



**EUREKA**  
COLLEGE

# **2024 Title IX Policy for Sex Discrimination**

Effective Date 09/06/2024

## **Section 1: Introduction and General Information**

**1.1 Nondiscrimination Policy Statement:** Eureka College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

**1.2 Purpose:** Eureka College takes all reported discrimination on the basis of sex seriously. Eureka College will promptly discipline any individuals within its control who are found responsible for violating this Policy.

### **1.3 Applicability: This Policy applies as follows:**

- a. **Employees:** This Policy applies to all forms of sex discrimination involving employees of Eureka College when the conduct is within the definitions and application of the scope outlined in Sections 1.15 and 2 of this Policy. All forms of sex discrimination under this policy will be addressed through the grievance procedure in Section 6.
  - i. When the conduct involves sex-based harassment as defined in sections 2.1.1 through 2.1.9 of this Policy, the grievance procedure Sections 10-14 will also apply.
  - ii. For all other sex-discrimination that is not sex-based harassment, the grievance procedure in Sections 6-9 and 13-14 will also apply.
- b. **Students:** This Policy applies to all forms of sex discrimination involving students of Eureka College when the conduct is within the definitions and application of the scope outlined in sections 1.15 and 2 of this Policy. All forms of sex discrimination under this policy will be addressed through the grievance procedure in Section 6.
  - i. When the conduct involves sex-based harassment as defined in sections 2.1.1 through 2.1.9 of this Policy, the grievance procedure in Sections 10-14 will also apply.
  - ii. For all other sex-discrimination that is not sex-based harassment, the grievance procedure in Sections 6-9 and 13-14 will also apply.

**1.4 Title IX Coordinator and Title IX Designees:** The Title IX Coordinator is the Eureka College administrator who oversees Eureka College's compliance with Title IX. The Title IX Coordinator is responsible for the response to notifications of discrimination on the basis of sex. The Title IX Coordinator is available to discuss the grievance procedures, coordinate supportive measures, modifications related to pregnancy and related conditions, explain Eureka College's policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate other employees to facilitate these responsibilities.

Individuals may contact the Title IX Coordinator or designees with questions.

The contact information for the Title IX Coordinator and designees is as follows:

Brittany Gates, Interim Title IX Coordinator  
Email: [bgates@eureka.edu](mailto:bgates@eureka.edu)

Dr. Marygrace Kaiser, Deputy Title IX Coordinator  
Email: [mkaiser@eureka.edu](mailto:mkaiser@eureka.edu)  
Phone: 309-467-6400  
Office: Burgess Hall 202D

Dr. Alexander Swan, Deputy Title IX Coordinator  
Email: [aswan@eureka.edu](mailto:aswan@eureka.edu)  
Phone: 309-467-6418  
Office: Burgess Hall 106B

**1.5 Communication:** Eureka College will use electronic mail (email) for purposes of communication under this Policy.

**1.6 Free Speech:** Constitutionally protected expression cannot be considered discrimination on the basis of sex under this policy.

**1.7 Dissemination of Policy of and Notice of Nondiscrimination:** Eureka College will publish the Notice of Nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form made available to students, parents/guardians, and employees, or which are otherwise used in connection with the recruitment of students. This posting will include a link to this policy and reporting options.

**1.8 Effective Date:** The effective date of this policy is September 6, 2024. Matters that occurred prior to September 6, 2024 will be resolved using the policy and procedures in place at the time of the alleged event.

**1.9 False Statements and Retaliation Prohibited:** Neither Eureka College nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

- a. Alleged violations of Retaliation will be referred to an investigation process outlined in Section 4 of this policy.
- b. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this Policy.
- c. Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute Retaliation prohibited under Policy. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

**1.10 Amnesty:** Reporting discrimination on the basis of sex and other inappropriate conduct is encouraged at Eureka College. Thus, it is imperative that parties and witnesses share information without fear of potential consequences for minor violations of the Code of Conduct including, but

not limited to, underage or personal consumption of alcohol, the use of illicit drugs, or violations of other College policies that do not cause harm or place the health or safety of any other person at risk.

Eureka College offers parties and witnesses amnesty from such violations, but individuals may be responsible for other, more serious conduct that does harm or place the health or safety of any other person at risk. After granting Amnesty, Eureka College may include educational opportunities for individuals in lieu of a finding of responsibility or punitive sanctions with the student regarding alcohol or drugs. This Section does not apply to reports to the police; rather, it applies only to discipline for violations of Eureka College's Code of Conduct.

**1.11 Other Eureka College Policies:** This Policy takes precedence over other Eureka College policies and procedures concerning discrimination on the basis of sex in the event of a conflict.

**1.12: Modification and Review of this Policy:** Eureka College reserves the right to modify this Policy to take into account applicable legal requirements. Eureka College will regularly review this Policy to determine whether modifications should be made.

**1.13 Additional Code of Conduct or Eureka College Policy Violations:** Alleged violations of the student or employee Code of Conduct and/or other policies that arise from the same events as alleged discrimination on the basis of sex under this Policy will be investigated and resolved under the grievance procedures in this Policy unless the sex discrimination has been dismissed under Section 5.4 of this Policy or is sex-based harassment under the Title IX Policy for Sex-Based Harassment. Conduct dismissed as sex discrimination can be referred to the Student Code of Conduct or Employee Handbook for a response.

**1.14 Standard of Proof:** The burden rests with the Eureka College to prove that a violation of this policy occurred by a Preponderance of the Evidence (more likely than not).

**1.15 Application:** This policy applies to all sex discrimination including retaliation occurring under Eureka College education program or activity in the United States with respect to Employees and Students as defined in section 1.3. Conduct that occurs under Eureka College's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by Eureka College and conduct that is subject to Eureka College's disciplinary authority. Eureka College has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of Eureka College's education program or activity or outside the United States.

**1.16 Prohibited Disclosure of Personally Identifiable Information:** Eureka College will not disclose personally identifiable information obtained in the course of complying with this policy and/or grievance procedures except in the following circumstances:

- (1) When Eureka College has obtained prior written consent from a person with the legal right to consent to the disclosure;
- (2) When the information is disclosed to an authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- (3) To carry out the purposes of this policy and procedure including action taken to address conduct that reasonably may constitute sex discrimination under this policy in Eureka College's education program or activity;
- (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- (5) To the extent such disclosures are not otherwise in conflict with Title IX or this policy when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

## **Section 2: Definitions**

**2.1 Definitions Related to Prohibited Conduct: This Policy applies to all forms of sex discrimination. This Policy also applies to retaliation. Sex-discrimination in the form of sex-based harassment will be resolved using the grievance procedure in Sections 6, 10, 11, 12, 13, and 14. All other forms of sex-discrimination that is not sex-based harassment will be resolved using the grievance procedures in Sections 6, 7, 8, 9, 13, and 14. Retaliation will also be resolved using the grievance procedure in Section Sections 6, 7, 8, 9, 13, and 14.**

**2.1.1 Sex-Based Harassment: is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:**

**(1) Quid pro quo harassment:** An employee, agent, or other person authorized by Eureka College to provide an aid, benefit, or service under Eureka College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

**(2) Hostile environment harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the Eureka College's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access Eureka College's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within Eureka College's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in Eureka College's education program or activity.

**(3) Specific offenses: Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.**

**2.1.2 Sexual Assault:** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including Rape, Fondling, Incest, and Statutory Rape as defined in this Policy.

**2.1.3 Rape<sup>1</sup>:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.

**2.1.4 Fondling<sup>2</sup>:** The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of his/her/their age or because of his/her/their temporary or permanent mental Incapacity.

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<sup>1</sup> Rape as defined in the Uniform Crime Reporting Program (UCR) includes:

Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with and Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

<sup>2</sup> Fondling is referred to as Forcible Fondling in the UCR.

**2.1.5 Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**2.1.6 Statutory Rape:** Sexual intercourse with a person who is under the statutory age of Consent.

**2.1.7 Dating Violence:** Violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the persons involved in the relationship;

**2.1.8 Domestic Violence:** Felony or misdemeanor crimes committed by a person who:

(1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of Eureka College, or a person similarly situated to a spouse of the victim;

(2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(3) Shares a child in common with the victim; or

(4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

**2.1.9 Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's safety or the safety of others; or

(2) Suffer substantial emotional distress.

**2.1.10 Retaliation, including Peer Retaliation:** Intimidation, threats, coercion, or discrimination against any person by Eureka College, a student, or an employee or other person authorized by Eureka College to provide aid, benefit, or service under Eureka College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including in an informal resolution

process, in grievance procedures, and in any other actions taken by Eureka College under this policy. Nothing in this definition or this Policy precludes Eureka College from requiring an employee or other person authorized by Eureka College to provide aid, benefit, or service under Eureka College's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

## **2.2 Definitions Related to Sexual Discrimination: Consent, Course of Conduct, Incapacitation, On the Basis of Sex, Reasonable Person, Substantial Emotional Distress**

**2.2.1 Consent** is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person to ensure they have the affirmative Consent of the other to engage in the sexual activity. Lack of protest, lack of verbal or physical resistance, or silence do not, alone, constitute consent in general or as a result of the use of threat or force. Affirmative consent must be an ongoing and freely given agreement to sexual activity and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of Consent to prior conduct). A person consenting to sexual activity with one person does not constitute consent to future sexual activity. A person's manner of dress does not constitute consent.

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decisionmaker will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

- (1)** The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- (2)** The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
- (3)** The Respondent knew or a reasonable person should have known that the Complainant was unable to Consent because the Complainant was incapacitated, in that the Complainant was:
  - asleep or unconscious
  - unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication
  - unable to communicate due to a mental or physical condition



- under the age of consent.

**2.2.2 Course of Conduct:** Two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

**2.2.3 Incapacitation:** A person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have:

- (1) control over their body, is unaware that sexual activity is occurring, or
- (2) their mental, physical or developmental abilities render them incapable of making rational informed decisions.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking alcohol, using drugs, or taking medication.

A person violates this policy when they engage in sexual activity with another person who is Incapacitated and a Reasonable Person in the same situation would have known that the person is Incapacitated. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

**2.2.4 On the Basis of Sex (Scope):** Includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

**2.2.5 Reasonable Person:** A reasonable person under similar circumstances and with similar identities to the victim.

**2.2.6 Substantial Emotional Distress:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## 2.3 Other Defined Terms

**2.3.1 Business Day:** Any weekday not designated by Eureka College as a holiday or administrative closure day. When calculating a time period of Business Days specified in this Policy, the Business Day of the event that triggers a time period is excluded.

**2.3.2 Complainant:** A student or employee of Eureka College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of Eureka College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Eureka College's education program or activity.

**2.3.3 Complaint:** An oral or written request to Eureka College that objectively can be understood as a request for Eureka College to investigate and make a determination about alleged discrimination.

**2.3.4 Confidential Employee:**

(1) An employee of Eureka College whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) An employee of Eureka College whom Eureka College has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or

(3) An employee of a post-secondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

**2.3.5 Confidential Advisor:** Means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Illinois Preventing Sexual Violence in Higher Education Act.

**2.3.6 Disciplinary Sanctions:** Consequences imposed on a respondent following a determination under Title IX that the respondent violated Eureka College's prohibition on sex discrimination.

**2.3.7 Education Program or Activity:** Any academic, extracurricular, research, occupational training, or other education program or activity associated with the College.

**2.3.8 Impermissible Evidence:** The following information must not be discussed, otherwise used, accessed or considered, even if relevant, except by Eureka College to determine whether an exception exists.

(1) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

(2) A party's or witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Eureka College obtains that party's or witness' voluntary, written consent for use in Eureka College's grievance procedures; and

(3) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

**2.3.9 Party:** A complainant or respondent.

**2.3.10 Pregnancy or Related Conditions:**

(1) Pregnancy, childbirth, termination of pregnancy, or lactation;

(2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**2.3.11 Relevant:** Related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**2.3.12 Remedies:** Measures provided, as appropriate, to a complainant or any other person Eureka College identifies as having had their equal access to Eureka College's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to Eureka College's education program or activity after Eureka College determines that sex discrimination occurred.

**2.3.13 Respondent:** A person who is alleged to have violated Eureka College's prohibition on sex discrimination.

**2.3.14 Student:** A person who has gained admission.

**2.3.15 Student with a Disability:** A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

**2.3.16 Supportive Measures:** Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

(1) Restore or preserve that party's access to Eureka College's education program or activity, including measures that are designed to protect the safety of the parties or the Eureka College's educational environment; or

(2) Provide support during Eureka College's grievance procedures or during the informal resolution process.

### **Section 3: Reporting Sex Discrimination and Preservation of Evidence**

#### **3.1 Reporting to Eureka College**

**3.1.1 Reporting to/Notifying the Title IX Coordinator:** Reports of Sex Discrimination may be made to the Title IX Coordinator. The Title IX Coordinator may be notified at any time by email, phone, online form or mail. Notifications may be made in person during business hours. Reports to the Title IX Coordinator can be made by an involved party, third party, or bystanders. The Title IX Coordinator will promptly respond by offering supportive measures to the Complainant regardless of whether a complaint is initiated.

**3.1.2 Reporting by all Employees Who are Not Designated as Confidential Employees:** If any employee who is not designated as a confidential employee has information about conduct that may reasonably constitute sex discrimination, the employee must notify the Title IX Coordinator or the Deputy Title IX Coordinator(s) within 48 hours of being made aware of such conduct. Failure to report within this time frame may result in disciplinary action.

**3.1.3 Reporting to Confidential Employees:** Confidential employees at Eureka College include the following:

The Campus Ombudsperson/Chaplain  
Cerf Center  
309-467-6420

Trillium Place  
In-person/Virtual/Phone  
309-347-1148

Reports made to confidential employees are considered confidential reports unless the potential complainant is a minor. The confidential employee must explain the following to a person who informs them of conduct that reasonably may constitute sex discrimination.

- (1) The employee's status as confidential for purposes of this policy, including any circumstances in which the employee is not required to report to the Title IX Coordinator;
- (2) How to contact the Title IX Coordinator and how to make a complaint of sex discrimination; and
- (3) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an information resolution or an investigation under the grievance procedures.

The Confidential Advisor as explained in 2.1.5 of this policy is the Ombudsperson/Chaplain and can be contacted at the following information: Bruce Fowlkes, [bfowlkes@eureka.edu](mailto:bfowlkes@eureka.edu), 309-467-6429.

**3.1.4 Public Awareness Events:** When the Title IX Coordinator is notified of information that may reasonably constitute sex-based harassment that was provided during a public event to raise awareness about sex-based harassment that was held on Eureka College's campus or through an online platform sponsored by Eureka College, Eureka College is not obligated to act in response to the information unless it indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other individuals. However, Eureka College must use information to inform its efforts to prevent sex-based harassment.

**3.1.5 Anonymous Reporting:** Anonymous reports may be made in writing to the Title IX Coordinator or Deputy Title IX Coordinator at the contact information provided in Section 1.4. A decision to remain anonymous, however, may greatly limit Eureka College's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this policy.

**3.2 Reporting to Law Enforcement:** Reports may be filed with local law enforcement agencies. The Title IX Coordinator can assist with contacting law enforcement agencies. Law enforcement investigations are separate and distinct from Eureka College investigations.

Eureka College has a Police Department whose contact information is:

Eureka College Police  
Cerf Center  
300 E College Avenue  
Eureka, IL 61530  
309-467-6408

The contact information for other area law enforcement agency is:

Woodford County Sheriff Department  
111 E Ct St  
Eureka, IL 61530  
309-467-2375

City of Eureka Police Department  
210 N Main St  
Eureka, IL 61530  
309-467-2375

**3.3 Reporting to Outside Agencies:** Reports may be made to external agencies:

**(1) Students:**

**Office for Civil Rights**

U.S. Department of Education  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Telephone: 312-730-1560  
FAX: 312-730-1576; TDD: 800-877-8339  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

**(2) Employees:**

**U.S. Equal Employment Opportunity Commission**

JCK Federal Building  
230 S Dearborn Street (Suite 1866)  
Chicago, IL 60604  
Phone 312-872-9777  
Fax 312-588-1260  
TTY 1-800-669-6820

**3.4 Outside Agency Confidential Support and Resources:**

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention and assistance in dealing with the criminal justice system. If accessing these resources, individuals are encouraged to clarify whether the resources are confidential. Other off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with Eureka College unless the victim requests the disclosure and signs a consent or waiver form. Other resources and referrals can be found on the Student Health and Wellness webpage.

National/Local Hotlines:

Center for Prevention of Abuse  
Provides a full range of victim assistance and resources  
(309) 691-0551  
Crisis Hotline 1-800-559-SAFE (7233)

National Sexual Assault Hotline

Call: (800) 656-4673  
Live Chat: [www.rainn.org](http://www.rainn.org)

Health Services:

Carle Eureka Hospital  
101 S. Major Street in Eureka (309) 467-2371

Counseling Services:

Trillium Place  
Counseling Sessions held via phone, video, or in-person in the Green Room in the Cerf Center: Call 309-347-1148 to schedule an appointment

Sexual Assault Nurse Examiners (SANEs) may be available to collect evidence in case an individual would like to pursue criminal charges. Additionally, these Peoria-area providers can offer physical exams and provide sexual and health reproductive health services. These resources are confidential.

OSF St. Francis  
530 NE Glen Oak Ave., Peoria IL  
309-655-2000

Proctor  
5409 Knoxville Ave, Peoria, IL 61614  
309-691-1000

Carle Health-Methodist  
221 NE Glen Oak Ave., Peoria IL  
309-672-5522

**3.5 Time Limits on Reporting:** There are no time limits on reporting sex discrimination to the Title IX Coordinator or Eureka College. Individuals must report conduct that may reasonably constitute sex discrimination when they receive information about the incident regardless of when that conduct occurred. If the respondent is no longer subject to Eureka College's Education Program or Activity or significant time has passed, Eureka College will have limited ability to investigate, respond, and/or provide disciplinary remedies and sanctions.

**3.6 Eureka College Federal Reporting Obligations:** Certain Eureka College employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify complainants or respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations. When Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking are reported under the Clery Act, Eureka College must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. Eureka College will not disclose a complainant's name and other identifying information in a timely warning but will provide sufficient information for the Sacred Heart community.

**3.7 Preservation of Evidence:** Eureka College recognizes that a complainant may need time to decide whether to report an incident of sex discrimination [ to the police and/or Eureka College. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident.

Eureka College encourages Complainants, as soon as possible after experiencing Sexual Assault, to take steps to preserve evidence such as:

- (1) Have a forensic sexual assault nurse examination performed as soon as possible after the incident<sup>3</sup>;
- (2) When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- (3) Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- (4) Preserve or capture electronic communications such as text messages, e-mails, social media posts, or exchanges (e.g., Snapchat, Facebook, Twitter);
- (5) Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- (6) Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.

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<sup>3</sup> Eureka College will assist the survivor in locating an option for a forensic medical exam at no cost to the survivor.



## **Section 4: Grievance Procedures: Evaluation and Supportive measures**

**4.1 Initial Response to Notification of Sex Discrimination:** Upon notification of conduct that reasonably may constitute sex discrimination, the Title IX Coordinator will promptly contact the complainant regardless of whether the complainant was the individual who initiated the notification. During the initial contact with the complainant the Title IX Coordinator will:

- (1) Provide the complainant with notice of their rights and options;
- (2) Explain the process for initiating a complaint, including the factors considered to determine when the Title IX Coordinator will initiate a complaint.
- (3) Explain the relevant Grievance Procedures and Informal Resolution Process;
- (4) Discuss the availability of Supportive Measures regardless of whether a complaint is initiated;
- (5) Consider the complainant's wishes with respect to Supportive Measures.

**4.2 Supportive Measures:** Supportive measures must be offered and coordinated by Eureka College.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or Eureka College's educational environment, or to provide support during Eureka College's grievance procedures or during the informal resolution process. Eureka College must not impose such measures for punitive or disciplinary reasons.

Supportive measures may differ based on what Eureka College deems to be reasonably available. Examples of supportive measures include, but are not limited to:

- (1) Counseling;
- (2) Extensions of deadlines and other course-related adjustments;
- (3) Campus escort services;
- (4) Increased security and monitoring of certain areas of the campus;
- (5) Restrictions on contact applied to one or more parties ("no contact order")<sup>4</sup>;
- (6) Leaves of absence;

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<sup>4</sup> Eureka College will honor a state issued order of protection or no contact order as well issued by outside law enforcement.

(7) Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

Supportive measures may be modified or terminated at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or Eureka College may continue with the supportive measures indefinitely.

**4.2.1 Supportive Measures Review:** Complainants or respondents may seek modification or reversal of Eureka College's decision to provide, deny, modify, or terminate supportive measures applicable to them. The Supportive Measures Review Administrator may modify or reverse the decision regarding supportive measures if the Supportive Measures Review Administrator determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in this Policy. The parties will be provided with additional opportunity to seek review by the Supportive Measures Review Administrator of supportive measures if circumstances change materially.

Request for review of supportive measures must be made in writing to:

(1) Dr. Donna Bradley at [dbradley@eureka.edu](mailto:dbradley@eureka.edu)

(2) Within 5 days.

Upon receipt of a request for review, the Supportive Measures Review Administrator will evaluate the request and provide a written response with their determination as to whether the prior decision to provide, deny, modify, or terminate the supportive measure was inconsistent within 5 days.

**4.2.2 Privacy of Supportive Measures Information:** Eureka College will not disclose information about any supportive measures to individuals other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity.

**4.2.3. Consultation for Student with Disability:** If the complainant or respondent has a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that Eureka College has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

## **Section 5: Complaint**

Eureka College will use the grievance procedures or the informal resolution process for all allegations of sex discrimination in a complaint.

**5.1 Initiating a Complaint:** A complaint must be an oral or written request to Eureka College that can objectively be understood as a request for Eureka College to investigate and make a determination about alleged sex discrimination.

The following persons have a right to initiate a complaint:

**(1) For Allegations of Sex-Based Harassment:**

- (i) A complainant.
- (ii) An authorized legal representative with the legal right to act on behalf of a complainant.
- (iii) The Title IX Coordinator.

**(2) For Allegations of Sex Discrimination Other than Sex-Based Harassment:**

- (i) Any student or employee; or
- (ii) Any person other than a student or employee who was participating or attempting to participate in Eureka College's education program or activity at the time of the alleged sex discrimination.

**5.2 Title IX Coordinator Considerations for Initiating a Complaint:** In the absence of a complaint or the withdrawal of the allegations in a complaint, the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination. The Title IX Coordinator must consider, at a minimum the following factors:

- (1) The Complainant's request not to proceed with initiation of a complaint;
- (2) The Complainant's reasonable safety concerns regarding initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the parties, including whether the respondent is an employee of Eureka College;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;

(7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and

(8) Whether Eureka College could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

**5.2.1 Notification of Complainant:** If the Title IX Coordinator initiates a complaint, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including providing additional supportive measures.

**5.3 Response Regardless of Whether Complaint is Initiated:** Regardless of whether a complaint is initiated, the Title IX Coordinator will take other appropriate, prompt and effective steps, in addition to steps necessary to effectuate remedies provided to an individual complaint, if any, to ensure that sex discrimination does not continue to recur within Eureka College's education program or activity.

**5.4 Dismissal of a Complaint:** Eureka College may dismiss a complaint of sex discrimination for any of the following reasons:

(1) Eureka College is unable to identify the Respondent after taking reasonable steps to do so;

(2) The Respondent is not participating in Eureka College's education program or activity and is not employed by Eureka College;

(3) The Complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX Coordinator declines to initiate a complaint under, and Eureka College determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under this policy even if proven; or

(4) Eureka College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this Policy. Prior to dismissing the complaint under this section, Eureka College will make reasonable efforts to clarify the allegations with the complainant.

**5.4.1 Notification of Dismissal of a Complaint:** Upon dismissal, Eureka College will promptly notify the complainant of the basis for the dismissal in writing. If the dismissal occurs after the respondent has been notified of the allegations, then the Eureka College will simultaneously notify the respondent of the dismissal and the basis for the dismissal.

**5.4.2 Appeal of Dismissal of a Complaint:** Eureka College will notify the complainant that a dismissal may be appealed. If the dismissal occurs after the respondent has been notified of the allegations, then Eureka College will also notify the respondent that the dismissal may be

appealed. The complainant and respondent (if respondent has been notified of the allegations) may appeal on the bases set forth in section 13.

If the dismissal is appealed, Eureka College will:

- (1) Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- (2) Implement appeal procedures equally for the parties;
- (3) Ensure that the appellate decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- (4) Ensure that the decisionmaker for the appeal has been trained;
- (5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the parties of the result of the appeal and the rationale for the result.

**5.4.3 After Dismissal of Complaint:** If Eureka College dismisses a complaint, Eureka College will, at a minimum:

- (1) Offer supportive measures to the Complainant.
- (2) Offer supportive measures to the Respondent if the respondent has been notified of the allegations.
- (3) Take other appropriate, prompt, and effective steps to ensure that sex discrimination does not continue or recur within the Eureka College's education program or activity.

**5.5 Consolidation of Complaints:** Eureka College may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.

If one of the complaints to be consolidated is a complaint of sex-based harassment involving a student Complainant or student Respondent at a postsecondary institution, the grievance procedures for investigating and resolving the consolidated complaint must comply with the requirements in the Title IX Policy for Sex-Based Harassment.

## **Section 6: Grievance Procedures - General Requirements for All Forms of Sex Discrimination including Sex-Based Harassment**

**6.1 Equitable Procedures:** The grievance procedures within this Policy are designed to treat complainants and respondents equitably.

**6.1.1 Burden of Proof and Burden of Gathering Evidence:** All investigations and proceedings, including hearings, relating to sex discrimination will be conducted using a “preponderance of the evidence” (more likely than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Eureka College not the parties.

**6.1.2 Presumption of Not Responsible:** The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process.

**6.1.3 Time Frames for Grievance Process:** Eureka College strives to complete the grievance process within sixty (60) business days. Eureka College strives to complete the evaluation period within five (5) business days after meeting with the Complainant, the investigation period within thirty (30) business days after initiation of complaint, the determination period within fifteen (15) business days, and the appeal within ten (10) business days. Temporary delays and/or extensions of the time frames within this Policy may occur for good cause. Written notice will be provided to the parties of the delay and/or extension of the time frames with explanation of the reasons for such action. Examples of good cause for delay/extensions include, but are not limited to, considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

**6.1.4 Prohibition Against Bias or Conflict of Interest:** The Title IX Coordinator, investigator, decisionmaker, or appellate decisionmaker must not have a bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator.

**6.1.5 Privacy Protection:** Eureka College will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.

**6.1.6 Objective Evaluation of Evidence:** Eureka College will conduct an objective evaluation of all evidence that is relevant, as defined and not otherwise impermissible, including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person’s status as a complainant, respondent, or witness.

## **Section 7: Grievance Procedures for Sex-Discrimination that is NOT Sex-Based Harassment - Investigation**

Eureka College will conduct an investigation following a complaint of sex discrimination that is not sex-based harassment and transmittal of a Notice of Allegations to relevant parties. During all meetings and interviews the parties may be accompanied by an advisor of their choice, who can be, but is not required to be, an attorney. The advisor’s role is limited to assisting, advising, and/or

supporting a Complainant or Respondent. An advisor is not permitted to speak for or on behalf of a complainant or respondent or appear in lieu of a Complainant or Respondent.

**7.1 Notice of Allegations:** Upon initiation of Eureka College's grievance procedures, Eureka College will provide notice of the allegations to the parties whose identities are known which includes:

- (1) Eureka College's grievance procedures.
- (2) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes:
  - (i) The identities of the parties involved in the incident(s),
  - (ii) The conduct alleged to constitute sex discrimination under this policy, and
  - (iii) The date(s) and location(s) of the alleged incident(s), to the extent that information is available to Eureka College.
- (3) A statement that retaliation is prohibited; and
- (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description (report) of this evidence, and if Eureka College provides a report depicting the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.

**7.1.1 Updating Notice of Allegations:** If, in the course of an investigation, Eureka College decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice of allegations or that are included in a complaint that is consolidated, Eureka College will provide notice of the additional allegations to the parties whose identities are known.

**7.2 Burden:** Eureka College will ensure that the burden is on Eureka College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

**7.3. Witnesses:** Eureka College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

Eureka College has discretion to determine whether parties may present expert witnesses and will make that determination equally to the parties.

**7.4 Unauthorized Access:** Eureka College will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the

grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

**7.5 Questioning of Parties and Witnesses:** Eureka College will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

**7.6 Advisor of Choice:** Parties may be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Eureka College may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, but the restrictions will apply equally to the parties.

### **Section 8 Grievance Procedures - Review of Evidence for Sex-Discrimination that is NOT Sex-Based Harassment**

Eureka College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, and an accurate description of this evidence in the form of a report. If Eureka College provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;

Eureka College will provide a reasonable opportunity to respond to the evidence and to the accurate description of the evidence. The parties will have five (5) business days to review the evidence and provide written response upon receipt of the evidence and report.

Parties will be provided with the name of the decisionmaker at the time of the review of evidence. If a party has a conflict of interest with the decisionmaker that party can make a request for a substitution in this role by submitting this in writing to the Title IX Coordinator at the conclusion of the review of evidence period.

### **Section 9: Grievance Procedures - Determination for Sex Discrimination that is NOT Sex-Based Harassment**

**9.1 Notification:** At the conclusion of the investigation and review of the evidence and report, the decisionmaker will notify the parties in writing of the determination whether sex discrimination occurred, include the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal.

**9.2 Remedies and Disciplinary Sanctions:** If there is a determination that sex discrimination occurred, as appropriate, Title IX Coordinator will coordinate the provision and implementation of remedies to the complainant and other persons identified as having had equal access to Eureka College's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a respondent, including notification to



the complainant of any such disciplinary sanctions, and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur.

**9.2.1 Finality of Determination:** The determination regarding responsibility becomes final either on the date Eureka College provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

**9.2.2 Discipline Outside of Grievance Procedures:** Eureka College will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.

Eureka College will not discipline a party, witness, or others participating in Eureka College's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

## **Section 10: Grievance Procedures – Investigation for Sex-Based Harassment**

Eureka College will conduct an investigation for matters of sex-based harassment following a complaint and transmittal of a Notice of Allegations to the relevant parties. During all meetings and interviews the parties may be accompanied by an advisor of their choice, who can be, but is not required to be, an attorney. The advisor's role is limited to assisting, advising, and/or supporting a Complainant or Respondent. An advisor is not permitted to speak for or on behalf of a Complainant or Respondent or appear in lieu of a Complainant or Respondent.

Eureka College has discretion to determine whether parties may present expert witnesses and must make that determination equally to the parties.

**10.1 Notice of Allegations:** Upon initiation of Eureka College's grievance procedures, Eureka College will provide notice of the allegations to the parties whose identities are known which includes:

- (1) Eureka College's grievance procedures.
- (2) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes:
  - (i) The identities of the parties involved in the incident(s),
  - (ii) The conduct alleged to constitute sex discrimination in the form of sex-based harassment under this policy, and
  - (iii) The date(s) and location(s) of the alleged incident(s), to the extent that information is available to Eureka College.

(3) A statement that retaliation is prohibited.

(4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, or an accurate description (report) of this evidence and if Eureka College provides a report depicting the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.

(5) A statement that Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker.

(6) A statement that they may have an advisor of their choice to serve in the role set out in paragraph 7.6 of this section, and that the advisor may be, but is not required to be, an attorney.

(7) A statement that they are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and an investigative report that accurately summarizes the evidence.

(8) A statement that the code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedure.

**10.1.1 Updating Notice of Allegations:** If, in the course of an investigation, Eureka College decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice of allegations or that are included in a complaint that is consolidated, Eureka College will provide notice of the additional allegations to the parties whose identities are known.

**10.1.2 Reasonable Delay of Notice of Allegations to Address Safety:** If Eureka College has reasonable concerns for the safety of any person as a result of providing this notice, Eureka College may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

**10.2 Burden:** Eureka College will ensure that the burden is on Eureka College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

**10.3. Witnesses:** Eureka College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

**10.4 Unauthorized Access:** Eureka College will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the

grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

**10.5 Written Notice of Meetings:** Parties and witnesses will be provided notice of any meeting, interview, and/or hearing when their presence is invited or expected with sufficient time to prepare to participate. This notice will include the date, time, location, participants, and purposes of the meeting or proceeding.

**10.6 Advisor of Choice:** Parties may be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Eureka College may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, but the restrictions will apply equally to the parties.

**10.7 Expert Witnesses:** Eureka College has discretion to determine whether parties may present expert witnesses and will make that determination equally to the parties.

**10.8 Questioning of Parties and Witnesses:** Eureka College will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

## **Section 11 Grievance Procedures - Review of Evidence for Sex-Based Harassment**

Eureka College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, and an accurate description of this evidence in the form of a report. If Eureka College provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

Eureka College will provide a reasonable opportunity to respond to the evidence and to the accurate description of the evidence. The parties will have five (5) business days to review the evidence and provide written response upon receipt of the evidence and report.

The opportunity to review and respond will occur prior to the live hearing.

## **Section 12: Grievance Procedures - Determination (Live Hearing) for Sex-Based Harassment**

**12.1 Live Hearing:** At the conclusion of the investigation and review of the evidence and report, Eureka College will provide for a live hearing. Eureka College will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decisionmaker and parties to simultaneously see and hear the other party or witness answering questions.

**12.1.1 Recording of the Live Hearing:** Eureka College will create an audio or audiovisual recording of all live hearings and make the recording or a transcript of the hearing available to the parties for inspection or review.

**12.1.2 Pre-Hearing Matters:** In order to streamline the hearing process, the decisionmaker may request the submission of questions prior to the hearing through electronic submission and/or a pre-hearing conference.

**(1) Pre-Hearing Submission of Questions:** The decisionmaker may request the parties to submit questions, in writing, prior to the hearing. This submission does not preclude the advisor from asking additional questions live during the hearing. The decisionmaker may allow for the pre-hearing submission of questions regardless of whether a pre-hearing conference occurs.

**(2) Pre-Hearing Conference:** The decisionmaker may hold a pre-hearing conference. During the pre-hearing conference, parties and their advisors will be asked to submit, in writing, any questions they wish to ask during the live hearing so that the decisionmaker can be prepared to respond to relevancy at the hearing. This conference does not preclude the advisor from asking additional questions live during the hearing. At the pre-hearing conference, the decisionmaker may also hear arguments regarding the relevance of the evidence identified in the investigation report as relevant or not relevant and/or directly related to the allegations.

**12.1.3 Participants in the Hearing:** Participants at the hearing include the decisionmakers, the investigator(s) who conducted the investigations, the parties, advisors to the parties, witnesses, and anyone providing authorized accommodations. In addition, Eureka College may have a hearing facilitator present. Any witnesses scheduled to participate in the hearing must have been first interviewed by the investigator(s) or have provided a written statement or answered questions from the investigator in writing.

**12.1.4 Hearing Process and Phases:** Eureka College may adopt rules of decorum for the hearing procedures. The live hearing will include the following phases:

**(1) Notice of Hearing:** After the investigative report has been completed and at least five (5) business days prior to the date set for the hearing, the parties and their advisors (if any) will be provided with a Notice of the Hearing. The Notice will include the date, time, location, name of the decisionmaker, names of all participants in the hearing, and the location (virtual) of the hearing. If a party has a conflict of interest with the decisionmaker that party can make a request for a substitute in this role by submitting this in writing to the Title IX Coordinator within three (3) Business Days of the hearing.

**(2) Opening Statements:** Each party will have the opportunity to present an opening statement to the decisionmaker.

**(3) Questioning of Hearing Participants (Parties and Witnesses):**

**(i) By the Decisionmaker:** The decisionmaker will ask initial relevant and not otherwise impermissible questions of the participants at the hearing.

**(ii) Written Questions:** Each party will be permitted to provide relevant and not otherwise impermissible questions and follow-up questions in writing to the decisionmaker who will determine whether the questions are relevant and not otherwise impermissible. If a question is relevant and not otherwise impermissible, the decisionmaker will ask the question of the participant orally. If the decisionmaker determines that a question is not relevant or is otherwise impermissible, the decisionmaker will explain their decision to exclude the question.

(iii) Parties may not ask unclear or harassing questions. If the decisionmaker determines that a question is unclear or harassing, the decisionmaker will provide the advisor an opportunity to clarify or revise the question. If the party sufficiently clarifies the question or revises the question so that it is no longer harassing, the question may be asked.

**(4) Closing Statements:** Each party will have the opportunity to present a closing statement to the decisionmakers.

**12.2 Determination:** At the conclusion of the investigation and review of the evidence and report, the decisionmaker will simultaneously notify the parties in writing of the determination whether sex discrimination occurred within seven (7) days of when the decision was made. The determination will include:

- (1) A description of the alleged sex discrimination;
- (2) Information about the policies and procedures that Eureka College used to evaluate the allegations;
- (3) The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex discrimination occurred;
- (4) If the decisionmaker finds that sex discrimination occurred, any disciplinary sanctions that are imposed on the Respondent will be made in consultation with appropriate College personnel. These sanctions, whether remedies other than the imposition of disciplinary sanctions, will be provided to the Complainant, and, to the extent appropriate, other students identified to be experiencing the effects of the sex discrimination; and
- (5) Eureka College's procedures for the Complainant and Respondent to appeal.

**12.2.1 Remedies and Disciplinary Sanctions:** If there is a determination that sex discrimination occurred, as appropriate, Title IX Coordinator will coordinate the provision and implementation of remedies to the Complainant and other persons identified as having had

equal access to Eureka College's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a Respondent and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur.

**12.2.1.1 Range of Disciplinary Sanctions:** Sanctions that may be required if an individual is found responsible for violating this policy include, but are not limited to:

(1) For Students:

- **Warning.** An admonition that does not become part of a student's permanent record, but that may be taken into account in judging the seriousness of any future violation.
- **Reprimand.** Reprimand is a stronger admonition than a warning, intended to signal that the student has committed a minor infraction, conveying that the student must be vigilant against future infractions, and providing a disincentive against future infractions in that a reprimand will not become part of the student's permanent record unless there is a subsequent infraction, at which point the reprimand will be formally recorded on the student's permanent record.

Both a warning and a reprimand may be taken into account in judging the seriousness of any future violation.

More serious violations may be met with the following formal responses which are recorded on the student's permanent record.

- **Disciplinary Probation.** A more serious admonition assigned for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or in especially serious cases, expulsion from the College. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction even if the probationary period has expired.

Disciplinary probation appears on a student's permanent record at the College (but not on the transcript) and may be disclosed by the Office of Student Life in response to requests for which the student has given permission or as otherwise legally required.

- **Withholding of Degree.** In cases involving students in their final semester, the College may withhold a student's Eureka College degree for a specified period of time. This sanction is imposed instead of suspension at the end of a student's final year when all other degree requirements have been met. A withheld degree is recorded on a student's transcript. Relevant information remains on the

student's permanent record at the College and may be disclosed by the Office of Student Life in response to requests for which the student has given permission or as otherwise legally required.

- **Suspension.** Removal from enrollment in the College for a specified period of time. A suspension is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of Student Life in response to requests for which the student has given permission or as otherwise legally required.
- **Suspension with Conditions.** Removal from enrollment in the College for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the appropriate body applying this sanction, have been fulfilled. These conditions may include, but are not limited to, restitution of damages, formal apology, or counseling. A suspension with conditions is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of Student Life in response to requests for which the student has given permission or as otherwise legally required.
- **Expulsion.** Permanent removal from enrollment in the College, without any opportunity for readmission to the community. Expulsion is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of Student Life in response to requests for which the student has given permission or as otherwise legally required.

The following may accompany the preceding sanctions, as appropriate:

- **Censure.** College censure can be added to any of the other sanctions listed above, except warning and reprimand. Censure indicates the College's desire to underscore the seriousness of the violation and the absence of mitigating circumstances, and to convey that seriousness in response to future authorized inquiries about the given individual's conduct.
- **Restriction of Access to Space, Resources, and Activities.** When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.

(2) For Employees:

For violations of this policy by faculty or staff members, disciplinary sanctions may include (in accordance with the employment policies governing the employee in question)

counseling or training, written warning, unpaid leave of absence, suspension (or recommendation for suspension), demotion, termination (or recommendation for termination) in accordance with applicable policies. The College may place a faculty or staff member on administrative leave during the pendency of a grievance process, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

**12.2.2 Finality of Determination:** The determination regarding responsibility becomes final either on the date Eureka College provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

**12.2.3 Discipline Outside of Grievance Procedures:** Eureka College will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.

Eureka College will not discipline a party, witness, or others participating in Eureka College's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

### **Section 13: Appeals – All forms of Sex Discrimination including Sex-Based Harassment**

Appeals are offered to both parties equitably to challenge the determination as to whether sex discrimination occurred and the dismissal of a complaint or allegation therein. Appeals must be made in writing and delivered to the Title IX Coordinator within three (3) Business Days of the receipt of the determination regarding responsibility or dismissal.

**13.1 Bases for Appeal:** Appeals may be made on the following bases:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- (3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or respondent that would change the outcome.
- (4) The sanction is disproportionate with the Policy violation.

**13.2 Appeal Procedures:** If an appeal is submitted, Eureka College will:

- (1) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.



(2) Ensure that the decisionmaker for the appeal is not the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator or the Title IX Coordinator.

(3) Provide the non-appealing party with five (5) Business Days from receipt of the notification of appeal to submit a written statement in support of the outcome of the determination or dismissal.

(4) Issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following:

- Affirm the decisionmaker's determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;
- Affirm the decisionmaker's determination regarding the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable;
- Remand the process back to the hearing stage for the decisionmaker to remedy any procedural irregularity or consider any new evidence;
- Reverse the decisionmaker's determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable; or
- Affirm or amend the sanctions and/or remedies outlined in the determination issued under this Policy.

(5) Provide the written decision simultaneously to both parties.

**13.3 Appeal Timeframe:** The appellate decisionmaker will release the written decision within seven (7) Business Days after the conclusion of the review of findings or sanctions.

#### **Section 14: Informal Resolution for All Forms of Sex Discrimination including Sex-Based Harassment**

At any time prior to determining whether sex discrimination occurred, the parties may agree, with the support of the Title IX Coordinator, to participate in an informal resolution process facilitated by Eureka College, that that does not involve the grievance procedures.

Eureka College will not require or pressure the parties to participate in an informal resolution process and will not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment, continuing enrollment, employment, continuing employment, or exercise of any other right.

The facilitator for the informal resolution process will not be the same person as the investigator or decisionmaker in the grievance procedures.

Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, and resolution by agreement of the parties.

**14.1 Discretion of Title IX Coordinator:** The Title IX Coordinator has discretion to determine whether it is appropriate to offer an informal resolution and may decline to offer informal resolution despite one or more of the party's wishes. When determining whether to offer informal resolution, the Title IX Coordinator will consider whether the alleged conduct presents a future risk of harm to others.

**14.2 Informal Resolution Notice:** Prior to the initiation of the informal resolution process, Eureka College will provide the parties written notice that explains:

- (1) The allegations;
- (2) The requirements of the informal resolution process;
- (3) Notice that, prior to agreement to a resolution, any party has the right to withdraw from the informal process and to initiate or resume the grievance procedures;
- (4) Notice that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- (6) What information Eureka College will maintain and whether and how Eureka College could disclose such information for use in grievance procedures if the grievance procedures are initiated or resumed.

**14.3 Potential Informal Resolution Terms:** Potential terms that may be included in an informal resolution agreement include but are not limited to:

- (1) Restrictions on contact; and
- (2) Restrictions on respondent's participation in one or more of Eureka College's programs or activities or attendance at specific events, including restrictions Eureka College could have imposed as remedies or disciplinary sanctions had the decisionmaker determined at the conclusion of the grievance procedures that sex discrimination occurred.

**14.4 Informal Resolution Availability:** The informal resolution process is not permitted to resolve allegations that an employee committed sex-based harassment against a student.

## **Section 15: Emergency Removal and Administrative Leave for All Forms of Sex Discrimination including Sex-Based Harassment**

**15.1 Emergency Removal:** At any time after the Title IX Coordinator is given notice of sex discrimination, Eureka College may remove a Respondent on an emergency basis. Eureka College will only conduct an emergency removal after:

- (1) Undertaking an individualized safety and risk analysis,
- (2) Determining that an immediate and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and
- (3) Providing the Respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, immediately following removal.

**15.2 Administrative Leave:** Eureka College may place an employee Respondent on administrative leave during the pendency of the grievance process in this Policy.

## **Section 16: Recordkeeping**

The following records will be maintained by Eureka College for at least seven (7) years:

- (1) Records documenting the informal resolution process or grievance procedures for each complaint of sex discrimination including the resulting outcome.
- (2) Records documenting the actions Eureka College took to provide supportive measures and remedies and a fair and equitable response under this policy and Title IX.
- (3) Training materials used to provide training to all employees, the Title IX Coordinator, designees, investigators, decisionmakers, informal resolution facilitators, appellate decisionmakers, and supportive measures review administrators.