

## **BLESSING-RIEMAN COLLEGE OF NURSING**

**TITLE OF POLICY: Sexual Misconduct Policy**

**ORIGINAL DATE: June 2014**

**LAST REVIEWED/REVISED BY FACULTY ORGANIZATION: January 2015**

**LAST APPROVED BY BOARD OF DIRECTORS: April 2015**

**POLICY:**

### **I. What is Title IX?**

Title IX of the Education Amendments of 1972 protects individuals from sex discrimination and sexual harassment in educational programs, activities, and employment settings at institutions that receive federal financial assistance, such as BRCN.

### **II. Sex Discrimination**

BRCN prohibits discrimination on the basis of sex (“Sex Discrimination”) in all BRCN’s programs and activities, including, but not limited to, admissions, employment, academics, housing, and student services. Sex Discrimination includes discrimination on the basis of gender identity and failure to conform to stereotypical notions of femininity and masculinity. It also includes discrimination on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, and/or recovery from any of these conditions. This policy applies when the complainant and alleged perpetrator are of the same or opposite sex, and it applies regardless of national origin, immigration status, or citizenship status. In compliance with Title IX and its implementing regulations, BRCN has implemented this policy to eliminate, prevent its recurrence and address conduct that constitutes Sex Discrimination. Employees of BRCN also fall under the Blessing Health System Harassment Policy.

Harassment, whether verbal, physical, or visual, that is based on sex is a form of prohibited Sex Discrimination, and Sexual Violence is a particularly severe form of Sexual Harassment. The specific definitions of Sexual Harassment and Sexual Violence, including examples of such conduct, are set forth below. Throughout this policy, Sex Discrimination, Sexual Harassment, and Sexual Violence will collectively be referred to as “Sexual Misconduct.”

### **III. Scope**

This policy applies to all administrators, faculty, and other College employees; students; applicants for employment; customers; third-party contractors; and all other persons that

participate in the College's educational programs and activities, including third-party visitors on campus (the "BRCN Community").

BRCN has jurisdiction over complaints alleging sexual misconduct when the conduct occurs on campus or any other property owned by the College, during or at an official College program or activity (regardless of location), or off campus when the conduct creates a hostile environment on campus. BRCN's notice of non-discrimination is posted on the college website ([www.brcn.edu](http://www.brcn.edu)), in faculty, staff and student handbooks, and on a bulletin board in the student lounge.

#### **IV. Sexual Harassment**

BRCN prohibits Sexual Harassment in all BRCN's programs and activities. In compliance with Title IX and its implementing regulations, BRCN has implemented this policy to eliminate, prevent its recurrence and address conduct that constitutes Sexual Harassment.

Sexual Harassment is any unwelcome conduct of a sexual nature to those of the same or opposite sex. Sexual Harassment constitutes Sex Discrimination when it is sufficiently serious to interfere with or limit a person's ability to participate in or benefit from BRCN's programs or activities based on sex. Sexual Harassment is sufficiently serious to interfere with or limit a person's ability to participate in or benefit from BRCN's programs and activities, when:

- Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of any aspect of BRCN's programs and activities and/or any aspect of employment;
- Submission to or rejection of such conduct by a person is used as a basis (or threatened to be used as a basis) for any decision adversely affecting such person with respect to BRCN's programs and activities and/or any aspect of employment; or
- Such conduct is severe or pervasive, such that, considering all relevant circumstances, the conduct denies or limits a person's ability to participate in BRCN's programs and activities, the conduct substantially interferes with the person's work performance, and/or the conduct creates an intimidating, hostile, or offensive working environment.

The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly where the Sexual Harassment is physical.

Sexual Harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature, such as:

- Unwelcome physical contact, such as touching of a person's body, hair or clothing, or hugging, patting or pinching;

- Direct or implied threats that submission to sexual advances will or could be a condition of employment, work status, promotion, performance evaluation, grades, letters of recommendation, or other work or educational benefits;
- Comments of a sexual nature and/or sexually explicit statements, questions, jokes, anecdotes, gestures, or facial expressions. Conduct need not be in person but can be any form of communication including but not limited to written, telephone, or electronic communication such as electronic mail and/or comments sent via the internet;
- Exhibition or use of sexually explicit materials in the workplace or learning environment that have no relationship to the curriculum, research, or the mission of the BRCN. Such materials may be in the form of music, documents, objects, photographs, film or electronically generated materials;
- Any unwanted, inappropriate behavior that is targeted to a person or person(s) because of their sex, for example repeatedly telling women (or men) that they are not capable of doing a certain kind of work;
- Pressure for a dating, romantic, or intimate relationship;
- Using sexually explicit profanity;
- Any act of Sexual Violence (as defined below).

## **V. Sexual Violence**

Sexual Violence is a form of Sexual Harassment. Sexual Violence includes physical, sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or where a person is incapable of giving consent (e.g. due to student's age or use of drugs or alcohol). A single instance of Sexual Violence may sufficiently interfere with or limit a person's ability to participate in or benefit from BRCN's programs or activities, to constitute Sex Discrimination and/or Sexual Harassment.

Some examples of Sexual Violence include:

- Rape or sexual assault: sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
  - The definition of sexual assault under Illinois law is provided below
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another student
- Non-consensual video or audio-taping of sexual activity
- Knowingly transmitting a sexually transmitted disease to another

Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent. A person's lack of verbal or physical resistance or submission resulting from the resulting from the use or threat of force does not constitute consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
  - Warning signs of when a person may be incapacitated due to drug and/or alcohol use include: slurred speech, falling down, passing out, and vomiting.
- If a person is asleep or unconscious, there is no consent.
- A person who is under age in the applicable jurisdiction cannot provide consent to sexual activity.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent to past sexual activity does not constitute consent to future sexual activity.
- Dressing in a certain manner does not constitute consent.
- Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.
- Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee).

## **VI. Other Forms of Sexual Misconduct**

In addition to the examples set forth above, the following types of conduct can also constitute a basis for finding Sexual Misconduct, which could represent a violation of Title IX, if the conduct is sufficiently serious to interfere with or limit a person's ability to participate in or benefit from BRCN's programs and activities. Regardless of the motivation for engaging in such behavior, the conduct listed below is a violation of this policy.

### Domestic Violence

Under Illinois Law, Domestic Violence is a crime (750 ILCS 60/1). Any person who physically abuses (such as hits, chokes, or kicks), threatens, harasses, intimidates or interferes with the personal liberty of another family or household member can be found to be in violation of the Illinois Domestic Violence Act. Under Illinois law family or household members are defined as:

- family members related by blood;
- people who are married or used to be married;
- people who share or used to share a home, apartment, or other common dwelling;
- people who have or allegedly have child in common or a blood relationship through a child in common;
- people who are dating or engaged or used to date, including same sex couples; and
- people with disabilities and their personal assistants.

Domestic Battery is also a crime under Illinois law (720 ILCS 5/12-0.1 and 5/12-3.2). A person commits domestic battery if he or she knowingly without legal justification by any means: (1) causes bodily harm to any family or household member (2) makes physical contact of an insulting or provoking nature with any family or household member.

### Dating Violence

Dating Violence is not a distinct offense under Illinois law, but note that the definitions of Domestic Violence and Domestic Battery above include violence against a person with whom the perpetrator has a dating or engagement relationship. Furthermore, under guidelines provided in the Violence Against Women Act, dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the (1) length of the relationship, (2) type of relationship, and (3) frequency of interaction between the persons involved in the relationship.

### Stalking

Under Illinois law (720 Ill. Comp. Stat. 5/12-7.3), a person commits stalking when he or she:

- Knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:
  - Fear for his or her safety or the safety of a third person; or
  - Suffer other emotional distress.
- Knowingly and without lawful justification, on at least 2 separate occasions, follows another person or place the person under surveillance or any combination thereof and:
  - At any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or
  - Places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person.
- Previously has been convicted of stalking another person and knowingly and without lawful justification on one occasion:
  - Follows that same person or places that same person under surveillance; and
  - Transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

### Sexual Assault

Under Illinois law (720 ILCS 5/11-1.20) the crime of criminal sexual assault is committed when a person does any of the following:

- commits an act of sexual penetration by the use of force or threat of force;

- commits an act of sexual penetration and the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent
- commits an act of sexual penetration with a victim who was under 18 years of age when the act was committed and the accused was a family member
- commits an act of sexual penetration with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority or supervision in relation to the victim.
- This includes those of the same or opposite sex.

## **VII. Responsible Employees**

BRCN defines a responsible employee as any employee who has authority to take action to redress sexual misconduct and has duty to report these matters or other types of misconduct to appropriate officials. Responsible employees must report any and all incidents of sexual misconduct to the Title IX Coordinator. Responsible employees include administration, faculty, and staff. Students and other should be aware that providing information about sexual misconduct to a responsible employee will result in that information being forwarded to the Title IX Coordinator for review and investigation. Responsible employees are required to report and may not keep the information confidential.

BRCN encourages all other members of the BRCN Community to report and any all incidents of sexual misconduct, domestic violence, dating violence, and stalking even if they are unsure if the conduct is a violation of this policy.

## **VIII. Title IX Coordinator**

The Title IX Coordinator oversees and provides leadership for the activities related to Title IX compliance, training, investigations, enforcement, and reporting. The Title IX coordinator will coordinate with law enforcement when appropriate.

The Title IX Coordinator can also answer questions regarding the process and procedures for reporting, investigating, adjudicating complaints of Title IX violations. The Coordinator is a non-confidential source, but can direct members to on-and-off campus confidential resources.

### **Contact Information for Title IX Coordinator is:**

Ann O’Sullivan, MSN, RN, CNE, NE-BC, ANEF  
 Assistant Dean, Associate Professor  
 Blessing-Rieman College of Nursing  
 Broadway at 11<sup>th</sup> St  
 PO Box 7005  
 Quincy, IL 62305  
[www.brcn.edu](http://www.brcn.edu)  
[aosullivan@brcn.edu](mailto:aosullivan@brcn.edu)  
 217-228-5520, ext 6984

## **IX. Confidentiality**

If a complainant requests confidentiality or that investigation of the complaint not be pursued, BRCN will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists on confidentiality or no investigation, the decision as to whether the request will be honored will depend in if BRCN can do so while continuing to provide a safe, nondiscriminatory environment for the BRCN Community. BRCN will attempt to protect the identity of the Complainant and will notify the student beforehand if the identity must be disclosed.

The Title IX Coordinator is the person responsible for evaluating requests for confidentiality.

If a person desires to talk in complete confidentiality about his or her situation, the on-campus confidential resources listed below can be contacted. These confidential resources are available to assist you and will not report your circumstances to the College without your permission unless otherwise required to do so by law (such as when the victim is a minor). Notwithstanding, when necessary, the on-campus confidential resource will make a non-identifying report to the appropriate College personnel so that reported crimes can be included in the College's annual crime statistics disclosure.

### **The on-campus confidential advisor is:**

Sarah Mueller, MSW, LCSW  
Counselor, Blessing-Rieman College of Nursing  
11<sup>th</sup> and Spring  
Quincy, IL 62301  
Student Services Building  
217-228-5520 x 6997  
muellers@brcn.edu

All confidential advisors complete 40 hours of training regarding issues of sexual misconduct prior to appointment and complete 6 hours of additional training on an annual basis. They also are trained to have an understanding of the College's specific policy and processes for addressing sexual misconduct and resources available on campus and in the community.

Other confidential resources include:

Employee Assistance Program through Blessing Behavioral Center  
Please call 217-224-4453 to make an appointment.

Community Agencies (non-exhaustive list)  
Quanada-Domestic Violence and Sexual Assault Programs  
2707 Maine  
Quincy, IL 62301  
217-222-0069  
1800-369-2287  
[www.quanada.org](http://www.quanada.org)

National Sexual Assault Hotline

1-800-656-HOPE (4673)

[www.rainn.org](http://www.rainn.org)

[www.online.rainn.org](http://www.online.rainn.org) for a confidential on-line chat.

## **X. Retaliation**

It is a violation of the Sexual Misconduct policy to retaliate against any member of the BRCN Community who reports or assists in making a complaint of sexual misconduct or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against should make a complaint in manner outlined below. All institutional sanctions are available for those found to have engaged in retaliatory conduct, up to and including termination/expulsion.

## **XI. Prevention**

### **Preventing and Responding to Various Sex Related Offenses**

Blessing Rieman College of Nursing prohibits rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking and has various programs to educate students and employees about awareness of such offenses and steps that can be taken to prevent them. All faculty, staff, and students receive annual training and education regarding sexual misconduct. All individuals who resolve complaints will receive 8-10 hours of additional annual training, including training on how to resolve complaints of sexual violence. All confidential advisors will complete 40 hours of sexual violence training before appointment and 6 hours of ongoing education annually.

The College's Primary Prevention and Awareness Program focuses on all incoming students and new employees and is geared towards stopping dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention and seek to change behavior and social norms in healthy and safe directions.

The Primary Prevention and Awareness Program also includes instruction on safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene where there is a risk of domestic violence, dating violence, sexual assault or stalking against a person other than such individual. It also includes information on risk reduction, such as warning signs of abusive behavior and how to avoid potential attacks.

The following are safe and positive options that a bystander can take to intervene and prevent harm or the risk of harm to another individual:

- Name or acknowledge an offense

- Point to the “elephant in the room”
- Interrupt the behavior
- Publicly support and aggrieved person
- Call for help

The following information relates to risk reduction options that promote safety and help students and employees address conditions that facilitate violence:

- If you find yourself in an uncomfortable sexual situation, these suggestions may help you reduce your risk:
  - Make your limits known before going too far
  - You can withdraw consent to sexual activity at any time. Do not be afraid to tell a sexual aggressor “NO” clearly and loudly
  - Try to remove yourself from the physical presence of the sexual aggressor. Be direct as possible about wanting to leave the environment
  - Grab someone nearby and ask them for help
  - Be responsible about your alcohol and/or drug use. Alcohol and drugs can lower your sexual inhibitions and may make you vulnerable to someone who views an intoxicated/high person as a sexual opportunity
  - Attend large parties with friends you trust. Watch out for your friends and ask that they watch out for you
  - Be aware of someone trying to slip you an incapacitating “rape drug” like Rohypnol or GHB
  - It is also important to be aware of the warning signs of an abusive person. Some examples include:
    - Past abuse
    - Threats of violence or abuse
    - Breaking objects
    - Using force during an argument
    - Jealousy
    - Controlling behavior
    - Quick involvement
    - Unrealistic expectations
    - Isolation
    - Blames other for problems
    - Hypersensitive
    - Cruelty to animals or children
    - “Playful” use of force during sex
    - Jekyll-and-Hyde personality

If you find yourself in the position of being the initiator of sexual behavior, these suggestions may help you to remember your risk of being accused of sexual assault or another sexual crime:

- Remember that you owe sexual respect to the other person
- Don’t make assumptions about the other person’s consent or about how far they are willing to go
- Remember that consent to one form of sexual activity does not necessarily imply consent to another form of sexual behavior
- If your partner expresses a withdrawal of consent, stop immediately
- Clearly communicate your sexual intentions so that the other person has a chance to clearly tell you their intentions

- Consider “mixed messages” a clear sign that the other person is uncomfortable with the situation and may not be able to progress sexually
- Don’t take advantage of someone who is drunk or on drugs, even if they knowingly and intentionally put themselves in that state. Further, don’t be afraid to step in if you see someone else trying to take advantage of a nearly incapacitated person
- Be aware of the signs of incapacitation, such as slurred speech, bloodshot eyes, vomiting, unusual behavior, passing out, staggering, etc.

## **XII. Task Force and Reporting**

In accordance with Illinois Public Act 99-426 the College will participate in a campus wide or regional task force that will include representatives from law enforcement, campus administrators, the advocacy community, our partner campuses and students. This task force must meet at least twice a year to evaluate policies, practices and procedures as well as bolster collaboration and information sharing among the stakeholders. This task force shall work toward improving coordination between community leaders and service providers to prevent sexual violence, dating violence, domestic violence and to ensure coordinated responses for law enforcement and victims services.

We will also annually report our data for the preceding calendar year regarding training, prevention programs, incidents, reports and complaint resolution outcomes along with the most recent policy and written notification of survivor rights and options to the Illinois Attorney General’s office and IDHR. All reports are due each year by November 1, beginning November 1, 2017.

In addition, the College has an Ongoing Prevention and Awareness Campaign for students and faculty. This campaign serves as a refresher for the topics addressed in the Primary Prevention and Awareness Program. It is conducted by means of CBL’s, and emails with links to videos for programming, initiatives, and strategies that are focused on increasing understanding of topics relevant to, and skills for addressing, dating violence, domestic violence, sexual assault, and stalking.

On-line resources:

[www.Notalone.gov](http://www.Notalone.gov)

[www.NSVRC.org](http://www.NSVRC.org)

# **Sexual Misconduct Reporting and Procedures**

## **I. Complaints**

These procedures are designed to address and promptly resolve Title IX reports and complaints. Responsible Employees must report incidents of sexual misconduct so within 24 hours of receiving information regarding the incident. Others are encouraged to file as soon as possible because delayed reporting may limit the College's ability to investigate and respond to the conduct complaint of.

For the purposes of these procedures, a Complainant is an individual who makes a report or a formal complaint regarding violation(s) of college policy. A respondent is an individual alleged to have violated college policy and who has been identified as such in a report or a formal complaint.

### **Who may make a complaint**

Any faculty, staff, student, third-party, bystander, or user of Blessing-Rieman College of Nursing facilities or programs, not just the individual(s) to whom the alleged Title IX violation has been directed, may initiate a complaint. Responsible employees are required to make such a complaint when they have information regarding an incident of sexual misconduct.

Any student who reports to the institution that they have been a victim of Sexual Misconduct, Domestic Violence, Dating Violence, or Stalking will be provided written information on rights and options for victims.

### **Anonymous Complaint**

Anonymous complaints will be taken, although it is often difficult to gather facts and conduct a thorough investigation via anonymous complaints.

Blessing-Rieman College of Nursing has an anonymous reporting system known as Silent Witness. This can be used if the witness or reporting party chooses to make a report anonymously. This form is also available on the door to the Student Services Office as well as the college website in the forms section.

Responsible Employees may not report anonymously.

## Where to file a complaint

Ann O'Sullivan, MSN, RN, CNE, NE-BC, ANEF  
Assistant Dean, Associate Professor  
Blessing-Rieman College of Nursing  
Broadway at 11<sup>th</sup> St  
PO Box 7005  
Quincy, IL 62305  
[www.brcn.edu](http://www.brcn.edu)  
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217-228-5520, ext 6984

You may also report via email reporting to [aosullivan@brcn.edu](mailto:aosullivan@brcn.edu) by using the basic elements list below or by filling out and attaching a silent witness form located at [www.brcn.edu/studentforms](http://www.brcn.edu/studentforms) in the “other” forms section.

Or:

A person may also file a complaint of Sex Discrimination with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting: [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or by calling 1-800-421-3481.

## Basic Elements of a Complaint

There is no formally required content. However, so that the College has sufficient information to investigate a complaint, the following elements should be included to the extent possible:

- Name and status of Complainant
- Name and status of Respondent
- Name(s) of possible witnesses
- A statement of the event/events which are the cause of the complaint (including date(s) and time(s) of the alleged conduct)
- Contact information for the complainant so that the College may follow up appropriately

## Conduct that Constitutes a Crime/Pending Criminal Investigation

Any person who wishes to make a complaint of sexual misconduct that also constitutes a crime—including sexual violence, domestic violence, dating violence, or stalking—is encouraged to make a complaint with the local police department. If requested, the College will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A victim may decline to notify such authorities.

However, please note that filing a police report and the pendency of a criminal investigation does not absolve Blessing-Rieman College of Nursing of its responsibilities under Title IX to conduct

an investigation and resolve the complaint. Therefore, to the extent doing so does not interfere with any criminal investigation, the College will proceed with its own investigation and resolution of the complaint.

### Special Guidance Concerning Complaints of Sexual Violence, Domestic Violence, Dating Violence, or Stalking

If you are the victim of sexual violence, domestic violence, dating violence, or stalking, do not blame yourself. These crimes are never the victim's fault. When physical violence of a sexual nature has perpetrated against you, the College recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under the Sexual Misconduct policy.

If you are the victim of sexual violence, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination. Survivors may have a medical forensic examination at no cost through Blessing Hospital's Emergency Department, located at Broadway at 11<sup>th</sup> street, Quincy, Illinois. 217-223-8400.

It is also important to preserve evidence such as letters, emails, text messages, etc. Doing so is especially important in cases of stalking as this type of evidence is likely to be the only physical evidence available.

Once a complaint of sexual violence, domestic violence, dating violence, or stalking is made, the complainant has several options such as, but not limited to:

- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- pursuing disciplinary action
- requesting that no further action be taken

### Amnesty Provision

The amnesty provision provides immunity to any student who reports, in good faith, an alleged violation of this policy to the Title IX Coordinator or other responsible employee, so that the reporting student will not receive a disciplinary sanction by the College for a student code of conduct violation, such as under aged drinking, that is revealed in the course of such a report, unless the College determines that the violation was egregious, including without limitation an action that places the health and safety of any other person at risk.

## Bad Faith Complaints

While the College encourages all good faith complaints of sexual misconduct, the College has the responsibility to balance the rights of all parties. Therefore, if the College's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

## **II. Protecting the Complainant**

Pending final outcome of an investigation, the College will take steps to protect the complainant from further discrimination and harassment. This may include assisting and allowing the complainant to change his or her academic, transportation, dining, work, or living situation if options to do so are reasonably available and upon request of the complainant. Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Requests to change an academic, transportation, dining, work, or living situation, or a request for the College to take any other protective measure, such as a campus no contact order, should be made to the Title IX Coordinator.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator. The College will take all reasonable and legal action to implement the order.

## **III. Investigation and Notification Procedures**

### Applicability of Procedures

These procedures apply to the resolution of all reports under the Sexual Misconduct policy. They apply to the resolution of complaints against students, faculty, administrators, staff, and third parties, and they are the exclusive means of resolving complaints of sexual misconduct. To the extent there are any inconsistencies between these complaint resolution procedures and other College grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging violations of the Sexual Misconduct policy.

### Investigating Officer

Complaints of sexual misconduct, will be investigated by the Title IX Coordinator and/or others who are assigned investigative duties. The Title IX Coordinator and/or other College official investigating a complaint will be referred to the "Investigating Officer" below.

### General Principles of the Investigation Process

When there is a complaint of sexual misconduct, an investigation and resolution process will take place. The following principles will apply:

- The investigation and resolution will occur in a prompt, timely, impartial and fair manner. The Investigating Officer implementing these procedures shall discharge their obligations fairly and impartially. If the Investigating Officer cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, he or she shall designate another appropriate College official to fulfill his or her role.
- These procedures will be implemented by College officials who receive annual training on issues related to sexual misconduct, domestic violence, dating violence, and stalking and how to conduct an investigation that protects the safety of victims and promotes accountability.
- In making any determination on the resolution of the complaint, the evidentiary standard of preponderance of the evidence, i.e. more likely than not that sexual misconduct occurred, will be applied.
- During the investigation process, both a complainant and a respondent may ask a support person/advisor to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person/advisor cannot be another complainant or respondent. The support person/advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process. The College reserves the right to remove or dismiss a support person/advisor who becomes disruptive or who does not abide by the limitations noted in the previous sentence.
- During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:
  - Equal opportunity to identify and have considered witnesses and other relevant evidence.
  - Similar and timely access to all information considered by the Investigating Officer.
  - Equal opportunity to review any statements or evidence provided by the other party.
  - Equal access to review and comment upon any information independently developed by the Investigating Officer.
- Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and resolution procedure. However, informal means may only be used with the complainant's voluntary cooperation and the involvement of the Title IX Coordinator. The complainant, however, will not be required to work out the problem directly with the respondent. Moreover, either party may terminate any informal means being utilized at any time and invoke the formal investigation procedure. In any event, informal means, even on a voluntary basis, will not be used to resolve complaints alleging any form of sexual violence.

- At any time during the investigation, the Investigating Officer may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protection may constitute a separate violation of the Sexual Misconduct policy.
- The College will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed. The Investigating Officer shall respond to any such request within three (3) days.
- As necessary and when applicable, the College will contact and cooperate with law enforcement in situations involving sexual misconduct.

### Initial Notification

Prior to the commencement of the investigation, the complainant and the respondent shall (i) receive notice of the individual(s) with authority to make a finding or impose a sanction at the conclusion of the investigation and (ii) have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest.

### Commencement of the Investigation

Once a complaint is made, the Investigating Officer will commence an investigation as soon as practicable, but not later than seven (7) days after the complaint is made. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes sexual misconduct. During the course of the investigation, the Investigating Officer may receive counsel from other College administrators, the College's attorneys, or other parties as needed.

### Content of the Investigation

During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The Investigating Officer will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the

complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

### Resolution

At the conclusion of the investigation, the Investigating Officer will prepare a written report that summarizes all information and facts. The written report will explain the scope of the investigation, identify findings of fact, and state whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence.

If the written report determines that sexual misconduct occurred, the Investigating Officer shall set forth in an addendum to the written report those steps necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of the BRCN Community. Such sanctions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation. Examples of such sanctions include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training. It also includes discipline for the respondent, including up to warning, final warning, suspension, dismissal, or other appropriate institutional sanctions.

The written report and any addendum will be given to the Complainant, the Respondent, and the Title IX Coordinator within three (3) days of its completion. If necessary, the version of the addendum provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures is disclosed in a manner consistent with Title IX, the Family Educational Rights and Privacy Act (“FERPA”), and the Clery Act, as explained by the April 4, 2011 Dear Colleague Letter issued by the U.S. Department of Education, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

The written report of the Investigating Officer shall be final subject only to the right of appeal set forth below.

### **IV. Appeals/Grievance Process**

Either the Complainant or the Respondent may file and appeal if there is disagreement with the results and conclusion of the investigation. An appeal must be filed in writing and will proceed in accordance with the BRCN judicial process, found in the BRCN Student Handbook.

#### Grounds for Appeal

The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigating Officer, would result in a different decision;

- There was a procedural error significant enough to call the outcome into question;
- There was a clear error in factual findings;
- Bias or prejudice on the part of the Investigating Officer; or
- The punishment or the corrective action imposed is disproportionate to the offense.

### Method of Appeal

Appeals must be filed with the President (“Appellate Officer”) within ten (10) days of receipt of the written report determining the outcome of the complaint. The appeal must be in writing and contain the following:

- Name of the complainant;
- Name of the respondent;
- A statement of the determination of the complaint, including corrective action if any;
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it; and
- Requested action, if any.

The appellant may request a meeting with the Appellate Officer, but the decision to grant a meeting is within the Appellate Officer’s discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity.

### Resolution of the Appeal

The Appellate Officer will resolve the appeal within fifteen (15) days of receiving it and may take any and all actions that he/she determines to be in the interest of a fair and just decision. The decision of the Appellate Officer is final. The Appellate Officer shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Investigating Officer’s previous written determination. The written statement shall be provided to the complainant, respondent, and the Title IX Coordinator within three (3) days of the resolution.