without a request by the parties, when there is reasonable cause to do so.

### ***Consolidation of Hearings***

The Coordinator has the discretion to consolidate multiple reports against a respondent in one hearing if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.

### **Attendance at Hearing**

If a party misses a hearing for any non-emergency or non-compelling reason, the hearing may be held in the individual's absence at the discretion of the Coordinator.

If a respondent chooses to withdraw from the College prior to the conclusion of an investigation or judicial resolution under this policy, for non-medical- or non-disability-related reasons, the student will not be permitted to return to Bryn Athyn College until completion of the hearing process unless all sanctions (if any) have been satisfied.

If employee respondent chooses to resign from the College prior to the conclusion of an investigation or final resolution, the employee personnel files will be documented accordingly and he/she will be prohibited from rehire.

A complainant or respondent may request participation by other suitable means that would not require physical proximity to the other party. This can include, but is not limited to, partitioning a hearing room or using technology, such as Skype, to facilitate participation. Any proposed alternative must be reviewed in advance to ensure that it is consistent with the goals of a fair and equitable process.

### **Participants in Hearing Procedures**

The hearing is closed, meaning it is not open to the public. The complainant, the respondent, any individuals serving as Advisors, and any individuals who are witnesses may appear before the Hearing Panel. Witnesses may only be present for their own testimony. Attorneys are not permitted.

### **Safeguarding of Privacy**

All parties involved in a hearing are required to keep the information learned in preparation for the hearing and at the hearing private. Consistent with the Family Educational Rights and Privacy Act (FERPA) regulations, the parties, panel members, and external adjudicators may not share any copies of documents. 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 disciplinary action by the College.

### **Questioning of Witnesses**

It is the responsibility of the external adjudicator/ Hearing Panel to assure that the information necessary to make an informed decision is presented. The external adjudicator/panel members may play an active role in questioning both parties and witnesses involved in the case. At times, the external adjudicator/panel members may need to ask difficult or sensitive questions in order to understand areas of factual dispute or gain a full understanding of the context.

At no time will the complainant or the respondent be permitted to directly question one another. As outlined above, the parties may submit questions to the external adjudicator/Hearing Panel in writing, which may be posed at the discretion of the external adjudicator/Hearing Panel. Similarly, the external adjudicator/panel members are under no obligation to allow either party to directly question witnesses, and the external adjudicator/panel may require that questions to witnesses be submitted in writing.

Parties and other individuals who offer information at a hearing are expected to respond honestly and to the best of their knowledge. The external adjudicator/ panel reserves the right to recall any party or witness for further questions and to seek additional information necessary to make a decision. A complainant, respondent, or witness who intentionally provides false or misleading information may be subject to discipline under this policy.

### **Recording of Proceedings**

The College will not audio record the judicial proceedings or deliberations, nor is any other individual permitted to record the proceedings.



## BRYN ATHYN COLLEGE INCIDENT REPORT FORM

The College has an expectation that students and employees will share information they receive about campus crime. This form is intended to convey information needed to track the College's response to campus incidents being reported, as well as to assess the danger the incident represents to the community at large. Annual statistical information will be based on this report, as will the need to make timely warnings to the community, for the protection of those who may be at risk.

**Instructions:** Fill in all fields that apply. Report only one incident per form. Attach additional pages if necessary.

**Return this form to the Title IX Coordinator, your supervisor, or the Department of Public Safety within 24 hours of becoming aware of any report.**

**Your name:** \_\_\_\_\_ **Position/Dept.:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

**Reported to you by:** (circle one) victim witness third-party anonymous

**Date of Report:** \_\_\_\_\_ **Date of incident:** \_\_\_\_\_ **Time of incident:** \_\_\_\_\_

Where did the incident occur? \_\_\_\_\_

If you wish to avoid specifics, circle one of the following (see definitions on reverse):

On Campus Residence Hall Off Campus Public Property Other

Describe the incident in as much detail as possible:

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Do you have reason to believe this incident represents a present threat of harm or danger to the victim or other member(s) of the community? Yes  No  If yes, why:

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Was a weapon involved? Yes  No  If yes, what type: \_\_\_\_\_

Number of assailants/perpetrators: \_\_\_\_\_

If a single assailant/perpetrator, describe:

Gender: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Role of assailant/perpetrator(s) on campus (circle all that apply):

Student Faculty Staff No campus role Unknown

Name of alleged assailant(s)\*: \_\_\_\_\_

If known, this incident was motivated by the victim's (circle all that apply):

Race Ethnicity Age Gender Sexual orientation Religion

Other departments or individuals to whom the victim/reporter has reported this incident:

\_\_\_\_\_

Name of reporting victim\*: \_\_\_\_\_

Name and contact information for any relevant witnesses\*:

\_\_\_\_\_

\_\_\_\_\_

\* Any field denoted with an asterisk is a field that may be left blank by you if you intend for this report not to serve as actual notice to the college of harassment, discrimination, sexual assault or other civil rights violation for which notice will trigger an obligatory investigation by the College. Some employees are required to complete this form in full, while others may withhold from the fields designated with a \*, depending on your role. Training has been provided on what you are required to report, but if you are unsure, consult with the Title IX Coordinator or the Department of Public Safety.

### Definitions

**On campus:** Any building or property owned or controlled by BAC used in direct support of, or in a manner related to, education (includes non-classroom facilities).

**Off campus:** Any building or property owned or controlled by a student organization recognized by BAC-- or owned or controlled by the College used in direct support of, or in relation to, its educational purposes, is frequently used by students, and is not within the geographic area of BAC.

**Public property:** All public property within the geographic area of BAC. This may include a sidewalk, street, thoroughfare, or parking facility adjacent to a facility owned or controlled by the College and used by BAC in direct support of its educational purposes.

## COLLEGE CONTACT RESOURCES GUIDE

ALWAYS DIAL 911 FOR EMERGENCIES.

### **Bryn Athyn College Department of Public Safety**

Pitcairn Hall – Upper Level

267-502-2424

[james.kalavik@anc-gc.org](mailto:james.kalavik@anc-gc.org)

Available Any Time

### **Pennsylvania Coalition Against Rape (PCAR)**

325 Swede Street, Suite 2

Norristown, PA 19401 Hotline:

1-888-772-7227

<http://www.pcar.org/>

Available Any Time

### **Pennsylvania Child Abuse - ChildLine\***

Department of Public Welfare Services

ChildLine: 1-800-932-0313

<https://www.compass.state.pa.us/cwis/public/home>

Available Any Time

### **Bryn Athyn Police Department**

2825 Buck Rd, Bryn Athyn, PA 19009

215-947-0118

[http://www.brynathynboro.org/contact\\_us.htm](http://www.brynathynboro.org/contact_us.htm)

Available Any Time

### **Title IX Coordinator**

Renée L. Rosenfeld

Bryn Athyn College

Brickman Center, Room 103

267-502-6038

[Renee.rosenfeld@brynathyn.edu](mailto:Renee.rosenfeld@brynathyn.edu)

Available Monday- Friday  
8:30 am - 5:00 pm

### **Title IX Deputy Coordinator**

Scott Jones

Bryn Athyn College

College Center, Lower Level

267-502-6077

[Brian.keister@brynathyn.edu](mailto:Brian.keister@brynathyn.edu)

Available Monday- Friday  
8:30 am - 5:00 pm

(Over)

\*These confidential reporters will not report the specifics of your incident without your permission.

**ALWAYS DIAL 911 FOR EMERGENCIES.**

**Dean of Students**

Dr. Suzanne Nelson  
Bryn Athyn College  
Pendleton Hall, Room 109  
267-502-2482 / 925-788-3499 (cell)  
[Suzanne.nelson@brynathyn.edu](mailto:Suzanne.nelson@brynathyn.edu)

Available as needed

**BAC Student Health and Wellness Center\***

<https://brynathyn.edu/student-life/student-health-services/>

Please see website for availability

Allie Abraham  
College Center, Lower Level  
267-502-2949  
[Allie.abraham@brynathyn.edu](mailto:Allie.abraham@brynathyn.edu)

Kevin Roth  
College Center, Lower Level  
267-502-2737  
[kevin.roth@brynathyn.edu](mailto:kevin.roth@brynathyn.edu)

**Bryn Athyn College Chaplain\***

Rev. Grant Schnarr  
Doering Center, Room 304  
267-502-6075  
[Grant.schnarr@brynathyn.edu](mailto:Grant.schnarr@brynathyn.edu)

Available Monday- Friday  
8:30 am - 5:00 pm

**Bryn Athyn College Assistant Chaplain\***

Rev. Coleman Glenn  
Pendleton Hall, Room 106  
267-502-2605 (office)  
267-266-3116 (cell)  
[Coleman.glenn@brynathyn.edu](mailto:Coleman.glenn@brynathyn.edu)

Available Monday-Friday  
8:30 am – 5:00 pm

\*These confidential reporters will not report the specifics of your incident without your permission

