



ARKANSAS BAPTIST COLLEGE
SEXUAL MISCONDUCT ADJUDICATION PROCESS

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I. INTRODUCTION

Unlawful discrimination has no place at Arkansas Baptist College. It violates the College's core values, including its commitment to equal opportunity and inclusion, and will not be tolerated. Sex discrimination and sexual harassment are prohibited by the College policy and can constitute violations of state and/or federal law. State and federal law, including Title IX of the 1972 Education Amendments, prohibits sex-based discrimination in all of the College's programs and activities and other state and federal laws including the Violence Against Women Act (VAWA), as amended, prohibit sexual assault, stalking and relationship violence, including dating and domestic violence.

The Sexual Misconduct Policy applies to ALL members of Arkansas Baptist College—Administration, Faculty, Staff, Students, Visitors and Vendors/Contractors prohibits sexual harassment, sexual assault, sexual exploitation, stalking, relationship violence (including dating and domestic violence) and related retaliation. See www.arkansasbaptist.edu/titleix. Any incidents or concerns regarding sexual misconduct should be reported immediately, even if the person concerned about or harmed by the misconduct is unsure about pursuing a disciplinary complaint through this process. "Responsible Employees" under the Sexual Misconduct Policy are required to promptly report allegations of sexual misconduct that they observe or learn about to the Title IX Coordinator.

Arkansas Baptist College is committed to assisting complainants of Sexual Misconduct through various support services available for ALL members of the Campus community. These support services are available to ALL even if they choose not to file or pursue a disciplinary complaint or if the status of a respondent to the College is unclear (unenrolled student, non-employee, etc.). Everyone should feel assured that these support services will be available to them throughout this process and even after the conclusion of the adjudication process. Individuals who wish to receive confidential support services are encouraged to speak to the Title IX Coordinator or Deputy Title IX Coordinators for referral to a local agency. Individuals should contact the Department of Campus Safety at 501.786.7356 if they have concerns about their safety or call 911 for the Little Rock Police Department (LRPD).

To make a report online, please visit www.arkansasbaptist.edu/titleix, click on the "Report an Incident" button. Any member of the Arkansas Baptist College community can file a report or complaint of sexual misconduct online. Online reporting provides

individuals the option to report anonymously if they choose. However, anonymous complainants should understand that while the College will do its best to address anonymous complaints and reports, although, it may be limited in its ability to investigate and otherwise respond to or address them. Please note that the College will never utilize mediation for the resolution of issues of sexual assault or other sexual violence and parties will not be required to resolve this matter through direct communication with each other. The College will always respond to sexual misconduct that has been reported in order to stop prohibited conduct, prevent the recurrence of any conduct of concern, prevent and/or eliminate any hostile environment, and, where appropriate, address any effects on campus from such prohibited conduct.

Arkansas Baptist College is committed to addressing and working towards preventing crimes of sexual violence. Retaliation against anyone who reports an incident or brings forward a complaint of Sexual Misconduct is strictly prohibited. Any person responsible for or involved in retaliation will be subject to disciplinary action by the College.

II. DEFINING AND RECOGNIZING SEXUAL MISCONDUCT

Sexual Misconduct is an act prohibited under Title IX and includes, without limitation many different forms or behaviors, including but not limited to, the following categories:

- **Sexual Harassment**
- **Sexual Assault/Rape**
- **Sexual Exploitation**

Stalking

- **Relationship Violence (including dating and domestic violence)**

A. Sexual Harassment

Harassment occurs when one intentionally:

(1) threatens, by telephone in writing or by electronic communication including without limitation text messaging, facsimile transmissions, electronic mail or Internet services, to take action known to be unlawful or for the purpose of Coercion and by this action annoys or alarms the Complainant;

(2) Places one or more telephone calls anonymously, or at an hour(s) known to be inconvenient to the Victim, or in an offensively repetitious manner, or without a legitimate purpose of communication, and by this action knowing annoys or alarms the Victim;

(3) Communicates by telephone to the Victim that a relative or other person has been injured, killed or is ill when the communication is known to be false; or

(4) Communicates with another person or transmits or displays an image without legitimate purpose with the intent that the image is viewed by the Victim and the person maliciously intends the communication to be a threat of harm to the Victim, and a reasonable person would perceive the communication to be a harm.

Harassment also means conduct directed toward a Victim that includes, but is not limited to, repeated or continuing Unconsented Contact that would cause a reasonable person to suffer emotional distress, and that actually causes the Victim to suffer emotional distress.

Sexual harassment means unwelcome, sex-based verbal or physical contact that:

(1) In the employment context, unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment; or

(2) In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities. Sexual harassment can occur between and/or among students, staff, faculty and/or third parties and can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence.

Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

B. Sexual Assault

“Sexual assault” means sexual contact or intercourse with a person without the person’s consent, including sexual contact or intercourse against the person’s will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. Sexual assault can be committed by anyone, including an acquaintance or a stranger.

“Sexual contact” means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person. If this contact occurs with the absence of consent, it is a violation of this policy. Force is not limited to physical violence but also includes threats, intimidation, abuse of power, coercion and/or duress.

“Sexual intercourse” or penetration includes, but is not limited to: penetration (oral, anal or vaginal) with any object or body part.

C. Sexual Exploitation

Sexual exploitation can take many forms including those noted below.

1. **Photographing or Video/Audio Taping of Sexual Activity**

Photographing or taping someone (via audio, video or otherwise) involved in sexual contact, or in any state of undress, without their consent constitutes sexual exploitation and is a violation of this policy. The act of taking those images/recordings without consent is one form of sexual exploitation. The act of sharing images such as photographs or video/audio of someone involved in sexual contact or in a state of undress, without their consent, constitutes an additional act of sexual exploitation that is separate from the act of taking the images/audio. This additional act of sexual exploitation can be committed by anyone in possession of the images, even if that individual was not responsible for the creation of the original images and was not engaged in the recorded sexual contact. Sharing those images or audio can be done by digitally forwarding and/or posting copies of the materials or by simply showing someone else those images without relinquishing possession.

2. Voyeurism

Voyeurism is the act of intentionally observing, spying on or listening to a person involved in sexual contact or in any state of undress, without their consent.

3. Indecent Exposure

Indecent Exposure is exposing one's intimate parts, such as genitalia, groin, breast and/or buttocks to someone without their consent. This behavior is the deliberate showing of parts of the body and may include a sex act.

D. Stalking

Stalking means a course of conduct directed at a person that would cause a reasonable person to fear for the person's safety or to suffer substantial emotional distress. Stalking that is motivated by sex or gender will be handled under this policy. Stalking that is not motivated by sex or gender may still be a violation of Arkansas Baptist College policy.

For purposes of this section:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
3. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

E. Relationship Violence (Including Dating and Domestic Violence)

Under this policy, relationship violence includes both dating and domestic violence.

1. Relationship violence can occur at any stage in a relationship, including after its termination.
2. Domestic violence, also called family violence, is an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm,

- bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself.
3. Dating violence means abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature.

F. Consent

Consent occurs when individuals willingly, unambiguously, and knowingly agree to engage in sexual activity. Consent can be given by words or actions if those words or actions create clear, mutually understandable permission regarding the conditions of sexual activity. Consent is not present in circumstances where the individual is unable to give it freely or voluntarily such as when a person is incapacitated as a result of alcohol or drug use, when they are passed out or less than fully conscious for any reason, isolated, confined, asleep or threatened.

G. Unconsented Contact

Contact with another person that is initiated or continued without that person's consent, or in disregard of that person's expressed desire that the contact be stopped, avoided or discontinued. Unconsented Contact includes, but is not limited to, any of the following:

- (a) **following** or appearing within the sight of that person;
- (b) approaching or confronting that person in a public place or on private property;
- (c) appearing at that person's workplace or residence;
- (d) entering onto or remaining on property owned, leased, or occupied by that person;
- (e) contacting that person by telephone;
- (f) sending mail or electronic communications to that person; or
- (g) placing an object on, or delivering an object to, property owned, leased, or occupied by that person.

III. DEFINITIONS OF TERMS

A. Jurisdiction: Any student may file a complaint of Sexual Misconduct through this process against a member of the Arkansas Baptist College community. The person filing the complaint is referred to as the **Complainant**. The person against whom the complaint is filed is referred to as the **Respondent**. In cases where the College has exercised jurisdiction, the College will investigate the incident of Sexual Misconduct to the best of its ability.

B. Timing of Complaints: There is no time limit for the submission of a complaint alleging Sexual Misconduct. A complaint may be filed at any time during the semester, as long as the accused student remains enrolled at the College. A complaint received after the semester has ended or during a College break may result in a short delay in the adjudication of the complaint. The Title IX Coordinator and/or Title IX Deputy Coordinators will make every effort to try and conduct investigations during school breaks or between school terms/years unless doing so would sacrifice witness availability or otherwise compromise the process. Arkansas Baptist College may be limited in its ability to respond if a respondent is not enrolled. The College will make a good faith effort to conduct a fair, impartial investigation in a timely manner designed to provide all parties with resolution.

C. Intentional Presentation of False Information: Participants in the Sexual Misconduct Adjudication Process must present good faith, truthful and accurate information to the Title IX Deputy Coordinators and/or the Title IX Coordinator. Knowingly making false statements or presenting inaccurate information is unacceptable and may result in a separate disciplinary action regarding that conduct. Please note that filing a complaint or providing information which a party or witness genuinely believes is accurate, but which is ultimately dismissed due to insufficient evidence or found to be untrue, does NOT constitute the intentional presentation of false information.

D. Focus on Sexual Misconduct in Disciplinary Matters: a postsecondary educational institution may not take any disciplinary action against a student enrolled or employee at the institution who, in good faith, reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student/employee of the institution's code of conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the institution's disciplinary process regarding the incident, if any.

E. Right to Investigate and Decide Related Matters: The Fact-Finding

Investigation and the Decision will not be restricted to the violations alleged in the disciplinary complaint. Arkansas Baptist College reserves the authority to pursue any additional potential violations of College Policy that have been identified through the Sexual Misconduct Adjudication Process Investigation. The Title IX Coordinator will notify the parties of the new allegations, and will decide whether such allegations will be investigated by the Title IX Deputy Coordinators or will be considered in another disciplinary process. In any case, the adjudication of any other violations of Arkansas Baptist College Policy outside of the realm of Sexual Misconduct will not delay the prompt and equitable resolution of the pending Sexual Misconduct complaint.

F. No Contact Orders: When the Title IX Coordinator receives a complaint alleging Sexual Misconduct, a College "No Contact Order" may be issued barring any communication between the Complainant and Respondent. This No Contact Order may prohibit any attempt to contact or respond to any communication from the other party, either directly or through others (e.g. friends, family members, others). The Title IX Deputy Coordinators and the Department of Campus Safety will work with the individual (s) involved in the Sexual Misconduct Adjudication Process to facilitate the "No Contact Order" between the parties, so that they may attend classes/work and use College Facilities as appropriate. A No Contact Order may be extended after the conclusion of the disciplinary complaint. In cases where a demonstrated violation of this No Contact Order has been shown, the responsible student may be separated from the College pending the final resolution of the disciplinary complaint.

G. Interim Measures: Arkansas Baptist College will not automatically restrict a student from attending classes or participating in other College activities on the basis of a disciplinary complaint pending in the Sexual Misconduct Adjudication Process. However, the College does reserve the right to impose interim measures at any time upon learning of an allegation of Sexual Misconduct, if the College has concerns about the safety of the Arkansas Baptist College community. Such measures may include, but are not limited to, restrictions regarding movement on campus, removal from College housing and/or removal from campus. The decision to impose interim remedial measures is made at the discretion of the Title IX Coordinator, in consultation with the Provost and Executive Vice President for Academic and Student Affairs, if necessary. The College will also enforce any orders that are issued by the Courts of the State of Arkansas.

H. Retaliation: Retaliation against anyone who in good faith reports an incident of Sexual Misconduct or who in participates in this Sexual Misconduct Adjudication

Process in any manner is strictly prohibited. Retaliation is also prohibited against anyone who opposes, in a reasonable manner, an act or policy believed to constitute a violation of the Sexual Misconduct Policy. Retaliation includes things such as hostility, intimidation, threats, or in any way discriminating against an individual because of the individual's complaint or participation in this Sexual Misconduct Adjudication Process. Anyone responsible for retaliation or threats of retaliation, whether that person is the accused party or another person, will be subject to disciplinary action by Arkansas Baptist College. Retaliation should be reported promptly to the Title IX Coordinator. Retaliation by a person not affiliated with Arkansas Baptist College may be addressed by the Little Rock Police Department.

I. Witnesses: The Complainant and Respondent have the right to identify any individuals who may be witnesses to the conduct alleged in the complaint of Sexual Misconduct. The parties should be aware that it is possible for both the Respondent and Complainant to list the same people to speak as witnesses on their behalf. Witnesses should only be encouraged to cooperate and to speak the truth. Witnesses should not be intimidated, threatened or improperly influenced in any way by either party or through others. Any attempt to threaten, intimidate or to otherwise improperly influence the testimony of a witness may result in a separate disciplinary action by Arkansas Baptist College. The Title IX Coordinator will attempt to contact and interview any witness identified by the parties that the Title IX Deputy Coordinator (s) deems to be relevant to the resolution of the disciplinary complaint.

J. Support Person/Advisor: Individuals, involved in the Sexual Misconduct Adjudication Process as Complainants or Respondents, may be more comfortable navigating the process with the help of a Support Person/Advisor. A Support Person/Advisor is someone whom the student trusts to provide advice and support during the process. A support person can be any person the student feels comfortable confiding in, and need not be affiliated with Arkansas Baptist College (e.g., a friend, a family member, a person from a support or advocacy agency, a person appointed by the College, attorney, etc.). A Support Person/Advisor may accompany the student/employee to any part of the adjudication process, including any meetings with the Title IX Deputy Coordinators, and/or Title IX Coordinator. The Support Person may participate in the process in any way and, as such, cannot be a witness to the allegations in the complaint. Attorneys may serve as Support Persons, with the same rules applying. A Support Person must agree to sign a Non-Retaliation Acknowledgement Form prior to being present for any meeting. Failure to sign a Non-Retaliation Acknowledgement will result in the Support Person being excluded

from the Adjudication Process. All individuals designated as Support Person/Advisor must adhere to all College policies.

K. Evidentiary Standard: Preponderance of Evidence Standard: In adjudicating cases of Sexual Misconduct, Arkansas Baptist College will use the Preponderance of Evidence Standard. Preponderance of Evidence Standard, as it is generally understood, requires a 50.1 percent chance that the accused is responsible.

L. Criminal Conduct: Arkansas Baptist College will conduct its own investigation and adjudication of a disciplinary complaint, regardless of whether the alleged Sexual Misconduct is also being pursued through the criminal justice system. The College will comply with law enforcement requests for cooperation. At times, that cooperation may require the College to temporarily suspend its fact-finding investigation while law enforcement gathers evidence. The College will promptly resume its fact-finding investigation as soon as it is notified that doing so would not impede any law enforcement activities.

M. Admissibility of Evidence: The Fact-Finding Investigation process is intended to arrive at the truth of the matter. It should be noted that if the Investigators determine that the issues raised and/or documents presented are relevant and probative of whether the alleged conduct occurred, then, in the interest of fairness, that information will be disclosed to the opposing party.

1. Sexual History: In a case of Sexual Misconduct, the past sexual history of the Complainant and/or the Respondent or either party's sexual history with others will NOT be used in determining whether the Sexual Misconduct occurred. Prior consensual activity between the two parties will not be determinative of the issue of consent in the pending disciplinary complaint. Consent to one sexual act does not constitute consent for another sexual act.

2. Medical and Counseling Records: The use of medical and/or counseling records in the Sexual Misconduct Adjudication Process is rare. Medical and counseling records are privileged and confidential documents that students will never be required to disclose in this Process. However, in such cases where evidence is critical to the case, in which the enforcement of the Family Educational Rights and Privacy Act (FERPA) would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools/colleges and universities receiving federal funds, the requirements of title override any conflicting FERPA provisions. During the Sexual Misconduct Adjudication Process, submission of any evidence that is protected under legally

recognized privilege such as medical records covered by HIPPA. A Complainant/Respondent who, after due consideration, believes that his/her own medical or counseling records would be helpful in determining whether Sexual Misconduct occurred, has several options for voluntarily presenting this information:

- a. The Complainant/Respondent can voluntarily decide to present his/her own medical or counseling records to the Investigators as part of the documents that he/she would like to have the fact-finder consider in deciding the disciplinary complaint. Please note that if a party decides to produce such records, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered.
- b. On occasion, the Investigators may ask the Complainant/Respondent to voluntarily agree to provide these records if the Investigators believe that such documentation exists and that it would be helpful in deciding the disciplinary complaint. A party is under no obligation to provide this information and may simply say "NO" to this request. A party has a right to refuse to provide these records and that refusal is completely acceptable. Prior to responding to such a request, a party is encouraged to consult with their Support Person about the implications of agreeing or denying the request. Please note that if a party does decide to produce such records, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered.
- c. The Investigators may ask a Complainant or Respondent to voluntarily provide a verification of therapeutic or medical services to confirm simply that such treatment occurred, but not providing any details regarding that treatment.

N. Effect of Pending Complaint on Respondent: When a complaint is filed under this Sexual Misconduct Adjudication Process, the notation "Disciplinary Charges Pending" will be placed on the Respondent's student transcript and in the employee's personnel file. This notation will be removed or changed as appropriate following final resolution of the disciplinary complaint. If the Respondent withdraws or separates from the College while the disciplinary complaint is pending, a permanent notation will be placed on the Respondent's student transcript stating, "Student Withdrew with Disciplinary Charges Pending" and

"Employee Voluntarily Separated from the College. A Respondent, as student or employee matriculating at the College, cannot receive a degree while there is a pending, unresolved disciplinary complaint against him or her.

O. Decision: Under the Sexual Misconduct Adjudication Process, the final decision for students regarding the complaint will be made by the Title IX Coordinator and for employees will be made by the College President with recommendations by the Title IX Coordinator, Deputy Title IX Coordinators or the Hearing Panel. The Title IX Coordinator, Deputy Title IX Coordinators and members of the Hearing Panel have been specially trained in the adjudication of Sexual Misconduct. In the event that the Title IX Coordinator has a conflict of interest, she may recuse herself from the process. In case of a conflict of interest, the Deputy Title IX Coordinators for Faculty and Staff will make recommendations to the College President for employees and the Deputy Title IX Coordinator for Students will make the final decision regarding the complaint.

P. Live Hearing: A "Live Hearing" constitutes having both the Complainant and the Responder in the same room or a different room with cross-examination by Advisors only. Advisors can also ask questions to witnesses. The Hearing Chair has the authority to determine if the questions are pertinent to the case.

Q. Cross Examination: Cross Examination takes place in the "Live Hearing" and is conducted by the Support Person/Advisor for the Complainant and the Responder. Neither the Complainant nor Responder can respond to questions from each other or cross examine each other. Opportunity is given to both Complainant and Responder to be cross-examined in a separate room. The Facilitator of the Hearing Panel or the Title IX Coordinator must allow for cross-examination but stop the hearing if information or evidence is submitted or introduced without prior knowledge or in violation of FERPA or HIPPA. Support Persons/Advisors must adhere to the guidelines of the Sexual Misconduct Adjudication Process.

R. Confidentiality: Arkansas Baptist College considers all complaints of Sexual Misconduct, and all Title IX investigations to be confidential. There are occasions when Victims of Sexual Misconduct ask that the related complaint and investigation be kept confidential. By honoring a request for confidentiality, the College may be limited in its ability to respond fully to the incident, including pursuing disciplinary action against the Perpetrator. There are situations when the College must override a Victim's request for confidentiality in order to meet its Title IX obligations; however, these instances are limited and the information shared will only be with individuals who are responsible for handling Title IX Compliance.

A request to maintain confidentiality of any party involved should be made to the Title IX Coordinator. After a review of the request, the Title IX Coordinator will inform the requesting party whether, and to what extent, the request to maintain confidentiality may be upheld. The Title IX Coordinator may consult with the Director of Human Resources, College's legal authority or a sexual response counselor in making the determination.

Generally, the College will honor requests for confidentiality, unless doing so would jeopardize the safety of members of the Campus community, including the Complainant, the College's ability to provide a nondiscriminatory environment for all constituencies, including the Complainant, or where the College is required by law to disclose the information.

Additionally, the College will take into account whether there exists an increased risk of the alleged Respondent committing additional acts of Sexual Misconduct or other violence, whether a weapon was involved, the age of the Victim, and whether Arkansas Baptist College has any other means available to obtain relevant information (e.g., security cameras, personnel, or physical evidence). If the College concludes that it cannot confidentially keep the Victim's identity from the Respondent's, then the College will notify the Victim in advance.

Q. Transcript Notation for Students:

The notation "Disciplinary Charges Pending" will be placed on a student's transcript at the start of a Title IX investigation. This notation may be removed or changed as appropriate following the final resolution of a disciplinary complaint. If a student withdraws from the College while a disciplinary complaint is pending, a permanent notation will be placed on a student's transcript stating, "Student Withdrew with Disciplinary Charges Pending." A student who leaves while a disciplinary complaint is pending is not eligible to be issued a transcript by the College until a final determination is made. Additionally, a student who leaves while a disciplinary complaint is pending is not eligible to return to the College. A Student cannot receive a degree while there is a pending, unresolved disciplinary complaint against them.

Refusal or failure by a student to meet and cooperate with the Title IX department regarding this matter or to sign the Non-Retaliation Acknowledgment, as determined by the Director of Title IX may result in either (1) an automatic suspension from the College, and/or (2) the adjudication of the disciplinary complaint without input from the student.

On request by another college or university, Arkansas Baptist College shall provide to the requesting college or university information relating to a determination by the College that a student enrolled at the College violated the institution's Code of Conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

III.REPORTING SEXUAL MISCONDUCT

1. Contacting the Police
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3. Making Report to Arkansas Baptist College
 - A. Department of Campus Safety
 - B. Title IX Coordinator
 - C. Privileged Professionals
4. Time Frame
5. Intersection with Criminal Investigations
6. Interim Protective Measures

III. Reporting Sexual Misconduct

1. Contacting the Local Police

If you are a Victim of Sexual Misconduct, it is important that you contact the police immediately. If you believe you are in imminent harm or danger, call 911 immediately. If you believe you are not in imminent harm, you should first contact the Little Rock Police Department at 501.918.5130 (12th Street Station) and report any crime.

2. Preserving Evidence

Preserving Evidence is critical for reports to the police and the College, and every attempt should be made to preserve any relevant evidence for the police and/or the College, including without limitation clothing, the scene, texts, voice messages, etc.

3. Making the Report to the College

Arkansas Baptist College encourages all members of the Campus community to report violations of this policy to the Department of Campus Safety and to Vicki A. Williams, PhD, Title IX Coordinator. Reports involving Sexual Misconduct can be made at any time. A report involving Sexual Misconduct may be made confidentially to those who serve in a professional role in which communications are privileged under Arkansas law and to those which Arkansas Baptist College has designated as confidential reporters consistent with the Title IX statute. Those persons are:

Medical Providers

Therapists

Clergy

(Said persons referred to herein individually and collectively as "Privileged Professionals").

With the exception of Privileged Professionals, all students and employees (including Administrators, Faculty and Staff) who become aware of conduct that might fall under this policy are expected to notify the Title IX Coordinator with the names of the parties involved and the details of the report. Students

who serve in a peer-advising role (such as Resident Assistants) are also expected to share such reports with the Title IX Coordinator.

Once a report is made, an investigation and remedial actions may occur, including adjudication through the judicial process. The College reserves the right to initiate a Complaint at any time, and to initiate an investigation and resolution, administratively or through the disciplinary process, at any time, with or without the consent or at the request of a student/Victim, even instances where the student/Victim requests that the University does not investigate the matter or does not pursue action against the Perpetrator. In these cases, the Victim may choose whether or not he or she wants to participate in the process.

4. Time Frame

Arkansas Baptist College's goal is to resolve complaints of Sexual Misconduct within 60 days after a report is made. The College reserves the right to extend this time frame when, in the College's sole discretion, circumstances warrant an extension of time. Examples of reasons why the College may extend the time frame are the complexity of facts, the number of witnesses involved, lack of availability of the Victim or the Perpetrator, holidays, inclement weather, or other factors. When a case requires more than 60 days for resolution, The College will notify the Complainant and the Respondent.

5. Intersection with Criminal Investigations

When appropriate, a Victim may file a criminal complaint with the appropriate law enforcement agency while simultaneously pursuing remedies against the Respondent under this policy. Similarly, the College may be obligated to report an act(s) of Sexual Misconduct to an appropriate law enforcement agency. Victims are, in fact, encouraged to file criminal complaints, and should do so, when they believe a crime has been committed against them. The existence of a criminal investigation or charges does not impact the College's processing and investigation of a Complaint filed under this policy. In addition, it does not affect the College's imposition of Interim Protective Measures. However, Arkansas Baptist College may be required to delay fact finding while the police are gathering evidence. Any delay necessitated by a

criminal investigation will not impair the College's ability to impose interim measures to protect the Complainant and/or the College's campus community when appropriate.

6. Interim Protective Measures

In the discretion of the Office of the President, in consultation with the Title IX Coordinator, pending the investigation, hearing or appeal of a Complaint under this policy, Arkansas Baptist College may impose interim protective measures to protect the Complainant, and any other member(s) of the College community. Such protective measures (the "Interim Protective Measures") may include, without limitation:

1. A "No Contact" order prohibiting either, or both, Complainant and/or the Respondent from having physical, verbal, social media contact with each other or any other person(s) who may be part of the Incident Report such as witnesses and friends.
2. A transfer of the Complainant or the Respondent to another classroom setting or living arrangement, including without limitation, moving to another residence and/or distance learning.
3. Place an employee or a member of the faculty on administrative leave. In such cases, the Title IX Coordinator shall: (a) if it is an employee, consult with the Director of Human Resources and the employee's supervisor; (b) if it is a member of the Faculty consult with the Provost and the Director of Human Resources and (c) if it is a student, consult with the Dean of Students.

IV. THE INVESTIGATION

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IV. THE INVESTIGATION

1. Responsible Authority

Under the direction of the Office of the President, the Title IX Coordinator conducts investigations of Sexual Misconduct under this policy. After receiving a written complaint from a Complainant, the Title IX Coordinator will investigate or assign a Deputy Title IX Coordinator to the file. The College reserves the right to hire an independent Investigator to conduct the investigation at any time and for any reason as it determines in its sole discretion.

2. General Applicability

Each Complaint under this Policy involves a differing fact scenario, sensitivities, witnesses and evidence. Hence, there is not an exact procedure involved the investigation of any Complaint. However, the following are generally applicable to each investigation. The time frames set forth for the Investigation stage are those which can be generally expected. However, there is no guarantee as to the exact time frame in which each step will occur as the circumstances differ in each case. Based on the Academic Calendar, a College break or a holiday intervenes during the investigation stage. In these cases, the process may be suspended, in the sole discretion of the College based on availability of staff and/or witnesses and the seriousness of the alleged offense, until the College is back in session.

3. General Information for Complainants, Respondents & Witnesses

Complainants, Respondents and Witnesses (collectively "Impacted Parties") will be treated with respect before, during and after the disciplinary process. Complainants and Respondents will be informed of the College's disciplinary process and possible outcomes, and of all substantive procedural developments about the case, when warranted. Impacted Parties are strongly encouraged to seek counseling and support available through resources identified by the Title IX Coordinator and/or the Director of Human Resources.

Complainants and Respondents may request changes to academic and living arrangements through the Division of Student Affairs. Staff from the Division of Student Affairs will contact the Complainant and/or the Respondent with information as to what changes are reasonably available. An advisor of the Complainant's and/or Respondent's choice, including an attorney, may accompany either to any meeting during the Investigation phase. That Advisor's role is to assist the Complainant and Respondent throughout the Hearing Process. The Advisor's will conduct cross-

examinations during the Hearing. Cross-Examinations can be conducted in a different room for both Complainant and Respondent. Information as evidence regarding Complainant or Respondent past sexual history or medical records are violations under Title IX and will not be used in the Hearing. The Complainant and/or Respondent is not permitted to interrupt, delay or otherwise interfere with the Investigation process, in whole or at any interview and the advisor may not address any Impacted Party or the Investigator.

4. False Accusations

Arkansas Baptist College has zero tolerance policy for false accusations of Sexual Misconduct under this policy as such accusations can permanently impair a person's ability to pursue life, liberty and the pursuit of happiness. The College prohibits false accusations under this policy, regardless of the outcome of any investigation of a subsequent withdrawal of the Complaint. Arkansas Baptist College will initiate disciplinary proceedings against any person filing a false Complaint under this policy, and sanctions may include expulsion, suspension, recommended counseling or any other sanction available under the College's Sexual Misconduct Policy. A finding that the Respondent has not committed Sexual Misconduct under this policy does not mean a false accusation has been made. False accusations require proof that the accusation was made knowingly and willfully with malice and an intent to accuse the Respondent falsely.

5. STEPS OF THE INVESTIGATION

STEP 1: Initial Interview with the Victim/Complainant

The Title IX Coordinator or Deputy Title IX Coordinator will contact the Victim within 24 hours to set up an interview. Prior the interview, the Complainant will be asked to submit a written statement detailing the complaint. If the Complainant is incapacitated, the written statement will be waived in lieu of a recorded statement or another appropriate means of obtaining a detailed statement from the Victim. During the interview, the Title IX Coordinator will review the Complaint and the written statement from the Victim, obtain additional details and clarify and questions. During this interview, the Title IX may inquire about relationship with the Respondent, other potential witnesses and ask for copies of any evidence relating to the complaint, including without limitation social media, phone records, email correspondence, photographs and all artifacts that will aid in the case.

The Title IX Coordinator will also discuss the Title IX Policy and process for resolving the Complaint, and identify support resources for the Victim, including licensed counselors for personal support. The Title IX Coordinator will also share with the Complainant her/his right to pursue criminal charges and inform each that the College's Process and the Criminal Process may have separate outcomes. This step is the "Initial Interview." During the Initial Interview, the Title IX Coordinator will remind the Victim of the College's policy against Retaliation and provide him or her with the information necessary to report any instance of Retaliation which he or she feels is being directed towards him or her. At any time during the Investigation Process, the Title IX Coordinator may follow up with the Victim to discuss new information obtained, or to clarify any conflicting information.

STEP 2: Notifying the Respondent

Within 24 hours after the Initial Interview, the investigator will contact the Respondent and notify him/her of the Complaint. This step is called "Notification to the Respondent." Following, the investigator will set up an interview in person with the Respondent. Prior to the interview, the Respondent will be asked to submit a written statement detailing his or her response to the Complaint (the "Written Response"). If the Respondent is incapacitated (other than by means of detention or imprisonment by a law enforcement agency), the written statement will be waived in lieu of a recorded statement or another means of obtaining a detailed statement from the Respondent. During the interview, the investigator will review the Complaint and the Written Response, obtain additional details and clarify and questions. During this interview, the Title IX Coordinator may inquire about relationship with the Victim, other potential witnesses and ask for copies of any evidence relating to the Complaint and Written Response, including without limitation social media, phone records, email correspondence, photographs and all artifacts that will aid in the case.

The Title IX Coordinator will also discuss the Title IX Policy and process for resolving the Complaint, and identify support resources for the Respondent, including licensed counselors for personal support. The Title IX Coordinator will also share with the Respondent her/his right to pursue criminal charges and inform each that the College's Process and the Criminal Process may have separate outcomes. This step is the "Initial Interview." During the Initial Interview, the Title IX Coordinator will remind the Respondent of the College's policy against Retaliation and provide him or her with the information necessary to report any instance of Retaliation which he or she feels is being directed towards him or her. At any time during the Investigation process, the Title IX Coordinator may follow up with the Respondent to discuss new information obtained, or to clarify any conflicting information.

STEP 3: Interviewing Witnesses and Documenting Evidence

Following the Initial Interview and the Interview with the Respondent, the Title IX Coordinator will interview all witnesses identified. Each case varies on the number of witnesses and no specific time frame can be developed except that the Title IX Coordinator will seek to contact witnesses within one week after the Interview with the Respondent. The Title IX Coordinator will also obtain written statements from each witness prior to his or her interview and review them during their meeting.

The Title IX Coordinator will also review and seek to verify all documented evidence obtained and may consult with the Campus Safety Department, Director of Human Resources and/or the College's legal counsel and independent Investigator at any time for assistance.

STEP 4: Completing the Investigation

Upon completion of the Title IX Coordinator's review of all documentary evidence available and the interview of all witnesses, the Title IX Coordinator will prepare a final written report regarding the matter (the "Final Investigative Report") and discuss with the Dean of Students (student-to-student) or Director of Human Resources (faculty & staff). If information deem that there is a violation of the Sexual Misconduct Policy, the Title IX Coordinator will, in consultation with the Director of Human Resources, convene a formal hearing with faculty and student, staff and student and visitor and student. In the case with student-to student where there is information that deem a violation of Sexual Misconduct, the case may result in an Administrative Hearing or Formal Hearing.

In some cases, the Title IX Coordinator may determine, in consultation with the Dean of Students or the Director of Human Resources that insufficient information exists to proceed. In this case, the Title IX Coordinator will notify the Dean of Students or the Office of the President of this fact. The Title IX Coordinator will then notify the Victim and the Respondent that insufficient information exists to continue with the case, and the case will be considered closed unless additional substantive information is obtained which justifies, in the College's sole discretion, re-opening of the case.

V. HEARING PROCEDURES

1. Administrative Hearing
2. Formal Hearing
3. The Title IX Hearing Panel
4. Hearing Packets
5. Additional Information
6. Challenging the Participation of a Panelist
7. Character References
8. Hearing Principles
9. Order of the Title IX Hearing
10. Notification of Panel's Decision
11. When Delivery is Deemed
12. Sanctions

V. HEARING PROCEDURES

1. Administrative Hearing

Once the Final Investigative Report is completed, the Title IX Coordinator will determine whether sufficient grounds exist for the Complaint to proceed to a formal hearing. The Title IX Coordinator may, in her sole discretion, may consult with the Dean of Students to determine whether the Complaint may be resolved administratively (i.e., with the Respondent agreeing upon a finding of Sexual Misconduct or otherwise and an appropriate disciplinary sanction without the need for a formal hearing).

In such cases as where an administrative resolution is approved, the Title IX Coordinator will meet first with the Complainant privately to discuss the Complainant's position on any proposed disciplinary sanction. If the Complainant objects to an administrative resolution of the case, the matter will proceed to a formal hearing. If the Complainant agrees with proposed sanction, the Title IX Coordinator will meet next with the Respondent privately.

The Respondent will be given at 24 hours advance notice that the College seeks administrative resolution of the complaint, and the specific violations of this policy under consideration. During the private meeting, the Respondent will review the Final Investigative Report together. The Title IX Coordinator will also inform the Respondent of the sanction(s) being imposed. Following the meeting, the Respondent will be given at 24 hours to provide written notification to the Title IX Coordinator that he or she accepts the proposed sanction(s), or that he or she contest(s) the findings and/or sanctions and requests a formal hearing.

If the Respondent fails to attend the private meeting or to inform the Title IX Coordinator that he or she accepts the proposed sanction(s) or requests a formal hearing, the Title IX Coordinator may proceed to resolve the case administratively without the consent of the Respondent and/or his or her input. If no formal hearing is requested, the Complainant and the Respondent will receive a written statement prepared by the Title IX Coordinator, detailing the outcome of the administrative resolution within three business days of the deadline for the Respondent to accept or reject the proposed sanction(s).

2. Formal Hearing

If the Title IX Coordinator determines that the case should proceed to a formal hearing or if a Respondent or Complainant objects to a proposed administrative resolution, the Respondent and the Complainant will be provided a 14 days advance written notice of the same, exclusive of Saturday and Sunday and any official College break or holiday, prior to the convening of a formal hearing panel to hear the case. The written notice will contain the date, time and location of the hearing in addition to a copy of the Final Investigative Report.

3. The Panel

The Title IX Hearing Panel, for cases under this policy shall not be the same as assigned to other disciplinary matters, although nothing herein precludes a non-student from serving on either or both panels. The Title IX Hearing Panel shall be selected by the Director of Human Resources and shall be comprised of at least five persons who are members of the faculty and/or staff and who are trained to understand and evaluate allegations of Sexual Misconduct. Students shall not be permitted to serve on the Title IX Hearing Panel due to the sensitive nature of the Complaint and the complexity of analyzing certain matters involving Sexual Misconduct. Prior to finalizing the panelists in each case, the Title IX Coordinator will identify the Impacted Parties to the proposed panelists. Designated panelists with a close relationship with any Impacted Party may not serve on the Title IX Hearing Panel for the case at issue. Designated panelist(s) with a bias towards an Impacted Party or a factual scenario, alleged or proven, may not serve on the Title IX Hearing Panel for the case at issue. A final panel must be selected at least seven (7) days in advance of the hearing, although the College reserves the right to substitute panelists due to illness, conflicting obligations or other factors in its sole discretion.

4. Hearing Packets

At least 72 hours in advance of the Hearing, the Title IX Coordinator will:

1. Notify the Complainant and the Respondent of the panelists' names and titles. The Complainant, the Respondent and any potential witness (es), and/or any person acting on any one of their behalf, are prohibited from contacting any member of the panel. Violation of this rule will result in discipline for interfering with a College official function. The College reserves the right to substitute panelist due to illness, conflicting obligations, etc., in its sole discretion. If a

panelist is substituted the new panelist's name will be provided to the Complainant and the Respondent within 24 hours of the substitution.

2. Provide the Complainant and the Respondent with any and all information to be shared with the Title IX Hearing Panel which was not provided previously by the Office of Student Engagement along with the Final Investigative Report (i.e., additional evidence).
 3. Provide the Complainant and the Respondent with the name(s) of any witness (es) the College will seek to provide testimony or the Hearing Panel. The Complainant and the Respondent are prohibited from contacting any witness identified by the Panel or the College for the purpose of discussing his or her intended testimony before the Title IX Hearing Panel. Any violation of this rule will result in discipline of the offending party for interfering with a College official function. Nothing herein is intended to prohibit the Complainant or the Respondent from contacting any such person to ask that they serve as a witness on their behalf. The purpose of this rule is to prohibit rehearsing testimony with a witness or intimidating a witness into not testifying or into changing his or her testimony to suit another's interest.
- 5. Additional Information to be Submitted to the Title IX Hearing Panel by the Complainant and the Respondent/ Witnesses**

Either the Complainant or the Respondent may submit additional information to the Title IX Hearing Panel through the Title IX Coordinator at least 48 hours in advance of the hearing. If the Complainant or Respondent intend to have a witness (es) provide testimony on his or her behalf before the Hearing Panel, he or she must submit the name(s) of the witness (es) to the Title IX Coordinator at least 48 hours in advance of the hearing. The Title IX Coordinator shall provide the Hearing Panel and the other party with the name(s) of any such witness (es). Each party is prohibited from contacting the other parties' witness (es) for the purpose of discussing his or her intended testimony before the Title IX Hearing Panel. Any violation of this rule will result in discipline of the offending party for interfering with a College official function. Nothing herein is intended to prohibit the Complainant or the Respondent from contacting such person to ask that they serve as a witness on their behalf. The purpose of this rule is to prohibit rehearsing testimony with a witness or intimidating a witness into not testifying or into changing his or her testimony to suit another's

interest. If a Complainant or Respondent has a need to contact another party's witness, even if that witness is a friend or an acquaintance, the safest way to avoid a potential violation of this policy is to first contact the Title IX Coordinator to explain the need to contact the witness and to obtain his or her approval of the contact, or permit him or her to make contact on the individual's behalf. The Title IX Hearing Panel may, in its discretion, exclude witnesses or witness testimony that it deems irrelevant or duplicative.

6. Challenging the Participation of a Title IX Panelist

Either the Complainant or the Respondent may challenge the participation of a designated Title IX Hearing Panelist due to a perceived conflict of interest. Such challenges, including the rationale, must be provided to the Title IX Coordinator, in writing, at least 48 hours prior to the commencement of a hearing. At the discretion of the Title IX Coordinator, she will determine if a conflict exists and a panelist should be substituted. If a panelist is substituted under this policy in less than the 72 hour notice provided for the names of the panelists to be provided to the parties, as described in the section above under "Hearing Packets," it shall not operate to delay the scheduled hearing date and/or time.

7. Character References

The Complainant and the Respondent may submit up to five (5) character references each addressing the character of the Complainant or Respondent, as appropriate, but not the specific facts involved in the case. Such references must be submitted no later than 72 hours in advance, and any information so submitted will be shared with the other party.

8. Hearing Principles

Fairness, Integrity and Mutual Respect apply to all statements before the Title IX Hearing Panel. Students and employees who appear before the hearing panel are subject to discipline, up to and including termination, for dishonesty before the Title IX Hearing Panel. Efforts will be made to ensure that the Complainant and the Respondent will not wait in the same area outside of the hearing room. The Title IX Hearings will be recorded, but not the Title IX Hearing Panel's deliberations. All Formal Hearings will be recorded and transcripts of the Hearing will be made available upon the request of the Complainant and the Respondent. Transcripts will be made within 72 hours after the Hearing and will be distributed within 24 hours of a request.

The Title IX Hearing Panel will strictly follow the Title IX Misconduct Policy guidelines set forth in this policy. The past sexual history or sexual character of an Impacted Party will not be allowed as consideration of any Complaint under this policy, unless the Title IX Coordinator, in consultation with the Director of Human Resources, has notified the Title IX Hearing Panel, the Complainant and the Respondent in advance that such information is deemed highly relevant. In determining directly relevant patterns of behavior, the Title IX Coordinator reserves the right to share with the Director of Human Resources any documented conduct violations of any Impacted Party such as sexual misconduct violations, acts of violence, bullying and harassment violations of College policies.

9. Order of the Title IX Hearing

The normal order of the Title IX Hearings proceeds as follows:

- Opening by the Panel Chair (to be designated by the panelists)
- Introductions by the Panel Chair
- A reminder that the Fairness, Integrity and Mutual Respect applies to all statements before the Title IX Hearing Panel by students, and that employees who falsify information before the Title IX Hearing Panel will be disciplined, up to and including termination
- Announcements, if any, regarding the Hearing
- The Complainant will be asked for comments, and then to present any witnesses
- The Respondent will be asked for comments, and then to present any witnesses
- Consideration of any questions posed by the parties of each other or any other witness by the Title IX Hearing Panel
- The Complainant will be asked for rebuttal statements, if any
- The Respondent will be asked for rebuttal statements, if any
- Closing of the Title IX Hearing

Any member of the Title IX Hearing Panel may ask questions of the Complainant and the Respondent at any time during their respective presentation before the Title IX Hearing Panel. The Complainant and the Respondent may not question each other or of witnesses but may raise questions to be asked of the other party or other witnesses through the Title IX Hearing Panel, which will determine whether to ask them. The Title IX Hearing Panel will exclude questions on the basis of repetition, vexation and/or harassment or non-applicability to the case at issue. The appropriate time to present the Title IX Hearing Panel with such questions is during the portion of the hearing reserved for consideration of opposing parties' questions which is

immediately prior to rebuttals. The Title IX Hearing Panel will notify a party in the event that his or her questions will not be asked, and provide the reason therefor.

The Title IX Hearing Panel has absolute authority over the conduct of the hearing and may set time frames for witness testimony and limit opening/closing statements and rebuttals. Impacted Parties may be notified of time limits upon receipt of their Hearing Packet or at the commencement of the hearing.

The Title IX Hearing Panel Chair may, in consultation with the Title IX Coordinator and the Director of Human Resources or Dean of Students, grant extensions of time at any time prior to the commencement of a hearing to permit reasonably sufficient time for: (i) a Complainant to prepare his or her case and/or present additional evidence; (ii) a Respondent to prepare his or her response and/or present additional evidence; or (iii) any of the above. After the commencement of the hearing, if the Title IX Hearing Panel discovers the need for more preparation time or more time to hear testimony, the Title IX Hearing Panel Chair shall recess the hearing to a later time. The Chair will inform the Title IX Coordinator of any continuance of the hearing.

The inability to obtain witnesses shall not justify undue delay to continue a hearing. If a witness is unable to attend the hearing in person, he or she may participate: (i) telephonically or electronically (e.g., by Skype, Zoom, and Google Hangouts video conferencing); (ii) by sworn, notarized statement; or (iii) through a written statement.

Upon the closing of the Title IX Hearing, the Title IX Hearing Panel will hold a closed meeting(s) to deliberate and form a decision. Decision (s) shall be made on the basis of three-fourths of the votes of the Title IX Hearing Panel.

10. Notification of Title IX Hearing Panel's Decision

The Title IX Hearing Panel will render a decision regarding the case within five (5) business days after the Title IX Hearing concludes. The Complainant and the Respondent will receive verbal and written notification of the decision at approximately the same time from the Title IX Coordinator. A written notification prepared by the Title IX Hearing Panel Chair stating the decision and outlining the rationale for the decision will be delivered by hand or through the U.S. Postal Service to the Complainant and the Respondent within three (3) business days after notification is made to the Complainant and the Respondent. All decisions will be delivered by mail and in-person or by certified U.S. Mail or overnight courier if hand

delivery is not an option or unsuccessful after the first attempt. Nothing herein delays implementation of the decision if the Title IX Coordinator is unable to make verbal contact with either the Complainant and/or the Respondent.

11. When Delivery is Deemed Made

When a student or employee fails to accept verbal notification, it will be deemed made upon hand delivery of a written notification or upon deposit of the decision in the U.S. Mail. If verbal notification is made, notification is deemed made upon contact, and a written notification serves a follow up and may be mailed by hand-delivery, certified U.S. Mail, or overnight delivery.

12. Sanctions

Sanctions may be imposed should the Title IX Hearing Panel find the Respondent responsible for violating this policy include, without limitation, expulsion, suspension, disciplinary probation, recommended counseling and/or other educational sanctions. The Title IX Hearing Panel has discretion in sanctioning. Factors pertinent to the determination of which sanction to apply include, without limitation, the nature of the conduct, the severity of the violation, the expressed wishes of the Complainant, prior disciplinary history of the Respondent, the Respondent's willingness to accept responsibility for his or her actions, previous College responses to similar conduct and the College's interests as a whole. Students who are expelled will have no more than 48 hours to vacate the University's campus after notification. Students who are suspended will have no more than 72 hours to vacate the College campus after notification. Sanctions are premised on the College's role as an educational institution.

(Revised August 2020)

VI. THE APPEALS PROCESS

A. General

Either party may appeal a decision of the Title IX Hearing Panel. Students and employees are afforded only one appeal through the Title IX Panel. Appeals must be made in writing within 72 hours of the appealing party's receipt of Notification of the Title IX Hearing Panel's decision to the Title IX Coordinator. An appeal may not be deemed properly filed and received unless and until the Title IX Coordinator sends the party making the appeal, a written confirmation of receipt of the appeal, which may be made via electronic communication. Appeals are considered in All cases involving sexual misconduct. However, grounds for an appeal are:

1. That there is new information that substantially alters the understanding of the event(s) in question.
2. That the discipline process was not followed in a fundamentally fair manner; and/or
3. That the disciplinary process is disproportionate to the offense.

Failure to strictly to adhere to expected time frames and other technical, non-substantive errors are not sufficient grounds for an appeal. The fact that a student is an honor student, makes good grades or is otherwise has good character and is well-liked has no bearing on the decision and is not sufficient grounds for an appeal. The same can be applied to an employee who has good attendance, well-liked by her/his peers and has a good work ethic.

All appeals must be in writing and state with specificity the grounds for the appeal listed above and the reasons why the appeal should be granted. Any appeal which fails to specify which of the three enumerated reasons an appeal should be granted will be dismissed for failure to state a basis for an appeal. General appeals that fail to state with specificity the grounds for the appeal will be dismissed.

Appeals will be shared with the other party who will have 72 hours to respond to the appeal through a written submission to the Title IX Coordinator. A response to an appeal may not be deemed properly filed and received unless and until the Title IX Coordinator sends the appellant a written confirmation of receipt of the response, which may be made via electronic communication. Appeals do not delay or stay a requirement that a student leave campus due to suspension or expulsion or requirement to reside off campus. However, at the discretion of the Title IX

Coordinator, the student or employee may be permitted to return to campus/stay on during the appeals process.

B. The Title IX Appeals Panel Appeals Process

Appeals will be reviewed in a closed meeting by a three (3) person Title IX Appeals Panel comprised of a members of the faculty and staff appointed by the Director of Human Resources within seven (7) business days of the filing of an appeal. Students shall not be permitted to serve on the Title IX Hearing Panel due to the sensitive nature of the issues on appeal and the lack of training in matters involving Sexual Misconduct. Designated panelists with a close relationship with any Impacted Party may not serve on the Title IX Appeals Panel for the case at issue. Designated panelist with a bias towards an Impacted Party or a factual scenario, alleged or proven, may not serve on the Title IX Appeals Panel for the case at issue.

Appeals will be reviewed on the basis of the written records, and will not involve a new hearing except at the sole discretion of the Title IX Appeals Panel. In cases where a new hearing is granted, the parties will be notified of the same within eight (8) business days of the filing of an appeal, and a hearing date will be set within 15 business days of the filing of an appeal. Meetings of the Title IX Appeals Panel which are not formal new hearings are closed.

C. Notification of the Title IX Appeals Panel's Decision

Decisions shall be made on the basis of a majority vote of the Title IX Appeals Panel. If no hearing is granted, a decision on the Appeal will be issued within 15 business days of the filing of an appeal, and if a hearing is granted, a decision on the appeal will be issued within 20 business days of the filing of an appeal. The Complainant and the Respondent will receive verbal notification of the decision at approximately the same time from the Title IX Coordinator. A written notification prepared by the Title IX Appeals Panel Chair stating the decision and outlining the rationale for the decision will be delivered by the Title IX Coordinator or Director of Human Resources to the Complainant and the Respondent within three (3) business days after notification is made to the Complainant and the Respondent, either in person, by certified U.S. Mail or by overnight delivery service. Nothing herein delays implementation of the decision if the Title IX Coordinator or Director of Human Resources is unable to make verbal contact with either the Complainant and/or the Respondent.

D. **When Delivery is Deemed Made**

When a student or employee fails to accept verbal notification, it will be deemed made upon hand delivery of a written notification, within three (3) days of deposit in the U.S. mail or upon confirmation of delivery by an overnight delivery service. If verbal notification is made, notification is deemed made upon contact, and a written notification serves a follow up and may be mailed by regular U.S. Mail, overnight delivery service.

E. **Final Appeal to President**

Students and Employees may appeal any decision of the Title IX Appeals Panel in writing to the President of the College. The only available grounds for an appeal to the President are:

1. That there is new information that substantially alters the understanding of the event(s) in question.
2. That the discipline process was not followed in a fundamentally fair manner; and/or
3. That the disciplinary process is disproportionate to the violation. Failure to strictly adhere to expected time frames and other technical, non-substantive errors are not sufficient grounds for an appeal to the President. The fact that a student is an honor student, makes good grades or is otherwise has good character and is well-liked has no bearing on the decision and is not sufficient grounds for an appeal to the President.

Appeals must be submitted to the Title IX Coordinator who will forward the appeal to the President. Students and employees should not submit appeals directly to the President and/or the Office of the President.

All Appeals must be in writing and state with specificity the grounds for the appeal listed above and the reasons why the appeal should be granted. Any appeal which fails to specify which of the three enumerated reasons an appeal should be granted will be dismissed for failure to state a basis for an appeal. Any appeal which fails to state with specificity the reason(s) why the appeal should be granted will be dismissed.

Appeals will be shared with the other party who will have 72 hours to respond to the appeal through a written submission to the Title IX Coordinator who will forward it to the President. A response to an appeal may not be deemed properly filed and

received unless and until the Title IX Coordinator sends the appellant a written confirmation of receipt of the response, which may be made via electronic communication.

Appeals do not delay or stay a requirement that a student leave campus due to suspension or expulsion or requirement to reside off campus. However, at the discretion of the Dean of Students, in consultation with the Title IX Coordinator, the student may be permitted to return to campus/stay on campus during the appeals process with the President.

The President will generally issue a decision on the Appeal within ten (10) business days of her receipt of the Appeal.

F. Notification of the President's Decision

The Complainant and the Respondent will receive written notification of the President's decision. A written notification prepared by President stating the decision and outlining the rationale for the decision will be delivered by the Title IX Coordinator or to the Complainant and the Respondent within three business days after oral notification is made to the Complainant and the Respondent. Nothing herein delays implementation of the decision if the Title IX Coordinator or the Director of Human Resources are unable to make verbal contact with either the Complainant and/or the Respondent.

G. When Delivery is Deemed Made

When a student or employee fails to accept verbal notification, it will be deemed made upon hand delivery of a written notification, within three (3) days of deposit in the U.S. mail or upon confirmation of delivery by an overnight delivery service. If verbal notification is made, notification is deemed made upon contact, and a written notification serves a follow up and may be mailed by regular U.S. Mail, overnight delivery service.

H. Parental Notification and Notification to Other College Officials

Arkansas Baptist College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status, or conduct situation, involving Title IX matters under this policy, drugs and/or alcohol. The College will notify parents/guardians of dependent students under 21 who are found in violation of this policy or of alcohol or drug violations regardless of status under this policy. Arkansas Baptist College also reserves the right to designate which

College officials have a "Need to Know" about individual conduct complaints pursuant to *FERPA*.

I. Retaining Records of the Investigation

The Final Investigative Report, the Hearing Packet, all evidence and the decision shall be collective and retained in the Office of Title IX for five (5) years, at which time they will be destroyed, or at the Title IX Coordinator's discretion, preserved. The decision of the Title IX Hearing Panel is part of the educational record of the accused individual, and is protected from release by the College under the Federal Educational Rights & Privacy Act ("FERPA"). However, the College observes the following exceptions:

1. Complainants have the right to be informed of the outcome, in writing, and to be informed of any sanctions that directly relate to them, and to essential findings.
2. Respondents have the right to be informed of the outcome, in writing, and to be informed of any sanctions that directly relate to them, and to essential findings.
3. The College may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a College policy that is a Crime of Violence.

