

# WILLIAM RAINEY HARPER COLLEGE

## STUDENT CODE OF CONDUCT & RESOLUTION PROCEDURES

### PHILOSOPHY & AUTHORITY

William Rainey Harper College (Harper College or “College”) encourages the intellectual and personal growth of its students as scholars and as citizens. The College has both the authority and responsibility to maintain a campus community where the educational programs can flourish for all students and where individual rights, personal and collective safety, and College operations are appropriately protected. It is a choice to attend Harper College and by doing so, students assume the obligations (including standards for behavior) imposed by the College.

Harper College students and student organizations are expected to act in accordance with the policies, rules, regulations, laws, and requirements of Harper College, municipalities and counties, the State of Illinois, and the United States. The policies and procedures set forth in this document are designed to be educational, fundamentally fair, and to provide students with the procedural protections that are appropriate for campus conduct proceedings. Students should be aware that they are responsible not only for the *intent* of their behavior, but also for the *impacts* of their actions. The student conduct policies and procedures are designed to provide an educational and developmental process that balances the interests of individual students with the interests of the Harper College community.

### RELATIONSHIP BETWEEN STUDENT CONDUCT & THE VIOLATION OF LAW

The campus student conduct process is an educational and administrative process – it is not designed to mirror a court of law, but to further the educational mission of the College. This includes both maintaining a safe educational environment as well as furthering the learning and development of individual students. As a result, the College may set forth behavioral expectations for students that may be higher than those found in criminal law. Participants in the campus conduct process should be aware that while they are afforded the procedural protections provided in this document, they do not have the same rights that might be afforded to a citizen participating in a criminal court proceeding. Due process, as defined within these procedures, assures written notice and a resolution with an objective decision-maker. The campus student conduct process, as well as the possible outcomes, are different than those in a criminal or civil court proceeding. For those situations where a student’s behavior may be a violation of law as well as College policy, the student conduct process may occur simultaneously, prior to, or following any criminal, employment, or other proceeding.

### ACKNOWLEDGEMENTS

Harper College would like to acknowledge the following as resources for this document:

- Edward N. Stoner II and John Wesley Lowery, “Navigating Past the ‘Spirit of Insubordination’: A Twenty-First Century Model Student Code of Conduct with a Model Hearing Script,” *Journal of College and University Law*, 31(1), (2004): 1-78.
- *The General Order on Judicial Standards of Practice and Substance in Review of Student Discipline in Tax-Supported Institutions of Higher Education*, 45 F.R.D. 133 C.F.R. (1968).
- Professional resources and guidance from the Association of Student Conduct Administration (ASCA), the Association for Title IX Administrators (ATIXA) and the NCHERM Group, LLC.
- The Student Codes of Conduct and related procedures from: Bowling Green State University, Joliet Junior College, The University of Florida, Waubensee Community College, and Wright State University

## COLLEGE AUTHORITY & JURISDICTION

### AUTHORITY

In accordance with Board Policy 05.25.00, this Code outlines the behavioral expectations for students and the procedures for determining and addressing violations. The Dean of Students (or designee) has the ultimate authority for interpretation of this Code, including the determination of a person's status with the institution in a particular situation. The Student Conduct Officer serves as the primary investigator and hearing officer for reports of student misconduct. The Dean of Students may also serve and designate additional College officials to serve the College in one or more roles in the student conduct process, including investigator, hearing officer, appeals officer, and/or advisor. No college official will serve as both an investigator and a hearing officer in the same case. In the case that a College official is not available, his/her designee takes on the authority described for the duration of unavailability.

### JURISDICTION

A student's behavior may be subject to the student conduct procedures whenever he or she commits or attempts to commit a violation of the Student Code of Conduct on property belonging to or under control of Harper College, or at an activity, function or event sponsored or supervised by the College. In addition, if a student commits a violation of this Code while off-campus (including through technology or social media), the student's behavior may be subject to the student conduct process if the behavior adversely affects:

- the College community;
- the mission or reputation of the College;
- the ability of an individual member of the campus community to pursue his/her Harper College education and/or employment (including the creation of a hostile environment); or
- a function or operation of the College (including directives issued in response to a health, safety, or other campus emergency).

The College may address allegations of a student's misconduct through the Code when the alleged violation occurs within two years after any of the following: application for admission, attempt to register for or attend one or more courses, attempt to or is reasonably perceived as attempting to interact with the campus as a student, or while under sanction (other than expulsion) from the institution. This may extend to incidents that occur during breaks within or between semesters of enrollment, as well as between the time of application to the College and registration or participation in courses.

When students engage in misconduct as members of a student organization (as defined by the Department of Student Involvement), they may be held accountable as individual students and the student organization may also be held accountable. Student organizations may face consequences through the Department of Student Involvement, as well as through application of the Student Code of Conduct to members are found responsible for violating its provisions.

A student charged with violating the Code of Conduct may not avoid the conduct process by withdrawing from the College. Student conduct proceedings may continue as described in this document without the student's participation, and/or a hold prohibiting further registration and/or release of transcripts may be placed on the student's record at the discretion of the Dean of Students until the matter is resolved.

### CONTINUING EDUCATION

Individuals enrolled solely as Continuing Education students are expected to uphold the standards of behavior outlined in this Code. Given the diverse forms of delivery of Continuing Education opportunities, additional guidelines for behavior may be provided by Continuing Education. Individuals who violate these standards are subject to action at the discretion of the Dean of Community Education or his/her designee. Such action may include restricting and/or dismissing students from Continuing Education programs or activities.

## DEFINITIONS

College:	William Rainey Harper College, also known as Harper College or “College”
Student:	Any individual who applies for admission and who is accepted to register for courses (as indicated by being assigned a Harper ID number)
Faculty:	Any person employed by the College to conduct classroom or teaching activities or who is otherwise considered by the College to be a member of its faculty
College Official:	Any person employed or designated by the College to perform a specific function on its behalf
Member of the College Community:	Any person who is a student, College official, or any other person employed by the College. A person’s status in a particular situation shall be determined by the person designated to have authority to interpret this Code
School Days:	Those weekdays (Monday through Friday) when classes are in session
Complainant:	A person who initiates a complaint in the conduct process
Respondent:	A student who is alleged of violating the Code and provided with the opportunity to respond to the complaint
Advisor:	A person who supports a complainant or respondent as he/she participates in the conduct process. The advisor’s supporting role is limited to conferring with and advising the student directly. The advisor may not participate in the conduct process as a representative or advocate for the student. The College also reserves the right to have an advisor present to advise the College officials during the student conduct process. Students seeking an advisor may request a list from the Student Conduct Officer of potential advisors who have received training about the campus conduct process.
Hearing Body/Officer:	The person(s) who review the information in a case, make a determination of responsibility, and/or issue sanctions. Hearing bodies include panels as well as individual hearing officers, such as administrators, student affairs staff, and other employees appointed by the Dean of Students. The hearing body or officer will not also serve as the investigator for the same case.
Sanction:	A consequence imposed as a result of a finding of responsibility
Standard of Proof:	The standard of proof used in all student conduct proceedings to determine if a violation occurred is the preponderance of the evidence, also known as more likely than not, or more than 50%.
Outcome(s):	The finding of responsible or not responsible for each alleged violation, as well as any sanction(s) imposed

## STUDENT RIGHTS & RESPONSIBILITIES

*While the campus conduct process is different than criminal or civil proceedings, the following rights are provided to students, along with the expectation that students fulfill their responsibilities in the process. Students or others who fail to respect the rights of others or the process may be excused from a meeting or proceeding and the process will continue in his/her absence.*

<b>Student Rights</b>	<b>Student Responsibilities</b>
To be treated with respect and dignity	To treat others with respect and dignity
To be informed of the policies and procedures in the Student Code of Conduct, published online and available in hardcopy from the Office of the Dean of Students	To review and abide by the Student Code of Conduct, including both policies and procedures
To be provided with notice of charges, if the student conduct process is initiated, and to be informed of the procedures for resolution	To review the notice and seek clarification if there are any questions about the process
To be provided with the opportunity to review materials, information, and relevant case information in a timely fashion	To follow the procedures (including deadlines) to request such a review
To be provided with an opportunity to be heard through the appropriate resolution process	To follow the process as outlined by the College, as failure to do so does not constitute grounds for an appeal
To be free from compulsory self-incrimination regarding behaviors that may also be the subject of criminal charges, and that the decision not to share information does not create a presumption of responsibility	To understand that, if he/she chooses not to participate, the conduct process will still proceed and that decisions about responsibility and any sanctions will be made based on the available information
To have an advisor of choice present with him/her to support/offer advice in any student conduct hearing or meeting Students seeking an advisor can request a list of potential advisors (i.e. faculty and staff who have received training about the student conduct process) from the Student Conduct Officer.)	To notify the College if an advisor will be present, and to understand that if the advisor does not comply with the College's expectations, he/she will be asked to leave the proceeding or meeting, which will continue without the advisor's presence
To contact and present witnesses to the incident(s) being investigated or reviewed	To present only those who have relevant information to the incident/behavior in question (i.e. no character witnesses) within the guidelines presented by the College
To have his or her educational records related to the conduct process maintained as confidential except as otherwise required by law or permitted by College policy, to have all conduct proceedings and meetings be closed, and to inspect and review student conduct records, in accordance with FERPA.	To understand the recordkeeping policies and that any information related to other students will be redacted from any records that are released, unless otherwise required by law
To have the information reviewed by an unbiased, trained, hearing body/officer who will use the preponderance of the evidence standard of proof	To understand that the conduct process is designed to be educational, not adversarial, and that it is different than a court proceeding
To request appeals based on the grounds described in this Code	To submit appeals as instructed when applicable

## BEHAVIORAL EXPECTATIONS FOR STUDENTS

Students are expected to uphold college policies towards pursuit of their educational objectives. The College reserves the right to set and communicate reasonable standards of behavior as needed. The following behaviors are prohibited. Examples are provided to illustrate the specific prohibition and are not intended to be all-inclusive.

### 1. Threat to personal safety - conduct that intentionally or recklessly causes physical harm or that otherwise threatens or endangers the health or safety of any person.

*Examples include:*

- a. Physical violence – hitting, pushing, use of a weapon, beating or other such activity resulting in or intended to cause physical harm
- b. Making a threat(s) of violence (including verbal, written, or virtual communication) that does or could cause(s) a reasonable expectation of harm to the health or safety of a specific person
- c. Substantial or repeated acts directed at a person or group of people that would cause a reasonable person to feel fearful, including but not limited to:
  - i. Bullying, defined as repeated and/or severe behavior that is aggressive and likely to intimidate or intentionally hurt, control, or degrade another person physically or mentally
  - ii. Stalking, defined as engaging in two or more acts directed at a specific person that would cause a reasonably person to fear for the individual’s safety or the safety of others, or suffer substantial emotional distress
  - iii. Hazing, defined as acts likely to cause physical or psychological harm or social exclusion or humiliation
- d. Any form of retaliation towards a complainant or any participant in an investigation or conduct process. Retaliation will not be tolerated.

### 2. Gender-based or sex-based misconduct.

*Examples include:*

- a. Sexual Harassment
- b. Non-Consensual Sexual Contact
- c. Non-Consensual Sexual Intercourse
- d. Sexual Exploitation
- e. Other Gender-Based Misconduct

*For complete definitions and examples, refer to the Guide to Gender Based & Sexual Misconduct*

### 3. Risk of the safety of the campus community.

*Examples include:*

- a. Illegal or unauthorized possession or use of weapons, including but not limited to: firearms, explosive devices, knives longer than 3 inches, or any other object used to threaten or cause harm. This includes violation of the College’s procedures related to the Illinois Concealed Carry Act.
- b. Making a threat of violence (including verbal, written, or virtual communication) that causes a reasonable expectation of harm to the health or safety of the campus
- c. Behavior that can put physical safety at risk, including but not limited to:
  - i. Reckless driving
  - ii. Possessing flammable chemicals or fireworks or tampering with smoke detectors
  - iii. Climbing on roofs
  - iv. Leaving minors unattended on campus
  - v. Knowingly putting others at risk of a contagious disease

**4. Conduct that threatens the services of the College or the property of the College or others.**

*Examples include:*

- a. Misuse, theft, or unauthorized use of College services or property
- b. Trespassing or unauthorized access to physical or virtual/cyber property or services of the College
- c. Attending classes without being registered for them, other than during the first week of the course or with permission from the instructor
- d. Theft of the property of a member of the College community
- e. Intentional destruction of property
- f. Use of recreational or outdoor equipment indoors, or reckless use of equipment outdoors
- g. Having an animal in a campus building, other than in accordance with campus policy and ADA laws, such as permitted service animals individually trained to perform tasks for the benefit of an individual with a disability

**5. Disruption (substantial or repeated interference) of any operation of the College, including but not limited to teaching, research, administration, technology, meetings or proceedings, or any other College activity.**

*Examples include:*

- a. Prohibiting classroom instruction or learning from occurring
- b. Prohibiting College sponsored events from occurring
- c. Infringing on the rights of other members of the College community, including violations of policies or procedures pertaining to expressive activity
- d. Leading or inciting others to interrupt scheduled or normal activities within any campus building or area
- e. Obstructing the free flow of pedestrian or vehicular traffic on College property or at a College sponsored or supervised event

**6. Illegal, unauthorized or irresponsible substance use.**

*Examples include:*

- a. Illegal or unauthorized possession, manufacturing, use or distribution of marijuana, heroin, narcotics, or any other illegal or controlled substance or look-alike drug except as expressly permitted by law and College policy
- b. Illegal or unauthorized possession, manufacturing, use or distribution of alcohol, except as expressly permitted by College policy. No person under 21 years of age may possess or consume alcoholic beverages, under any circumstances.
- c. Illegal possession or use of prescription medications
- d. Public intoxication, vomiting, or other such effects of irresponsible substance consumption
- e. Smoking tobacco products, using e-cigarettes, or any other violation of the College's Smoke-free campus policy

**7. Academic dishonesty in an academic course or program.**

*Examples include:*

- a. Cheating (accessing or using unauthorized materials or information)
- b. Plagiarism (reproducing someone else's words or ideas without accurate acknowledgment)
- c. Falsifying information (providing untrue information)
- d. Unauthorized collaboration (getting assistance or sharing work without permission)
- e. Facilitating academic dishonesty (participating in an act that creates an unearned advantage for someone)

**8. Dishonesty.**

*Examples include:*

- a. Providing false information or submitting a false report in any form to any College official or office
- b. Forgery, alteration, or misuse of any College record, document, or form
- c. Misrepresentation of one's identity or misuse of the College's copyrighted content and trademark

**9. Unauthorized or irresponsible use of College computer, network, or other technology system resources.**

*Examples include:*

- a. Unauthorized distribution of copyrighted material
- b. Unauthorized access or misuse of equipment, files, labs, or any other technological resource
- c. Violation of any College computing or technology policy, including use of College technology resources to violate a law

**10. Unauthorized use of personal electronic devices.**

*Examples include:*

- a. Audio, photograph, or video recording of any person without his/her prior knowledge or consent if such a recording is likely to cause injury or distress. This includes recording in locker rooms or restrooms
- b. Audio, photograph, or video recording of any person when it is not permitted by law or College policy. This includes recording in classrooms or meetings, unless granted permission by the instructor or facilitator such as to provide an ADA/504 accommodation
- c. Use of a cell phone or other electronic device in a manner that disrupts educational activities, classrooms, offices, or other usual College operations

**11. Failure to comply.**

*Examples include:*

- a. With the directions of an authorized College employee or representative who is performing his/her duties, or with a communicated College policy or procedure
- b. With any published reasonable guidelines for use of labs, offices, waiting areas, classrooms, or other common campus spaces, including the student center. (This includes all directives issued in response to health, safety, and other campus emergency response situations, including but not limited to campus mask mandates and social distancing guidelines.)
- c. Any conduct that constitutes a violation of the student conduct process or any sanction imposed in accordance with this procedure
- d. Any conduct that constitutes a violation of any College handbooks, program guidelines, rules, or regulations
- e. Evidence of violation of any local, state, or federal law, when substantiated through the student conduct process, or when such conduct results in violation of another behavioral expectation in the Code or appears to pose a reasonable threat to the campus community

## REPORTING STUDENT MISCONDUCT

The College encourages students, faculty, and staff to resolve conflicts informally and at the lowest level. When that is not possible or appropriate, any member of the campus community may report alleged student misconduct using the College's online reporting form. The report should describe the misconduct and identify the student(s) involved in the incident. Reports will be reviewed by staff in the Office of the Dean of Students and, if there appears to be reliable information indicating that a violation may have occurred (i.e. complaint), the student conduct process will be initiated, creating a conduct case. The College also reserves the right to initiate a case without a formal complaint, and to investigate anonymous reports. When appropriate, reports may also be addressed through the Harper Early Alert Team (HEAT) procedures or through other non-conduct procedures.

### CULTURE OF REPORTING

As the College is concerned about threats to personal or collective safety, including any form of sexual or gender-based misconduct, all reports will be taken seriously and reviewed. If a student may have violated another aspect of the Student Code of Conduct (such as consuming alcohol underage) and is concerned about consequences for him/herself when reporting a more egregious incident (such as sexual misconduct or a threat of violence), the reporting student should be assured that the College's interest is in addressing the more egregious behavior and maintaining the safety of individuals and the campus. Pending no threat to safety or other such compelling reason, other behaviors may be addressed through alternative means (such as informal discussions or referrals to counseling).

## PRELIMINARY ACTIONS

### PRELIMINARY INVESTIGATION & REVIEW

A preliminary investigation may be necessary in order to determine if there is credible information that warrants charging a student with violating the Code. Preliminary meetings with the complainant and/or witnesses may occur prior to initiating the student conduct process or contacting the accused student. If the accused student is contacted about the case during the preliminary investigation, he/she will be made aware of the initiation of a preliminary investigation and that the incident *could* result in a student conduct process being initiated.

The preliminary investigation and review may result in any of the following:

- **Case Not Pursued:** If there does not appear to be credible information to indicate a violation occurred, the case will not be pursued through the formal student conduct process. The information may still be retained by the College to document that the situation was reviewed.
- **Informal Response:** If the situation is concerning but doesn't appear to be a violation (such as an incident which occurs outside of the College's jurisdiction, or repeated low-level behaviors), there may still be an institutional response without formal conduct charges. For example, the student may be asked to meet with a staff member to discuss the situation prior to registering for courses, may be requested to participate in a mediated conversation, or may receive a letter informing him/her that the behavior, were it to occur on Harper's campus, would constitute a violation.
- **Initiation of Conduct Process:** If it appears that a student may have violated the Code, and that this occurred within the College's jurisdiction, the conduct process will be initiated.

## INTERIM ACTION

In some cases, interim action prior to the resolution of the case may be necessary. This may be imposed upon initial receipt of a report, when the College becomes aware of a concern, or at a later time in the student conduct process. The reasons that interim action may be issued are:

- to protect the health, welfare, or safety of a student or of the community,
- if the student poses a threat of significant disruption to the educational process and/or the normal operations of the College,
- to provide legally mandated interim remedies, such as may be required for the College to comply with Title IX; or
- if the student cannot be located and/or does not participate in the conduct process.

In that event, the student will be provided with written notice of the measures. Such notice will usually be provided electronically, but may be delivered by other means such as U.S. mail or in person. The interim action notice will state the specific action imposed and the reason for the action, as well as instructions regarding how to request an appeal review on the interim action decision. Such an appeal request must be submitted in writing generally no later than 5 school days from the date of the letter. A timely hearing will be scheduled with an appropriate hearing officer (usually the Dean of Students, unless he/she is unavailable or issued the interim action). This proceeding will be limited to determining 1) the reliability of the information regarding the student's alleged behavior and 2) whether the alleged behavior meets the above described criteria for interim action. Failure to request a hearing by the deadline provided constitutes a waiver of a hearing on the interim action, but is not an indication of responsibility for the charges.

Examples of interim action include but are not limited to:

- Ban from campus
- Restricted access to campus, limiting time or location
- Class section reassignment\*
- Campus no-contact orders\*

\*Campus no-contact orders and class section reassignment are not subject to appeal so long as equitable opportunity for the accused student to continue his/her education is provided.

## NOTICE OF CHARGES

If there appears to be credible information indicating a student may have violated the Code and that the College has jurisdiction over the behavior, notice is sent to the accused student. This notice includes:

- The aspect(s) of the Code that it appears the student may have violated (i.e. "charges")
- A link to the Student Code of Conduct where the student can learn about the process
- Whether the case will be resolved through a hearing or investigation method
- Instructions as to how to proceed after the notice, such as:
  - How to schedule or otherwise participate in a hearing, including the opportunity to schedule the hearing or initial interview meeting at least 5 days after the date that the notice of charges was sent (unless the student and the hearing officer mutually agree to an earlier date and time or there is a health or safety emergency necessitating an earlier meeting)
  - How to review the case information
  - How to provide information, including witnesses, regarding the incident in question
- The right to bring an advisor to any student conduct meeting or hearing

## PROCEDURAL GUIDELINES

The standard of proof used in making decisions in student conduct matters, including in all findings of responsibility, is the “preponderance of the evidence” or “more likely than not” standard. This means that when all available information is considered, the College official or hearing body determines whether it is more likely than not that a violation occurred, based on what a reasonable person would consider.

Investigators and hearing bodies do not have the authority to subpoena but may receive information without regard to the legal rules of evidence, so long as the information is related to the questions of the case. Character witnesses are not permitted since decisions about responsibility relate to behaviors, not to character. Anonymous information (such as reports or statements) may be considered by the hearing body but the unknown identity of the source will be taken into account in evaluating the credibility of such information.

The College will communicate with participants in the student conduct process mainly via email through the use of an online case management system and the student’s Harper email address. Depending on the circumstances of a given situation, communications may occur through other means, such as through phone, U.S mail, or delivered in person.

Any participating complainant or respondent may bring an advisor to accompany him/her in student conduct meetings, including hearings and interviews, to serve as a support person to him/her. The advisor may not address the hearing body, provide information on behalf of the student, or otherwise participate in the meeting or hearing. Students may be required to provide notice that: an advisor will be attending a meeting or hearing and whether such a person is serving in the capacity of an attorney, and may also be required to sign a release granting permission for the advisor to have access to the student’s education records. Students who qualify for an accommodation under ADA/504 that require a person to provide the accommodation or who may require a language translator to effectively understand the English language may also have such a person present in addition to an advisor.

## POSTPONEMENT OF RESOLUTION

A student who files a report or who is charged with a violation of the Code may request in writing to have a resolution postponed because 1) there is pending or possible civil or criminal litigation which he/she feels may be jeopardized by the outcome of campus resolution process, or 2) the student is unavailable for communications due to being incarcerated or hospitalized. The College may grant this only when both of the following circumstances have been met:

- When interim action as determined by the Student Conduct Officer or designee is imposed to prevent further or additional incidents during the resolution process. Such interim action will include (at a minimum) a hold preventing registration for classes, but may also include other measures such as, but not limited to, suspension, a ban from campus, and a designation on the academic transcript that there is a pending conduct matter.
- The College does not have any compelling reason why the resolution process should proceed. Examples of compelling reasons include but are not limited to:
  - Concerns for the safety of the campus or its members if the situation is not resolved
  - The need to provide a timely response in cases alleging sexual or gender-based misconduct
  - The quality of the investigation or ability to hear from witnesses who have critical case information may be compromised

The College reserves the right to postpone indefinitely or for a finite period of time. The College may also independently decide to postpone resolution without a request from a student when the above conditions are met. The Dean of Students will review and respond to all requests, and there is no appeal of the Dean’s decision concerning a requested postponement.

## RESOLUTION OPTIONS

There are several forms of resolution available, depending on the nature of the incident and the time of the academic year. Other than as described below, the Dean of Students or his/her designee will determine the most appropriate resolution option to be used in a given case. The Dean of Students and the Student Conduct Officer will ensure that all investigators, hearing officials, and hearing bodies are appropriately trained to conduct proceedings in a fair, impartial, and timely manner.

### **ACADEMIC DISHONESTY**

Incidents of academic dishonesty which occur within the context of a specific course are resolved by the academic department in accordance with the campus academic honesty policy. In such a case, the instructor or academic department determines if academic dishonesty occurred, and what the academic penalty should be. Possible outcomes within the course include but are not limited to a lower grade on the assignment or in the course, a zero for the assignment/exam, the opportunity to re-submit an assignment, or an F in the course. A student who receives an academic penalty is not permitted to withdraw from the course in order to avoid it. Students may follow the academic complaint process to appeal or challenge an instructor or a department's decisions. All incidents should be reported to the Student Conduct Officer to ensure that students do not engage in further academic dishonesty in other courses. Incidents occurring outside of a specific course should be referred through the student conduct process. Students who engage in dishonesty in more than one course may also face charges through the campus conduct process.

### **SEXUAL OR GENDER-BASED MISCONDUCT**

Reports of sexual or gender-based misconduct are subject to the requirements of Title IX of the Higher Education Act of 1972, and require an investigation and adjudication conducted by College officials who are trained annually to review and resolve reports of this nature. These cases are often more time intensive and require more extensive training and experience to process and resolve. For these reasons, reports alleging sexual or gender-based misconduct will always proceed through the investigation resolution method, and participants seeking to have the outcome of such proceedings reviewed will have only one level of appeal, directly to the Provost. The Title IX Coordinator(s) will be informed and consulted on these cases throughout. In addition, the complainant and the respondent have equitable rights in the process and will be kept informed of key updates as the case is resolved.

### **STUDENT ORGANIZATION MISCONDUCT**

Student organizations alleged of misconduct may proceed through one of the resolution methods outlined in this Code, and they may also be referred to the Department of Student Involvement for administrative review and response in lieu of or in addition to the student conduct process.

### **INCIDENTS INVOLVING MULTIPLE STUDENTS**

In incidents where multiple students have been alleged of misconduct, the Dean of Students or designee will determine the best form of resolution that balances the protection of privacy of students' education records as well as the institutional resources available to provide a timely and fair resolution.

### **STUDENTS WITH SPECIAL RELATIONSHIPS TO THE COLLEGE**

Students who are athletes, student leaders, student workers, or hold other unique relationships with the College whose behaviors violate the Student Code of Conduct may also face consequences outside of the student conduct process if their behaviors violate NJCAA guidelines, employment expectations, Department of Student Involvement procedures, or other pertinent standards. Employees who enter into a relationship with the College as students and whose alleged misconduct occurs in the context of the relationship as a student may also be held accountable through the student conduct process. In those cases, Human Resources may be consulted to ensure there are no conflicts with employee contracts or Human Resources procedures.

## ADMINISTRATIVE HEARING RESOLUTION METHOD

Administrative hearings occur when a designated College official reviews the information related to a case, makes a finding of responsible or not responsible for each alleged violation, and issues sanction(s) for any findings of responsibility. This is the most common form of complaint resolution, and the Student Conduct Officer serves as the administrative hearing officer for most cases. The Dean of Students may also designate additional hearing officers and may serve as a hearing officer. In this method, a student is informed of the opportunity and deadline to meet with the Student Conduct Officer (or other designated hearing officer) to:

- Ask questions about the student conduct process
- Review the complaint of misconduct, as well as any other relevant case information, such as the substance of information received from witnesses
- Respond to the information by providing his/her perspective on the incident and alleged behaviors
- Bring forth witnesses to the incident in question to be interviewed
- Acknowledge or deny responsibility for the charged violation(s)
- Provide any information related to sanctions (if applicable), including what he/she may have learned from the incident or any factors to be considered at sanctioning

For some complex cases, a campus investigation may be done prior to the case proceeding to an administrative hearing. If the respondent chooses not to meet with the hearing officer by the given deadline, the hearing officer may proceed with the determination of responsibility and any sanctions. Depending on the nature of the case, the hearing officer may instead place a hold on the student's account, preventing registration until the student has met with the hearing officer.

## PANEL HEARING RESOLUTION METHOD

A panel hearing provides the College with a panel of members of the College community who collectively review the case information and issue a finding of responsible or not responsible for each alleged violation, as well as sanctions to be imposed under the authority of the Office of the Dean of Students. Panel hearings are composed of three members – one student, one faculty member, and one staff member. Panels with diverse perspectives and experiences are desired; and panel members are selected based on scheduling availability from a pool of trained volunteers. The Dean of Students reserves the right to determine whether an individual is qualified to serve on panel hearings. The Student Conduct Officer provides training and coordinates the logistics of the panel hearing process, which may include securing or serving as an advisor to the panel. The College also reserves the right to have the College's legal counsel attend a hearing when deemed appropriate by the Dean of Students. Panel hearings may be recorded. Recordings will be retained by the institution for the purposes of the appellate hearing body's review.

## HEARING GUIDELINES

*The following outlines the general procedures for hearings. In order to provide the College with the most effective hearing process, the hearing body/officer reserves the right to adjust procedures as appropriate, including setting appropriate time limits, depending on the nature of the case. The hearing process provides the opportunities for a complainant and/or respondent to:*

- Review the available case information
- Share perspective on what happened, including providing witnesses to the incident
- Describe any effects of the incident, including both harm and learning that may have occurred

Complainants and respondents will be provided notice of the hearing date and time at least five school days prior to the hearing date. The notice will include a description of the procedures to be followed at the hearing. The respondent and complainant both have the opportunity to provide written statements about the incident prior to the hearing, but must provide these by any deadline(s) provided by the College. In cases involving an alleged violation of 1 (threat to personal safety), both the respondent and the complainant may request to be able to review the relevant case information at least 24 hours prior to the hearing. The basic hearing agenda consists of:

- Introductions and guidelines from the panel chair or hearing officer
- Complaint is reviewed
- Investigation summary presented (if an investigation was done)
- Information shared by the complainant
- Information shared by the respondent
- Information shared by witnesses
- Closing comments from the complainant and the respondent

During the hearing, questions may be asked by the hearing body at any time. In cases that do not involve alleged violations of 1 (threat to personal safety), the complainant and the respondent may be permitted to ask questions directly of each other. The hearing body reserves the right to require that questions be provided in writing instead of asked directly in other cases as well. In situations where physical safety or reasonable fear for retaliation exists, the College reserves the right to adjust the hearing format, including having police present and/or using technology to allow parties to participate in a manner that preserves physical safety.

All hearings occur in a closed session. A respondent and his/her advisor may be present for all of the information sharing at hearings. The complainant and his/her advisor also have the right to be present when the case involves an alleged violation of 1 (threat to personal safety). If an individual chooses not to participate in any part of the hearing, the hearing will continue. The respondent and complainant and their advisors will be excused after the closing comments before the hearing body begins its deliberations.

During deliberations, the hearing body or officer will determine (based on a simple majority vote):

1. whether or not it has been shown, by a preponderance of the evidence, that the accused student(s) committed the charged violation(s) of the Student Code of Conduct, and
2. if so, what sanctions are appropriate.

If an accused student has any prior student conduct history, the hearing body will review this information only after making the determination of whether the student has committed the violation(s) charged.

Within ten school days of the conclusion of the hearing, the hearing officer or chair will provide a decision letter to the Student Conduct Officer (or designee) providing the findings, rationale, and sanctions (if applicable).

## INVESTIGATION RESOLUTION METHOD

This process is designed to provide a fair and equitable resolution process as required under Title IX of the Higher Education Amendments of 1972, and it may also be used in cases where the Dean of Students (or designee) determines it is appropriate. All cases involving allegations of violation 2 (sexual or gender-based misconduct), as well as any other situations the Dean of Students deems appropriate (such as when the risk of retaliation appears high or personal victimization is alleged of occurring) will be resolved through the investigation resolution process. Investigators and hearing officers involved in this process are trained on the student conduct process and also receive additional training including both annual training on issues related to crimes of sexual violence and how to conduct an investigation and resolution process that protects the safety of victims and promotes accountability as well as specialized training on:

- How to conduct and document adequate, reliable, and impartial investigations
- How to interview persons who may have been subjected to sexual violence
- What types of conduct constitute sexual violence, including same-sex violence
- How drugs and alcohol can affect the ability to consent
- The importance of accountability and remedial actions for individuals found responsible for sexual violence
- Cultural awareness regarding how sexual violence may affect students differently
- How trauma and defense mechanisms can appear in the conduct process
- Common societal misperceptions about sexual violence

In this method, students' rights are protected, although there may not be a face-to-face meeting involving both the complainant and the respondent. Instead, the parties have the opportunity to meet with the investigator, where they have the chance to review and respond to the case information at the designated time(s). The case information is summarized in a final report that contains the investigation summary as well as any refutation or response provided by either party after their review of it.

Investigators and hearing officers are designated by and may also include the Dean of Students. Investigations (including determination of outcomes) are generally completed within 60 calendar days. In the case of delays in the process, the complainant(s) and respondent(s) will be kept informed of the delays in the process. In cases alleging sexual or gender-based misconduct, the Title IX Coordinator(s) will be kept apprised of the process and will coordinate the resolution.

As this resolution process has the fewest but the most specially trained employees involved, this method provides the most private form of resolution for both the complainant and respondent and also promotes the timeliest response, depending on the responses of the involved parties and the complexities of the case.

## INVESTIGATION GUIDELINES

This is how the investigation process generally works:

- The College becomes aware of misconduct, usually through an online report.
- The complainant/victim is contacted for an initial meeting, where:
  - The policy and resolution procedures are reviewed and questions can be answered
  - Requests for interim action or remedies may be made
  - Additional information may be obtained, including a list of possible witnesses.
- Preliminary investigation occurs to determine if there is merit to charge a student under the Code.
- Interim action and/or remedies may be issued.
- If the preliminary investigation indicates that the student conduct process will be initiated, written notice of the charges (as described on p. 9) is provided to the respondent, inviting him/her for a first meeting where:
  - The conduct process is reviewed and questions can be answered
  - The respondent may review the complaint of misconduct
  - The respondent is given the initial opportunity to respond to the complaint, including providing a list of possible witnesses
  - The respondent will be asked questions as part of the investigation of the complaint.
- Witnesses with information about the incident in question may be interviewed by the investigator.
- Follow up interviews by the investigator with the complainant and/or respondent may occur.
- An investigation summary is prepared by the investigator.
- The complainant and the respondent are provided with separate opportunities to review and respond to the investigation summary.
- If additional investigation is needed, the complainant and respondent will be informed of this and addendums and/or updates may be made to the investigation summary.
- The investigator provides a final report to the hearing officer. The final report consists of the investigation summary, any response/rebuttal from the complainant and/or respondent, and a determination of responsibility based on the investigation regarding each of the alleged violations.
- The hearing officer reviews the final report and issues a decision as to whether the accused student is responsible or not for committing each alleged violation. If it is determined that any violations occurred, the hearing officer will be provided with any information related to sanctioning, including but not limited to relevant conduct history regarding a respondent's prior misconduct, sanctioning guidance from the Student Conduct Officer, and statement from the complainant and/or respondent if provided.
- Within ten school days of receiving the final report, the hearing officer provides a decision letter to the Student Conduct Officer (or designee) providing the notice of outcomes, which includes a determination of responsibility for each violation, rationale, and sanctions (if applicable).

## WRITTEN NOTICE OF OUTCOMES

The Student Conduct Officer will provide written notice of the final resolution of charged violation(s) within ten school days of the hearing or decision issued by the hearing officer or body. In cases where the behaviors in question may also constitute a crime of violence (as described in the Clery Act), as well as in cases involving any allegation of 2 (sexual or gender-based misconduct), the complainant (or victim) will also receive notice of the outcomes. The written notice is customarily provided electronically and includes:

1. Each charged violation(s) and the determination of whether or not the accused student is responsible for committing the violation;
2. A rationale of the findings;
3. The sanction(s) imposed and the deadlines or time periods for which they are in effect;
4. A statement of the right to file an appeal and process for doing so;
5. A statement that failure to file a request for such an appeal within the time provided in Part III.G below shall be deemed a waiver of the right to an appeal.

College officials may also receive notice (in all or in part) of the outcomes when there is a legitimate educational reason for this, such as when their role is necessary for enforcement of the sanction(s).

## APPEALS

The College offers the opportunity to appeal the outcomes of student conduct procedures as described below. Sanctions are in effect even while an appeal is being considered, unless otherwise stated in writing by the Dean of Students. An appeal is not a re-hearing of the case, but an evaluation of whether the ground(s) for an appeal are present and should alter the outcome of the case. Not participating in a conduct process is not grounds for an appeal. Appeals of administrative hearings, panel hearings, or the investigation resolution process may be requested based only on one or more of the following:

1. The College's procedures were not followed, and the deviance would substantially alter the outcome(s) of the case;
2. There is new relevant evidence not reasonably available at the time of the hearing or the imposition of the sanction(s) that would substantially alter the outcome(s) of the case;
3. The evidence does not clearly support the finding(s); or
4. The sanctions are inappropriate relative to the violation.

Appeals addressing one or more of the above grounds must be submitted in writing to the Dean of Students within ten school days of the sending of the notice of outcomes. If the Dean of Students has a conflict of interest in serving as the appellate officer, a different appellate officer will be designated. The appellate officer will review the appeal and will provide a response to the student within ten school days after receipt of the appeal. If the grounds for appeal are determined to be founded, the appellate officer may adjust the finding(s) and/or the sanction(s). If the initial appellate officer is not the Provost or Provost's designee, a second appeal may be made by submitting an appeal in writing to the Provost's Office within ten school days of the sending of the appeal response. The Provost will review and respond within ten school days of the receipt of the appeal, and the Provost's decision is final.

In cases where the behaviors in question may also constitute a crime of violence (as described in the Clery Act), as well as in cases involving any allegation of 2 (sexual or gender-based misconduct), both the respondent and the complainant (or victim) have the right to appeal the finding(s) of responsibility and/or sanctions based on the above criteria. If an appeal is received, the other party will be notified of the receipt of the appeal, the grounds upon which the appeal has been sought, and of the opportunity to provide information for consideration by the Provost (or designee) no later than ten school days from the receipt of the appeal. In these cases, the Provost will have an additional ten school days to provide a response. In all cases, the decision of the Provost (or designee) is final.

## SANCTIONS

Sanctions are designed to promote the College's educational mission and to promote safety or to deter students from behavior that harms, harasses, or threatens people or property. Some behavior may be so harmful or disruptive to the College community or to the educational process that it may require more serious sanctions, such as removal from specific courses or activities, suspension from Harper College, or expulsion. More than one sanction may be imposed in a case. The following factors are generally considered when determining sanctions for a particular case:

- The nature of the violation(s)
- Prior findings of responsibility and sanction(s)
- Mitigating circumstances surrounding the violation
- The student's motivation(s) for engaging in the behavior
- Impacts of the behavior
- Sanctions which have been imposed in similar cases in the past
- The developmental and educational impact on the student

### **Standardized Sanctions**

Standard sanctions pertain to a student's relationship with the College, and provide a form of consistency for the College in responding to acts of misconduct. One or more of these is usually issued when a student has been found responsible for violating the Code:

**Warning** – written notice to the student that the behavior is not acceptable at Harper College and that additional incidents may result in more severe sanctions. This notice exists in the student conduct file and is not reflected on an academic transcript.

**Disciplinary Probation** – a period of time (which may be indefinite) during which a student is under warning that any other violation of college policy may result in suspension. Disciplinary probation may also prohibit a student from participating in certain college activities or programs, as it is considered notice that the student is not in good standing due to behavior. This sanction is not reflected on the academic transcript.

**Suspension** – a defined period of time during which a student is not permitted to engage in any of the privileges, courses, organizations, events, or activities associated with being a student at Harper College. During the period of suspension, a hold designating such will be placed on the student's account and transcript prohibiting registration, enrollment, attendance, or ability to earn credit for any credit or non-credit courses offered by Harper College. This also prohibits receipt of a degree or certificate from Harper College during this time. This suspension does not prevent a student from attending another college or university, transferring any otherwise qualifying credits back to Harper at a later date, or receiving copies of Harper College transcripts reflecting academic credits previously earned. Once the period of suspension has been completed, the hold will be lifted from the student account, provided the student has completed any other requirements required prior to return. During the period of suspension, the student is also banned from Harper College property unless otherwise stated.

**Expulsion** – the indefinite termination of a student's status at the College. This prohibits engagement in any of the privileges, courses, organizations, events, or activities associated with being a student at Harper College. This does not prohibit the transferring of credits earned to another college or university, but the expulsion is designated permanently on the academic transcript. Unless otherwise stated, the student is also indefinitely banned from Harper College property. This is the most egregious sanction that Harper College can impose upon a student. Expulsion is designed to be a permanent separation from the institution; however, in those rare cases where a student seeks to return to Harper College at a later date after making significant behavioral changes, a student may petition for reinstatement. A petition for

reinstatement may be submitted no earlier than 5 years after the date of expulsion. The petition should be submitted in writing to the Dean of Students and should describe 1) what actions the individual has taken to learn from the situation and prevent the behaviors from re-occurring, and 2) what educational pursuits the individual seeks at Harper College. The Dean of Students will convene a committee of faculty and staff to review the petition and provide a recommendation for the Dean's consideration. The Dean will make a decision and provide the outcome to the student. If denied, the former student may re-petition once one year has passed. There is no appeal process to this decision.

**Conditional Re-Enrollment** – A hold is placed on the student's account, prohibiting re-enrollment until certain activities or sanctions are completed. The student may also be under behavioral restrictions upon enrollment.

**Restriction of Access or Privileges** – Prohibition on accessing a specific area or building of campus, and/or prohibition from participating in certain activities. This sanction may or may not affect a student's ability to take a specific course, but it typically allows for the pursuit of educational programs overall.

**Ban from Campus** – prohibition on accessing any Harper College property, including satellite campuses.

### **Individualized Sanctions**

In addition to the standard sanctions above, individualized sanctions may be imposed that are designed to maximize the learning of a specific student. These sanctions take into account the student's learning style and stage of development, as well as the unique factors of a given situation. Multiple individualized sanctions may be imposed, including but not limited to one or more of the following:

- a. **Reflective Activity:** an activity designed to promote reflection by the student about his/her behavior and its impacts. Examples can include: writing assignments, interviews, research projects, etc. Completion will be based on fulfilling the objective requirements of the assignment, not on whether the student adopts or expresses a particular perspective or point of view.
- b. **Counseling Assessment:** Completion of an assessment with a licensed care provider as well as documentation of learning about possible resources for follow up
- c. **Restitution:** Payment to a harmed party, such as to repair or replaced vandalized property
- d. **Community and/or College Service:** Completion of a designated number of hours of service on campus or in the community
- e. **Meetings with College Resources:** Meeting with a College employee or office to learn about resources offered to support students

## STUDENT CONDUCT RECORDS

The College maintains student conduct records as part of student education records in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C.S. §1232g (“FERPA”). Students may request to review their student conduct record by contacting the Office of the Dean of Students, in writing.

No earlier than seven years following the resolution of any conduct case (including fulfillment of any relevant sanctions), a student’s conduct record may be purged in accordance with campus procedures if there is no longer an administrative value to the record **and** the individual’s relationship to the campus has ended.

Student conduct records will be disclosed only with written consent of the student’s parents or the eligible student (in the case of a student 18 years of age or older), except as otherwise allowed pursuant to FERPA and its implementing regulations. Examples of appropriate disclosures of records without consent include disclosure of information:

- To other school officials within the institution when there is a legitimate educational interest in the information in order to exercise or complete their responsibilities on behalf of the institution;
- Records related to behavior that poses a significant risk to the safety or well-being of that student, other students, or other members of the school community; including as part of emergency response, emergency notification, timely warning, or other notifications as required by law;
- To teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student (this includes release of records when another institution where the student seeks to enroll or has enrolled seeks information in relation to a behavioral risk or threat assessment);
- Regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution governing the use or possession of alcohol or controlled substance to a parent or legal guardian of a student if the student is under the age of 21 and the institution determines that the student has committed a disciplinary violation with respect to such use or possession;
- In cases where the behaviors in question may also constitute a crime of violence (as described in the Clery Act), as well as in cases involving any allegation of 2 (sexual or gender-based misconduct), the victim and/or complainant will be informed of the outcome, including the determination of responsibility, rationale, and sanction(s); and
- Final results (the name of the student, the nature of the violation committed, and the sanction(s) imposed) of the student conduct process for any student who is found in violation of a College policy that is also determined to be a “crime of violence,” as described in the Clery Act, may be released publicly.

## STUDENT ACADEMIC COMPLAINT PROCESS

As members of the educational community, students have the right to express their concerns regarding the assessment of their academic progress through the grading process. Students shall express these concerns initially by contacting the appropriate faculty/staff member within ten (10) school days of the occurrence giving rise to the concerns, and requesting a conference to informally discuss the concerns.

If the concerns are not resolved to the student's satisfaction after the informal discussion, the student may submit a complaint in writing to the department chair, coordinator or director of the faculty/staff member involved within ten (10) school days after the informal discussion, or within ten (10) school days after the initial contact, whichever is later. In filing the written complaint, the student may request to meet with the department chair, coordinator or director. The written complaint must specify the specific complaint(s) together with the desired resolution(s).

The department chair, coordinator, or director who receives the complaint shall review it and respond in writing to the student within ten (10) school days after receiving the complaint or after holding the (optional) requested meeting, whichever is later.

If the student is not satisfied with the results of the departmental review, he or she may then appeal in writing to the dean of the appropriate division (if applicable) within ten (10) school days after receipt of the written departmental response. The dean shall review and respond in writing to the student's appeal within ten (10) school days of the date on which the appeal is received.

If the results of the review by the dean (if applicable) are unsatisfactory to the student, the student may appeal in writing to the Provost within ten (10) school days after receipt of the dean's written response. The student may request a meeting with the Provost. The Provost or designee shall issue a written response to the student within ten (10) school days after receipt of the appeal or after holding the (optional) requested meeting, whichever is later. The decision of the Provost shall be final.

If a student wishes to have a complaint considered through this process but does not follow the steps as outlined, (such as the student sends an appeal to the Provost prior to the individual or departmental review), the student will be referred back to the steps in this process unless the Provost or Dean believes there is a compelling reason to consider it (e.g. the individual or departmental response did not occur within the 10 school days or the instructor is also the department chair).

*Students with questions about this process or how to contact the appropriate individuals can contact the Student Conduct Officer for more information.*

## STUDENT NON-ACADEMIC COMPLAINT PROCESS

The Dean of Students or designee shall be responsible for responding to complaints from students on non-academic issues, or directing the student to the appropriate office. These issues include, but are not limited to, refunds, admissions, withdrawals, transcripts, and use of facilities.

**Note:** In situations where there is already an appeal or complaint process offered, students must use that in place of this process. For example, appeals of the student conduct process are outlined elsewhere in this Code, and financial aid appeals are handled through the Office for Financial Assistance.

Students shall express their concerns initially by contacting the faculty/staff member within ten (10) school days of the occurrence giving rise to the concerns, and requesting a meeting to discuss the concerns.

If the concerns are not resolved to the student's satisfaction after the informal discussion, the student may submit a complaint (and desired resolution) in writing to the department chair, coordinator or director of the faculty/staff member involved within ten (10) school days after the informal discussion, or within ten (10) school days after the request to meet with the department chair, coordinator or director. The written complaint must specify the specific complaint(s) together with the desired resolution(s).

The department chair, coordinator, or director who receives the complaint shall review it and respond in writing to the student within ten (10) school days after receiving the complaint or after holding the (optional) requested meeting, whichever is later.

If the student is not satisfied with the results of the departmental review, he or she may then appeal in writing to the dean of the appropriate division (if applicable) within ten (10) school days after receipt of the written departmental response. The dean shall review and respond in writing to the student's appeal within ten (10) school days of the date on which the appeal is received.

If the results of the review by the dean (if applicable) are unsatisfactory to the student, the student may appeal in writing to the Provost within ten (10) school days after receipt of the dean's written response. The student may request a meeting with the Provost. The Provost or designee shall issue a written response to the student within ten (10) school days after receipt of the appeal or after holding the (optional) requested meeting, whichever is later. The decision of the Provost shall be final.

If a student wishes to have a complaint considered through this process but does not follow the steps as outlined, (such as if the student sends an appeal to the Provost prior to the individual or departmental review), the student will be referred back to the steps in this process unless the Provost or Dean believes there is a compelling reason to consider it (e.g. the individual or departmental response did not occur within the 10 school days).

*Students with questions about this process or how to contact the appropriate individuals can contact the Student Conduct Officer for more information.*