

HILBERT COLLEGE

SEX DISCRIMINATION, SEX-BASED HARASSMENT & SEXUAL MISCONDUCT POLICY

Hilbert College promotes respect for the dignity and integrity of each person. Hilbert is deeply committed to equal opportunity and a tolerant, supportive learning and working environment. Hilbert College complies fully with all applicable federal, state, and local laws, including, but not limited to, Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Act, the New York Human Rights Law, and Article 129B of the New York State Education Law commonly referred to as “Enough Is Enough.” Pursuant to these statutes and regulations, Hilbert College prohibits all acts of sex discrimination, sex-based harassment (including sexual harassment and harassment based on gender identity, sexual orientation, sex characteristics, sex stereotypes or pregnancy), sexual assault, domestic violence, dating violence, stalking, and other behavior prohibited by this Policy.¹ This policy is intended to educate the Hilbert community about these issues and thereby prevent such incidents from occurring and explain the way in which the College will respond to incidents in the event they do occur.

NONDISCRIMINATION POLICY AND NOTICE

Hilbert College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

Notice

Hilbert College does not discriminate on the basis of sex and prohibits sex discrimination in any of its education programs or activities and required by Title IX and its regulations, including in admission and employment. Inquiries about Title IX may be referred to Hilbert College’s Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both.

Contact Information for the Title IX Coordinator
Laura Edholm
Title IX Coordinator/Associate Athletic Director
716-926-8843
Franciscan Hall 107
ledholm@hilbert.edu

Contact Information for the U.S. Department of Education, Office for Civil Rights is as follows: 400 Maryland Avenue, SW Washington, DC 20202-1100; Telephone: (800) 421-3481; Facsimile: 202-

¹ This Policy may be referred to herein and in other College publications as the “Policy” or the “Sexual Misconduct Policy.”

453-6012 TDD#: 877-521-2172; E-mail: OCR@ed.gov; Web: <http://www.ed.gov/ocr>

In order to report information about conduct that may constitute sex discrimination or make a Complaint of sex discrimination, please refer to this Policy. Hilbert College's grievance procedures can be located in this Policy or at <https://www.hilbert.edu/student-life/campus-safety/policies-law>.

SCOPE OF POLICY AND NON-DISCRIMINATION IN APPLICATION

This Policy applies to all students, faculty, and employees of Hilbert College. This policy applies to conduct that allegedly occurs on campus, off campus or while studying abroad. Additionally, off-campus conduct may violate this policy if the conduct creates a threatening or hostile environment on Hilbert's campus or within a Hilbert program, or if the incident causes concern for the safety or security of Hilbert's campus community, or otherwise impacts the campus community and/or the operation of College programs or activities. Non-community members (e.g., family or friends of students, vendors, visiting athletes, etc.) visiting campus, participating in a Hilbert program or activity, or interacting with Hilbert College community members are expected to abide by the behavioral expectations in this policy. In compliance with New York State law, this policy protects employees, interns (whether paid or unpaid), and non-employees (including independent contractors) who are (or who are employed by) contractors, companies or organizations contracting to provide services to the College, regardless of immigration status.

This Policy applies to all individuals without regard to an individual's race, color, national origin, sex, religion, age, disability, gender, pregnancy, gender identity, sexual orientation, predisposing genetic characteristics, marital status, veteran status, military status, domestic violence victim status, or ex-offender status.

Hilbert College assures the campus community that it will:

- Treat Complainants and Respondents equitably
- Ensure that any person designated by Hilbert College as a Title IX Coordinator or investigator does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- Establish prompt timeframes for the major stages of the grievance procedures, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses, consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in this grievance procedure.
- Ensure an objective evaluation of all evidence that is relevant and not otherwise impermissible under this procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a persons status as a Complainant, Respondent or Witness
- Clearly articulate principles for how Hilbert College will determine which policies and procedures apply

Pursuant to Title IX, the College is required to address sex discrimination occurring within its education program or activity in the United States. The College will address a sex-based hostile environment in its education program or activity even when some conduct alleged to be contributing to the hostile environment occurred outside the College's program or activity or outside the United States. Conduct that occurs under the College's program or activity includes, but is not limited to, conduct that occurs in any building owned or controlled by a student organization that is officially recognized by the College and conduct that is subject to the College's disciplinary authority.

The conduct prohibited under this Policy is not limited to the scope of conduct covered by Title IX. The College prohibits the below conduct even if the conduct occurs off-campus, outside the United States, the Complainant is not participating or seeking to participate in the College's education program or activity, or otherwise in circumstances over which the College does not have influence or control, including but not limited to during college academic breaks. The College retains discretion to not respond to, investigate or adjudicate circumstances in which no College interest is implicated.

If all elements of jurisdiction are met, Hilbert College will investigate the allegations according to the grievance procedures set forth in this Policy as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the complaint.

The Title IX Coordinator is also responsible for monitoring the College's education programs and activities for barriers to reporting information about conduct that reasonably may constitute a violation of this policy, and taking steps reasonably calculated to address such barriers.

Hilbert College is prohibited from separating or treating any person differently based on sex in a manner that subjects that person to more than de minimis harm, except in the limited circumstances where Title IX regulations allow otherwise, such as in the context of sex-separate living facilities and sex-separate athletic teams. Policies and practices that prevent a student from participating in an institution's education program or activity consistent with their gender identity impose more than de minimis harm on that student on the basis of sex, and therefore generally violate Title IX's nondiscrimination mandate. This Policy does not address Title IX's application to sex-separate athletic teams.

This policy is effective on August 1, 2024, and will only apply to sex discrimination, sex-based harassment and other forms of misconduct prohibited under this Policy that allegedly occurred on or after August 1, 2024. For misconduct allegedly occurring prior to August 1, 2024, please see the previous policy. Hilbert 2020 version of this Policy can be found at <https://www.hilbert.edu/student-life/campus-safety/policies-law>.

OVERVIEW OF CONSENSUAL RELATIONSHIPS POLICY

As a general rule, the College actively discourages all romantic and/or sexual relationships between faculty and student, supervisor and employee, and staff person and student in cases where the staff person can exert authority because the relationship may pose a conflict of interest and the difference in power can give rise to the appearance of impropriety. If a consensual relationship does exist, it is required that the participants in such a relationship act immediately to remove the conflict of interest. In addition, the person in the more powerful position in such a relationship is required to report it to their supervisor. It is expected that all members of the College community comply with the Consensual Relationship Policy. The Consensual Relationship Policy can be found in the Student Handbook and the Human Resources Manual.

GENERAL POLICY DEFINITIONS

1. Advisor of Choice- An advisor of choice is a person selected by the Complainant or Respondent to advise and accompany the Complainant or Respondent throughout the investigation and adjudication process. An advisor of choice may be any person, including an attorney. The institution does not appoint or pay for an advisor of choice. An advisor of choice's role is limited to the functions further described in this policy.

2. Accused- a person accused of a violation who has not yet entered an institution's judicial or conduct process.

3. Admission-selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity sponsored by Hilbert College

4. Affirmative Consent- Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

All references to "consent" in this policy will mean affirmative consent as defined in this policy. As stated above, silence, lack of physical resistance, and/or the absence of a verbal "no" should not be construed as consent to any sexual activity. Consent may be initially given but withdrawn at any time by expressing in words or actions that they no longer want the sexual act to continue. When consent is withdrawn or can no longer be given, sexual activity must stop.

A prior relationship, existing relationship, prior sexual contact, or prior consent does not, alone, constitute affirmative consent to any continued or future sexual activity. Consent to engage in one sexual act (such as kissing or fondling) does not indicate consent to other sexual acts (such as intercourse).

Certain conditions prevent a person from being able to consent. Affirmative consent cannot be given if a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation can be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. An individual's mental disability may cause him/her to be unable to give affirmative consent to sexual activity. In New York, the statutory age of consent is 17 years old. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants (whether consumption was voluntary or otherwise) may be incapacitated and therefore unable to consent. A person initiating sexual activity is still responsible to obtain affirmative consent even if they are under the influence of drugs or alcohol. Affirmative consent cannot be given under coercion, force, intimidation or threat of physical harm or injury.

5. Coercion – Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.

6. Complainant –(1) a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination. Moreover, with respect to

complaints of sex discrimination other than sex-based harassment, in addition to the above, (1) any student or employee of the College; or (2) any person other than a student or employee who was participating or attempting to participate in the College's education program or activity at the time of the alleged sex discrimination. A complainant may also be referred to as a Reporting Individual in this Policy.

7. Force - Force is the use of physical violence and/or imposing on someone physically to gain sexual access.

8. Complaint - A complaint means an oral or written request to Hilbert College that objectively can be understood as a request for Hilbert College to investigate and make a determination about an alleged Policy violation(s).

9. Confidential Employee- A confidential employee means: (1) an employee of Hilbert College whose communications are privileged under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies. (2) an employee of Hilbert College whom the College has designated as confidential for the purpose of providing services to persons related to sex discrimination, including sex-based harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination or sex-based harassment in connection with providing those services; or (3) an employee of Hilbert College who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex-based harassment. The employee's confidential status is only with respect to information received while conducting the study.

10. Disciplinary Sanctions- consequences imposed on a Respondent following a determination under the grievance procedure under this policy that the Respondent violated this policy.

11. Party - A Complainant or Respondent may be called a Party, or collectively, the Parties.

12. Pregnancy or related medical conditions- This term encompasses a broad range of conditions and situations associated with pregnancy and childbirth. This includes pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery from any of these conditions. Additionally, it covers lactation and pregnancy related medical conditions. Pregnancy related conditions include, but are not limited to, morning sickness, fatigue, nausea, dehydration, gestational diabetes, preeclampsia, prenatal or postpartum depression, infertility, recovery from childbirth, miscarriage or abortion, lactation conditions or complications, menstruation, perimenopause and menopause. Pursuant to Title IX regulations, the College will treat pregnancy and related conditions in the same manner and under the same policies as any other temporary disability, ensuring that pregnant individuals have equal access to education programs and activities.

13. Relevant-means related to allegations of sex discrimination or sex-based harassment under investigation. Questions are relevant when they seek evidence that may aid in showing if the alleged conduct occurred. Evidence is relevant when it may aid a decisionmaker in determining if the alleged conduct occurred. For purposes of this policy, the following types of evidence will be excluded as impermissible (even if otherwise relevant):

- Evidence that is protected under a privilege recognized by federal or state law or evidence provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owned has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written consent for use in the investigation and adjudication process; and

- Evidence that relates to the Complainant’s sexual interests or prior sexual conduct, unless evidence about the prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the alleged Complainant’s prior sexual conduct with the Respondent that is offered to prove consent.

14. Reporting Party – The term Reporting Party refers to the person making the report. That person is usually, but is not always, the person who experienced sex discrimination, sex-based harassment, other conduct prohibited under this policy.

15. Respondent – The term Respondent refers to the person alleged to have committed Prohibited Conduct under this policy and, if a process is commenced, is responding to the allegations.

16. Student- person who has gained admission

17. Supportive Measures- individualized measures offered as appropriate, as reasonably available without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to (1) restore or preserve that Party’s access to Hilbert College’s Education Program or Activity, including measures that are designed to protect the safety of the Parties or Hilbert’s educational environment; or (2) provide support during Hilbert’s grievance procedures under this policy.

DEFINITIONS- PROHIBITED CONDUCT VIOLATIONS

Hilbert College prohibits all forms of sex discrimination in any education program or activity that it operates. This policy sets forth conduct expectations for our community and provides a process for the reporting, investigation, and adjudication of alleged violations. Pursuant to Title IX , the College is required to address sex discrimination occurring within its education program or activity in the United States. The College will address a sex-based hostile environment in its education program or activity even when some conduct alleged to be contributing to the hostile environment occurred outside the College’s program or activity or outside the United States. Conduct that occurs under the College’s program or activity includes, but is not limited to, conduct that occurs in any building owned or controlled by a student organization that is officially recognized by the College and conduct that is subject to the College’s disciplinary authority. This policy applies to alleged conduct violative of Title IX of the Education Amendments of 1972 and applies to a broader range of contexts and behaviors inconsistent with the College’s commitment to equal opportunity.

The College retains discretion not to respond to, investigate or adjudicate circumstances in which no College interest is implicated. The College recognizes the following as conduct violations under this policy (“Prohibited Conduct”):

1. **Sex Discrimination** - Sex discrimination is different treatment with respect to an individual’s employment or participation in a College education program or activity. Sex discrimination is an act that disadvantages a person and that occurs because of or on the basis of the affected individual’s sex. For purposes of this policy, discrimination “on the basis of sex” includes discrimination based on sex, sex stereotypes, gender, sexual orientation, sex characteristics, pregnancy or pregnancy-related conditions and gender identity.
2. **Sex-Based Harassment** – “Sex-based harassment” means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and related conditions, that is:

- a. **Quid pro quo harassment.** An employee, agent or other person authorized by Hilbert College explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
- b. **Hostile environment harassment.** Unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education programs or activities. A "hostile environment" is created when the offensive behavior interferes with an individual's ability to participate in the College's programs (i.e., to work and to learn) when judged against a reasonable person standard. The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. Whether a hostile environment has been created is a fact specific inquiry. The College considers the location of the conduct and the context in which the conduct occurred, the type, frequency and duration of the conduct, the relationship and ages of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual and the learning community. Sex-based harassment can occur in various forms, including verbal, written, visual, electronic or physical.
- c. **Sexual assault.** "Sexual assault" includes any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault consists of the following specific acts:
- Rape. The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- Non-Consensual Sexual Contact. The touching of the private body parts (including genital area, anus, groin, inner thigh, buttocks or breast) whether contact is under clothing or over clothing, of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.
- d. **Dating violence.** "Dating violence" means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship. (ii)

The type of relationship. (iii) The frequency of interaction between the persons involved in the relationship.

e. **Domestic violence.** “Domestic violence” means any violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the College is located, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

f. **Stalking.** “Stalking” is engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress. For the purposes of this definition, (i) a “course of conduct” means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property; (ii) “reasonable person” means a reasonable person under similar circumstances and with similar identities to the reporting party/complainant; and (iii) “substantial emotional distress” means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

3. **Sexual Exploitation.** Taking sexual advantage of another person for one’s own benefit or for the benefit of anyone other than the person being exploited without consent. Examples include but are not limited to causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity; causing the prostitution of another person; taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent or beyond the parameters of consent), including the making or posting of revenge pornography; engaging in sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed); exposing one’s genitals in non-consensual circumstances or nonconsensual disrobing of another person so as to expose the other person’s private body parts; trespassing, spying, or eavesdropping for sexual arousal; distributing intimate or sexual information/images of another person; and/or knowingly engaging in sexual activity with another person while knowingly infected with a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI; forcing a person to take an action against that person’s will by threatening to show, post, or share information, video, audio, or an image that depicts the person’s nudity or sexual activity; or knowingly soliciting a minor for sexual activity

4. **Retaliation.** Retaliation is an adverse act perpetrated to “get back” at a person because the person reported misconduct under this policy, filed a complaint, or participated in an investigation or proceeding conducted pursuant to this policy by the College or by an external agency. Retaliation includes intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX or this Policy or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including an informal resolution process. Peer retaliation, defined as retaliation, by one student against another student, is also prohibited under this Policy. An act of retaliation may be anything that would tend to discourage an individual from reporting sex-based harassment or other Prohibited Conduct, pursuing a complaint, or from participating in an investigation or adjudication as a party or a witness. Nothing in these definitions precludes the College from requiring an employee or other person authorized by the College to provide aid, benefit, or service under the College’s education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding or hearing. A person who acts in good faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacked good-faith; a person may provide inaccurate information believing it is accurate, which is still good-faith. If a person who makes a statement knowing that it is false, the person has acted without good faith.

APPLICABLE LAWS, ORDINANCES, AND REGULATIONS

All federal, state, and municipal laws apply on campus. This includes the New York State Penal Law, which details the criminal statutes dealing with sex offenses. According to New York State statutes, there are varying degrees of sexual assault. Sexual Assault of any kind is not only a crime, but also a violation of this policy.

REPORTING OPTIONS FOR RESPONDING TO INCIDENTS

Hilbert College shall ensure that at the first instance of disclosure by a Complainant to a Hilbert College employee, the following information shall be presented to the student “You have the right to make a report to Campus Safety, local law enforcement, and/or state police or choose not to report; to report the incident to Hilbert College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from Hilbert College.”

A Students’ Bill of Rights for cases involving sexual assault, domestic violence, dating violence, or stalking is attached at the end of this policy. An additional Statement of Rights for any individual reporting a sexual assault, domestic violence, dating violence, or stalking is also attached at the end of this policy.

Any reports of Prohibited Conduct may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this policy. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. The College offers a number of confidential and non-confidential resources and reporting options for violations of this Policy.

Reporting to Law Enforcement

Any person may call 911 or Campus Safety, which can be reached at 716-479-1233, for immediate safety assistance. Campus Safety can also assist the individual in making a report of a crime to local law enforcement. A victim of a crime is encouraged to, but not required to, report the incident to local law enforcement and pursue criminal charges. The criminal process and the College's disciplinary processes are not mutually exclusive, meaning that an individual can either bring a report through the College or law enforcement, or both. Any internal investigation and/or hearing process conducted by Hilbert College will be conducted concurrently with any criminal justice investigation and proceeding. Decisions rendered in a court of law have no impact on the College's obligation to respond to allegations of misconduct within our community. However, in some cases the College may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation. Such delays will not last more than ten (10) days, except when law enforcement authorities specifically request and justify a longer delay.

The Hamburg Police Department, which can be reached at 716-648-5111, can assist in filing a criminal complaint and in securing appropriate examination, including by a Sexual Assault Nurse Examiner. The New York State Police Sexual Assault Hotline, which can be reached at 1-844-845-7269, may also be of assistance in reporting an incident to law enforcement.

Preservation of Evidence

In criminal cases, the preservation of evidence is critical and must be done properly and promptly.

- Preserve all physical evidence of the assault. Do not shower, bathe, douche, or brush your teeth. Save all of the clothing you were wearing at the time of the rape or assault. Place each item of clothing in a separate paper bag. Do not disturb anything in the area where the assault occurred.

Orders of Protection

Orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by a College community member or other person. In appropriate circumstances, an order of protection may be available that restricts the offender's right to enter the College's property, and Hilbert will abide by a lawfully issued order of protection. Campus Safety, or other College officials, will, upon request, provide reasonable assistance to any member of the campus community in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order, including providing that person with:

- A copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- An explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- Assistance in contacting local law enforcement to effect an arrest for violating such an order of protection.

Reporting individuals should understand that not all conduct prohibited under this policy is a crime and that the standard law enforcement employs in processing allegations is different than the College's standard under this policy. Questions about whether incidents violate criminal laws and how the criminal process works should be directed to law enforcement officials or the local district attorney's office.

Reporting to Confidential Resources

On-Campus Confidential Resources

A victim is encouraged to seek support for their emotional and physical needs. A person seeking confidential emotional or medical care may contact the following on-campus Confidential Resources:

- Counseling Center – Assistant Vice President for Student Life-Counseling, Health & Wellness Christopher Siuta, Ph.D, LMHC, 716-926-8930, St. Joe’s Residence Hall 1st Floor, or csiuta@hilbert.edu
- Health & Wellness Center – St. Joe’s Residence Hall 1st Floor, or csiuta@hilbert.edu
 - Hilbert College is partnering with Inspired Health Group, a Fully Integrated Medical Practice located at 3671 Southwestern Blvd. Suite 101 Orchard Park, NY 14127, for primary medical care for all Hilbert students. Students can "walk-in" at any time during normal business hours at this practice.

These counseling and health services are confidential and free for Hilbert College students. Immediate contact with a counselor can be arranged through Campus Safety if a situation occurs after hours or on weekends. Professional, licensed counselors and pastoral counselors who provide mental health counseling to members of the College community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without your permission. However, these Confidential Resources must share the following information:

- That they are confidential, including when they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination (including sex-based harassment) or other forms of sexual misconduct;
- How to contact the College’s Title IX Coordinator and how to make a complaint of sex discrimination (including sex-based harassment) or other forms of sexual misconduct; and
- That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Reports made to these Confidential Resources will not be reported to other College officials in any personally identifiable manner, and, as a result, any individual making a report solely to such confidential resources should not expect action to be taken by the College against any alleged perpetrator.

Off-Campus Confidential Resources

In addition, there are numerous off-campus resources available. These confidential off-campus resources, which may or may not charge services fees, include:

- Mercy Ambulatory Care Center – 716-662-0500
- Mercy Hospital – 716-822-3800
- Crisis Services (24 Hour Hotline) – 716-834-3131
- NYS Domestic Violence Hotline – 1-800-942-6906
- NYS Police Sexual Assault Hotline – 1-844-845-7269

Additional Sexual Assault & Violence Response (SUNY SAVR) Resources can be found online at <https://www.suny.edu/violence-response/>. This website can provide you with information you can use to seek resources and support, and to report the crime to law enforcement.

Contacting any of the confidential resources listed above does not constitute notifying Hilbert College of Prohibited Conduct. Individuals who have been the victims of sexual assault are encouraged to seek medical attention immediately. Whether or not you report the assault to the College or the police, you should have a medical examination immediately. The exam is confidential. Medical personnel will test for sexually transmitted infections, look for physical injuries, and collect physical evidence. If you report the sexual assault, Campus Safety or the police can provide transportation to the hospital and arrange for a Crisis Services Sexual Assault Advocate to meet you there. If you choose to go to the hospital without notifying Campus Safety or the police, the hospital can still collect physical evidence and contact a Crisis Services Advocate to meet you there, while protecting your anonymity, in case you later decide to prosecute. If you suspect that you may have been given a rape drug, such as Rohypnol and GHB, ask the hospital to take a urine sample which will be preserved as evidence.

Reporting to the College's Non-Confidential Resources

All reports of Prohibited Conduct should be made to any one of the following specially trained individuals:

- Title IX Coordinator / Associate Athletic Director– Laura Edholm, 716-926-8843, Franciscan Hall 107, or ledholm@hilbert.edu
- Director of Residence Life & Community Standards, Grace Adams 716-926-8928 or 649-7900 (ext. 253), Trinity Hall, 1st Floor, or gadams@hilbert.edu
- Director of Campus Safety, Keith Bova – 716-479-1233 (24-hour number), or 716-649-7900 (ext. 224), Campus Center Lower Level, or kbova@hilbert.edu

These individuals have been trained to receive and respond to allegations of violations of this policy. The College's main concern is that victims of sex-based harassment or sexual violence receive the help and guidance essential for beginning the process of healing, while giving special consideration to the welfare of the campus community. Even Hilbert College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

There is no time limit for making a report of a violation of this policy. However, the passage of time may make effective responsive action difficult. Further, if the Respondent is no longer a member of the College community, the College's ability to respond may be limited. Individuals are encouraged to promptly report all incidents.

Mandated Reporting

Any Hilbert College employee who is not a Confidential Resource (see above), (including, but not limited to, those who either have authority to institute corrective measures on behalf of the College or have responsibility for administrative leadership, teaching, or advising in the College's education program or activity) must notify the Title IX Coordinator when the employee has information (whether

that information was based on their own observations or they learned about it from another) about conduct that reasonably may constitute conduct prohibited under this Policy.

Reports from mandatory reporters (i.e. all non-confidential employees at the College) help the College monitor patterns of behavior, drive changes to general training and education, and ensure that students are aware of their options in addressing any conduct prohibited under this Policy as well as the support services that are available to them. A report from a non-confidential employee does not independently initiate any grievance process.

If you are unsure of an individual's reporting obligations, please ask before disclosing any information you wish to remain confidential.

Reports from Others or Anonymous Sources

If the College receives a report of conduct that may be a violation of this policy by someone other than the alleged victim (e.g., by a friend or roommate, resident assistants, etc.), the College's Title IX Coordinator will promptly notify the individual who allegedly experienced the conduct, and inform them of the available resources, options, and assistance. Hilbert will accept anonymous reports. However, due to anonymous reports, Hilbert's ability to take responsive action may be limited.

Reporting Party Options

If a Reporting Party reports any form of Prohibited Conduct to a non-confidential College employee, but requests that no investigation into the incident be conducted or disciplinary action taken, the College will weigh that request against Hilbert's obligation to provide a safe, nondiscriminatory environment for all members of the campus community, including the Reporting Party.

Request for No Action and/or Action Taken Confidentially

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law.

Hilbert College endeavors to comply with Reporting Party's wishes with respect to whether responsive action is taken. However, that is not always possible. Although a person may disclose information concerning an incident of Prohibited Conduct to the Title IX Coordinator or another non-confidential employee and request that no investigation or disciplinary action be taken, the College may decide not to honor that request, depending on the circumstances. If a Reporting Party requests that no action be taken against the accused, (i.e., no investigation or disciplinary action) and does not file a complaint, the Title IX Coordinator will consult with appropriate administrators in order to consider Reporting Party's request. The Title IX Coordinator will take the following factors into consideration when determining if the Coordinator should honor a complainant's desire for no action to be taken by the College or whether the Coordinator should initiate a complaint:

- The seriousness of the alleged incident;
- Whether the reporting party wants to initiate a complaint and/or participate in the formal grievance process;
- The reporting party's reasonable safety concerns regarding initiation of a complaint;
- Whether there have been other reports of Prohibited Conduct about the same Respondent;
- Whether the Respondent has a history of violent behavior or is a repeat offender;

- Whether the Respondent allegedly threatened further Prohibited Conduct or other violence against the Reporting Party or others;
- Whether the conduct was committed by multiple individuals;
- Whether the alleged sexual misconduct was perpetrated with a weapon;
- The age and relationship of the parties, including whether the Respondent is an employee of the College;
- Whether the College has other means to obtain relevant evidence (e.g., security cameras or physical evidence);
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- Whether circumstances otherwise suggest an ongoing or future risk to the campus community or the Reporting Party; and/or
- Whether the College could end the alleged Prohibited Conduct and prevent its recurrence without initiating a grievance procedure under this policy.

A decision will be made and shared with the Reporting Party. Where the only parties to the situation are employees, the College will be less inclined to honor a request for confidentiality. If, after considering these factors, the College determines that it is able to respect the Reporting Party's request that no responsive action be taken, the College will nevertheless take all reasonable steps to respond to the report consistent with the Reporting Party's confidentiality request, will offer supportive measures and will also consider broader remedial action, such as increased monitoring, supervision of security at locations where the reported sexual misconduct occurred, increasing training, education and prevention efforts, and conducting climate surveys.

Similarly, a Reporting Party may desire to have investigatory and/or disciplinary action taken, but may wish to have their identity as the Reporting Party kept confidential. Depending on the circumstances, this may or may not be possible. If a complainant requests that his/her identity be kept confidential but that an investigation and review for disciplinary action occur, the College's decision will depend on whether the information provided by the Complainant can be acted upon without revealing the complainant's identity. If the College determines that it must disclose the Reporting Party's identity to the Respondent, the College will promptly inform the Reporting Party.

The College may not be able to honor a Reporting Party's request for confidentiality when doing so would jeopardize the College's responsibility to provide a safe, non-discriminatory environment. If the Title IX Coordinator determines that the conduct as alleged present an imminent and serious threat to the health or safety of the Complainant or another person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex, the Title IX Coordinator may initiate a complaint. If the Title IX Coordinator does initiate a complaint, the Complainant will be notified prior to doing so, and the Title IX Coordinator will appropriately address any reasonable concerns about safety, including by providing supportive measures.

Hilbert has designated the Title IX Coordinator to evaluate requests for action to be taken confidentially. Ultimately, Hilbert College retains the right to act upon any information that comes to its attention.

AMNESTY FOR STUDENTS

The health and safety of every student at Hilbert College is of utmost importance. Hilbert College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or

involuntary) at the time that the violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Hilbert College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander acting in good faith or a Reporting Party acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to Hilbert College officials or Campus Safety will not be subject to Hilbert College's code of conduct action for violations of alcohol or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

SUPPORTIVE MEASURES

Once a report is made under this Policy, the Reporting Party will be contacted by the Title IX Coordinator and offered supportive measures as more fully described below. A report that triggers supportive measures need not be a complaint, and it may be made by a third-party (i.e., someone other than the complainant himself/herself). Once the respondent is informed of a report or a complaint, the respondent will be contacted by the Title IX Coordinator and offered supportive measures as more fully described below. Supportive measures are intended to restore or preserve, to the extent practicable, equal access to the College's educational programs and activities and protect the safety of all parties without unreasonably burdening the other party or parties. As required by federal regulation, these supportive measures must not be imposed for punitive or disciplinary reasons, and are offered without fee or charge.

Supportive measures could include, but are not limited to:

- Changes or adjustment in academics such as the extension of deadlines or other course-related adjustments or allowing a withdrawal from a course without penalty;
- Changes to housing, transportation and campus working situations if those changes are requested by a party and available;
- Modification of work or class schedules;
- Leaves of absence;
- Mutual "No Contact" orders and, in limited circumstances, one-way no contact orders.
- Access to campus escorts or other reasonable security or monitoring measures; and
- Counseling services.

The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various College departments and offices that may be involved. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of parties or Hilbert College's educational environment, or to provide support during Hilbert's grievance procedure or during informal resolution.

Hilbert College will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to Hilbert College. Exceptions may include:

- a) Hilbert College has obtained prior written consent from a person with the legal right to consent to the disclosure.
- b) When the information is disclosed to an appropriate third party with the legal right to receive

- disclosures on behalf of the person whose personally identifiable information is at issue
- c) To carry out the purpose of the policy when it is necessary to address conduct that may constitute sex-based harassment under Title IX in Hilbert College's programs and activities
 - d) As required by Federal Law, federal regulations, or the terms and conditions of a federal award, or
 - e) To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. Hilbert College provides for a complainant or respondent to seek modification or reversal of Hilbert's decision to provide, deny, modify or terminate a supportive measure. This review will be done by an impartial employee of Hilbert College who did not make the challenged decision on the original supportive measure request. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measures under review affect that party. The impartial employee will have the authority to modify or reverse the decision. Parties are only allowed to challenge their own individual supportive measures.

FILING A COMPLAINT

Those who wish to file a report of sex discrimination, sex-based harassment or any other conduct prohibited under this policy may do so by submitting a complaint to the Title IX Coordinator by using the contact information provided in this policy. A complaint can be written or verbal, so long as it is objectively understood that a request has been made for the College to investigate and make a determination about an incident. A third party or anyone other than the victim of the misconduct may report an incident as described above but may not make a complaint. However, a complaint may be made by a parent or guardian on behalf of a minor person. A complaint may be submitted to the Title IX Coordinator in person, by mail, or by electronic mail to: Title IX Coordinator / Associate Athletic Director Laura Edholm, 716-926-8843, Franciscan Hall 107, or ledholm@hilbert.edu..

If a reporting party/complainant declines to file a complaint or does not wish to participate in the investigation and adjudication process, or the complainant's identity is unknown, and the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the reporting party/complainant or other person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

Individuals who elect to file a complaint and participate in the College's formal grievance process will be encouraged to maintain the privacy of the process in order to assist the College in conducting a thorough, fair, and accurate investigation. The College will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the processes contemplated by this policy; provided such steps do not restrict the ability of the parties to obtain and present evidence, to speak to witnesses, to consult with their family members, the Confidential Resources, or advisors, or otherwise prepare for or participate in the process. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of Prohibited Conduct are also authorized.

DISCRETIONARY DISMISSAL OF A COMPLAINT

The Title IX Coordinator may (but is not required to) dismiss a complaint in the following circumstances:

- the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the complaint or any specific allegations;
- Hilbert College is unable to identify the Respondent after taking reasonable steps to do so;
- when the respondent is no longer enrolled in or employed by the College; and
- where specific circumstances prevent the College from gathering evidence (such as where a complainant refuses to cooperate but does not withdraw a complaint).
- the College determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under this Policy (before dismissing the complaint, the College will make reasonable efforts to clarify the allegations with the Complainant).

The decision to dismiss or not to dismiss a charge under these circumstances will depend on the totality of the situation. Upon dismissal, the College will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the College will notify the Complainant and Respondent of the dismissal and the basis for the dismissal simultaneously in writing. Any decision to dismiss a complaint or allegation pursuant to this section is immediately appealable. (See the Appeals section below). When a complaint is dismissed, the College will a) offer supportive measures to the Complainant as appropriate; b) if the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and c) to the extent necessary, take other prompt and effective steps, as appropriate, through the Title IX Coordinator, to ensure that sex discrimination does not continue or recur within the College's education program or activity.

EMERGENCY REMOVAL OF STUDENT RESPONDENTS

In some cases, the College may undertake an emergency removal of a student respondent to protect the safety of the College community, which may include contacting local law enforcement to address imminent safety concerns. Emergency removal is not a substitute for reaching a determination as to a respondent's responsibility for violation of this Policy; rather, emergency removal is for the purpose of addressing imminent and serious threats posed to any person's health or safety, which may arise out of the allegations of misconduct.

Before removing a student respondent through the emergency removal process, the College will do an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an imminent and serious threat to the health or safety of any student, including the student respondent, or other individual justifies removal, then a student respondent will be removed. This is the case regardless of the severity of the allegations and regardless of whether a complaint was filed.

In the event a determination is made to effectuate an emergency removal, the Title IX Coordinator will provide notice of the emergency removal to both the Reporting Party/Complainant and Accused/Respondent. This notice will contain: (1) the date the removal is set to begin, (2) the reason for the emergency removal, (3) the consequences of non-compliance, and (4) how to appeal the decision. If a student respondent disagrees with the decision to be removed, the Respondent may appeal the decision. The respondent must provide written notice of the intent to appeal, which shall include the substance of the appeal, to the Title IX Coordinator within 10 calendar days of receiving the notice of removal. The burden of proof is on the student respondent to show that the removal decision was incorrect. The emergency removal will remain in effect while the appeal is considered.

This section applies only to student respondents. Employee respondents are not subject to this section and may be placed on administrative leave pursuant to the College's policies during the pendency of a Title IX grievance process. When a Complainant or Respondent is both a student and employee of Hilbert College, Hilbert College must make a fact-specific inquiry to determine whether this procedure applies to that student employee. Hilbert College will consider if the Complainant or Respondent's primary relationship with Hilbert College is to receive an education and whether the alleged misconduct occurred while the party was performing employment-related work.

RESOURCES AND NOTIFICATION PROTECTIONS RELATED TO PREGNANCY OR RELATED CONDITIONS

The College will not treat students, employees, or applicants differently based on sex in connection with parental, family or marital status. The College is committed to providing pregnant students, employees, and applicants protections, reasonable modifications and, if appropriate, accommodations due to their pregnancy or any related conditions in order to ensure they are provided an accessible and supportive learning and working environment, regardless of their gender identity or expression.

Information Sharing Requirements

If a student discloses her pregnancy or related condition to a College employee, and the employee does not reasonably believe that the Title IX Coordinator has already been informed, the employee must provide the student with the Title IX Coordinator's contact information and inform the student that the Title IX Coordinator can implement specific actions and reasonable modifications to ensure the student's equal access to the College's education program or activity.

Once a student notifies the Title IX Coordinator of the student's pregnancy or related condition, the Title IX Coordinator will inform the student of the College's commitment to protections against sex discrimination and the process of how to file a complaint for alleged sex discrimination, harassment or retaliation. The Title IX Coordinator will inform the student of the College's obligations to allow access, on a voluntary basis, to any separate and comparable portion of the College's education program or activity and to treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

Reasonable Modifications for Students

Students experiencing pregnancy and related conditions are entitled to Reasonable Modifications to ensure equal access to education programs and activities. These may include changes to schedules, assignments, and course requirements. Any student seeking reasonable modifications must contact the Title IX Coordinator to discuss appropriate and available reasonable modifications based on their individual needs.

The College will, upon learning of the student's pregnancy or related condition, provide the option of individualized, reasonable modifications, upon request and as needed, to its policies, practices and procedures, in order to ensure equal access to the College's education program or activity. The student can accept or decline any such reasonable modifications offered by the College. Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including

eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures determined by the Title IX Coordinator and/or other College officials. Modifications will be determined based on individual needs and may include alternative paths to completion for clinical rotations, performances, labs, and group work. In progressive curricular and cohort-model programs, medically necessary leaves may allow students to shift course order or join subsequent cohorts. Modifications to accommodate pregnancy or related conditions are not considered reasonable if they fundamentally alter the nature of the education program or activity.

The College will not require supporting medical documentation from a student for modifications or leaves of absence, unless doing so is necessary and reasonable to determine and provide such modifications or leaves of absence. Information about pregnant students' requests for modifications will be kept private and shared with faculty and staff only to the extent necessary to provide the reasonable modification.

Leaves of Absence

The College will allow students a voluntary leave of absence for a reasonable time, at minimum, the time period deemed medically necessary by their healthcare provider because of pregnancy. The leave term may be extended in the case of extenuating circumstances or medical necessity. To the extent possible, the College will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave. Scholarship and funding continuation will depend on the student's registration status and funding program policies. The College will advocate for students with financial aid agencies and external scholarship providers if a leave affects eligibility. In order to initiate a leave of absence, the student must contact the Title IX Coordinator at least thirty (30) calendar days prior to the anticipated start of leave, or as soon as practicable. The Title IX Coordinator will assist the student with completing any necessary paperwork.

Employees are extended similar rights to modifications and accommodations due to pregnancy and related conditions. Information on employment leave can be found here: [Hilbert Employee Handbook](#). If an employee is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related-condition leave under Title IX. Employees taking Title IX leave must be reinstated to their original or comparable position without negative effects on employment privileges or rights.

To the extent that an individual's pregnancy or pregnancy-related conditions qualify as a temporary disability under applicable federal and/or state law, they will be eligible for reasonable accommodations like any other person with a temporary disability. The Title IX Coordinator will consult with accessibility services to ensure the student receives reasonable accommodations for their disability as required by law.

Rights of Employees to Express Breast Milk

Employees, including student-employees, have the right to express breast milk in the workplace. Under Section 206-c of the New York Labor Law, employees are, for up to three years following childbirth, entitled to thirty (30) minutes of paid break time to express breast milk when the employee has a reasonable need to express breast milk at work. The College will not deduct an employee's paid break time for breast milk expression from their regular paid break or meal time. Employees can choose to take breast milk expression breaks before or after their regularly scheduled paid break or meal periods. Employees can access additional information by contacting the College's Human Resources Director.

Lactation Space Access

Hilbert College provides students and employees with access to functional, appropriate, and safe lactation space. This space is regularly cleaned, shielded from view, and free from intrusion. Lactation space is located in **Bogel Hall Room 130**.

Employees wishing to request a lactation room must provide reasonable advance notice to the College. If an employee's request for a lactation room poses an undue hardship, College officials will engage in a cooperative dialogue with the employee.

INFORMAL RESOLUTION

In some cases, an informal resolution may be appropriate. Informal resolution may occur prior to, after, or without the filing of a complaint. Informal resolutions may occur in the place of a formal grievance process only with voluntary, informed and written consent by both parties and approval by the Title IX Coordinator. The Parties may voluntarily elect to enter Hilbert College's information resolution process at any time through an informed written consent. No Party may be required to participate in informal resolution, and Hilbert College may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

An informal resolution may take the form of mediation in which a designated third-party explores whether the parties can agree on a resolution of an incident. Informal resolution must be agreed upon by both parties, and the Title IX Coordinator must agree that informal resolution is appropriate. The Title IX Coordinator will consider various factors to determine whether information resolution is appropriate, including, but not limited to, the gravity of the allegations, the nature of the relationship between the parties, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent has been found responsible for violation of this policy in the past, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. One objective of the Informal Resolution is to provide the parties an opportunity to hear each other's concerns and address them as collaboratively and usefully for the parties as possible, with the assistance of the facilitator. Either party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

In cases where the Title IX Coordinator determines that informal resolution may be appropriate, the Title IX Coordinator will first consult with the reporting party/complainant about the option to pursue informal resolution. If the reporting party/complainant is agreeable, then the Title IX Coordinator will consult with the responding party to discuss the process. No party should feel intimidated, coerced or threatened to participate in an Informal Resolution Process, or to withdraw from an Informal Resolution

Process. If informal resolution is approved, the Title IX Coordinator shall also provide the information of the facilitator in writing to the Parties in a reasonable timeframe once the facilitator is assigned. A facilitator must not be the same person as the investigator or decisionmaker in Hilbert College's Grievance Procedures. Any person designated to facilitate informal resolution will also be free of any conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The facilitator of the informal resolution process will be screened to ensure that such person is free from conflicts of interest and bias. The facilitator's role is to conduct the Informal Resolution process in a way that is impartial and does not favor one party over the other. The College encourages terms of resolution that meet the parties' needs, and those may include a disciplinary sanction.

Prior to the initiation of the informal resolution process, the Title IX Coordinator will provide to the parties a written notice that explains: a) the allegations; b) the requirements of the informal resolution process; c) that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the College's formal grievance process; d) that the parties' voluntary, written consent to agree to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming the formal grievance process arising from the same allegations; e) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and f) what information the College will maintain and whether and how the College could disclose such information for use in its formal grievance process if it is initiated or resumed.

Supportive measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue to recur within Hilbert College.

The parties may, but will not be required to, meet together as part of any informal resolution. The facilitator may meet separately with each party to explore the party's views about the allegations and desired outcome from the process. Either party can elect to have any meeting occur so that the parties are in different rooms and the facilitator "shuttles" between the parties. For the Informal Resolution process to have the best chance for success, the parties should be free to express themselves. In entering the informal resolution process, the Parties agree that any testimony and evidence they share or receive during the informal resolution process concerning the allegations of the complaint are confidential while the Parties participate in the informal resolution process. As a result, the information received from both parties during the Informal Resolution process will be kept confidential by the facilitator. In addition, the facilitator will not be available as a witness in any hearing that may occur should either party terminate the Informal Resolution process before a resolution. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization.

At any time during the informal resolution process the Complainant or the Respondent has the right to elect to terminate the process before the final written resolution is signed. If the Informal Resolution process is terminated, the complaint will proceed to the formal grievance process involving an investigation and formal resolution process. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and

only reinstate upon reentry into the Grievance Procedure. Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the formal Grievance Process, provided that this information is disclosed and reviewed by the Parties during the course of the investigation.

If the informal resolution results in an agreement, and if this agreement is acceptable to the Title IX Coordinator, the informal resolution will be considered successful and the complaint will be deemed resolved. The facilitator will draft a document reflecting the agreement between the parties that becomes final once it is signed by both parties. Once both parties have signed a statement agreeing that the informal resolution was successful, the matter will be considered resolved without the need for further investigation and/or to pursue the formal grievance and hearing process. After a written resolution has been finalized, the College will keep a record of the parties' written consent to the Informal Resolution process and the written resolution. If the informal resolution does not result in a mutual agreement, the matter will proceed to the formal investigation and adjudication process.

COLLEGE'S FORMAL GRIEVANCE PROCESS

The College has adopted grievance procedures that provide for the prompt and equitable resolution of complaints alleging sex discrimination, sex-based harassment or any other conduct prohibited under this policy. A grievance process includes an investigation and adjudication process. The outcome of a grievance process is that the person accused is found either Responsible or Not Responsible for having committed a violation of this Policy. A violation results in appropriate sanctions and other remedies to address the violation. Under the College's grievance process, all reporting parties and responding parties will be treated equitably. The process is designed to preserve or restore equal access to all of the College's education programs and activities.

In cases involving allegations against a non-community member (e.g., a visitor, vendor, etc.) the case will be referred to the Human Resources Department who will work with the appropriate individuals (such as the Director of Campus Safety) and make a final determination regarding remedies, including, if appropriate, the imposition of action such as banning the non-community member from College property or other appropriate responsive measures.

The Grievance Procedures set forth below in this Policy are applicable to all complaints of sex-based harassment involving a student as a party (whether the student is a Complainant and/or Respondent), as well as complaints of sex discrimination or other prohibited conduct in which a student is a party.

Investigation

The College will conduct an investigation of the conduct alleged to constitute a violation of this Policy in a reasonably prompt timeframe. An investigation may occur because the Complainant files a complaint and wishes to proceed with the investigation and adjudication process or because the College determines that it is necessary, despite the wishes of the Reporting Party, to pursue a complaint. The Title IX Coordinator may determine that cases where the allegations arise out of the same set of facts should be consolidated for purposes of the investigation and/or adjudication. Instances where consolidation of complaints may occur include but are not limited to cross-complaints filed by the parties against each other, multiple complaints by a single complainant against a respondent or multiple complaints by a single complainant against multiple respondents. The College will endeavor to complete the investigation within forty (40) calendar days, but this time may be extended for good causes, such as witness unavailability, breaks in academic schedule, or other similar circumstances.

A Complaint alleging Prohibited Conduct under this Policy will be investigated by an Investigator appointed by the Title IX Coordinator. In certain cases, the College may engage trained individuals from outside the College, who may or may not be attorneys, to conduct the investigation. Similarly in certain cases, the Title IX Coordinator may deem it appropriate to assign a team of two investigators to conduct the investigation. The Complainant and Respondent will be provided with notice of the name of the assigned investigator(s) and an opportunity of not more than two (2) days after the notice to raise an objection to the investigator(s) based on any alleged conflict of interest known to the party. If an objection is raised, the Title IX Coordinator will determine whether a conflict of interest in fact exists and necessitates the replacement of the investigator(s).

The Complainant and Respondent will be permitted an equal opportunity to present information in the context of the investigation and to request that witnesses having relevant information be included in the investigation process. This includes the opportunity to present fact and/or expert witnesses and other evidence that the party believes tends to prove or disprove the allegations. Generally, the College does not provide for character witnesses in other proceedings and they will not be permitted in investigations and the grievance processes conducted pursuant to this Policy. At all times, the burden of gathering evidence remains with the College. The Investigator retains discretion to determine the order and method of investigation and what, if any, witnesses will be interviewed as part of the investigatory process. The investigator may decline to interview any witness or to gather information the investigator finds to be not relevant or otherwise impermissible. No unauthorized recordings will be allowed in any meetings or investigative interviews. To the extent the investigator(s) elect to audio and/or video record interviews, all parties involved in the meeting or interview will be made aware that audio and/or video recording is occurring.

Advisors of Choice

The parties will be informed that they may bring an advisor of choice (who may be but is not required to be an attorney) to the investigatory interview, but only for supportive purposes. The advisor may not speak for the party and may not direct questions to the Investigator, but may consult with the party that he or she is assisting. The Investigator will not allow an advisor's presence to inhibit the parties' sharing of information or the conduct of the interviews. Witnesses are not permitted to bring advisors to investigative interviews.

Notice of Allegations

The Complainant and Respondent shall receive a Notice of Allegations. The Notice of Allegations will include the following:

- Notice of the College's Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Policy and a hyperlink to a copy of the policy;
- The violation(s) of this policy alleged to have been committed and the range of possible disciplinary sanctions and remedies following any determination of responsibility.
- To the extent known: the date, time, location and factual allegations concerning the alleged violation; the policy provisions allegedly violated; a description of the investigation and adjudication process; and potential sanctions;
- A statement that the party has the right to an advisor of their choice, who may be, but is not

required to be, an attorney;

- A statement that the responding party is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- A statement that the parties may inspect and review evidence obtained as part of the investigation in accordance with this policy;
- Notice that knowingly making false statements or knowingly submitting false information is prohibited under the Code of Student Conduct; and
- A statement about the College's policy on retaliation.

The parties will receive the Notice of Allegations with sufficient time to prepare a response before any interview. If, in the course of the investigation, the College decides to investigate allegations that are not included in the Notice of Allegations, the Title IX Coordinator or designee will provide notice of the additional allegations to the parties. To the extent the Title IX Coordinator has reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Title IX Coordinator may reasonably delay providing the Notice in order to address the safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not on mere speculation or stereotypes. In any event, the parties will receive the Notice of Allegations with sufficient time to prepare a response before any initial interview.

In addition to the Notice of Allegations, the College will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of any hearing, meeting or interview with sufficient time for the party to prepare to participate.

Evidence Collection and Review:

During the course of the investigation, both the reporting party and responding party have the right to present relevant, not impermissible inculpatory and exculpatory evidence.

Opportunity for Inspection and Review of Evidence

The Complainant and Respondent will be provided an equal opportunity to inspect and review any relevant and not impermissible evidence gathered in the investigation regardless of whether the information will be relied on in reaching a determination. Prior to the conclusion of the investigative report, the Complainant and Respondent, and each party's advisor of choice, if any, will be provided a copy (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform) of the evidence, subject to redaction permitted and/or required by law. The parties and their advisors may not make photocopies or take photographs of the materials and are prohibited from disseminating any of the materials subject to inspection and review to any individuals outside of those engaged in the grievance process. The Complainant and Respondent will be provided with at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report. The investigator will determine if additional investigation is necessary and, if so, will complete any additional investigative steps.

Investigative Report

At the conclusion of the investigation, the investigator will complete a written investigative report that fairly summarizes the relevant and not impermissible evidence. The investigative report shall contain,

among other things, a copy of any written statement submitted by the Complainant, Respondent, and/or witnesses as well as a written summary of the statements or reports provided to the investigator. The investigator will submit the investigative report to the Title IX Coordinator. The Complainant and Respondent, and each party's advisor if any, will be provided a copy of the investigative report (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform), subject to redaction permitted and/or required by law. The Complainant and Respondent will have 10 days to review and, if desired, to respond to the report.

Adjudication/Decisionmaking Process

A hearing before a three-member Hearing Panel designated by the Title IX Coordinator will be convened not less than ten days after the parties have been provided access to the final investigative report, for the purpose of determining whether the Respondent is responsible or not responsible for the charge(s). The Hearing Panel members may be members of the campus community or may be external to the College, as determined by the Title IX Coordinator. The Title IX Coordinator will notify the parties in writing of the date, time, and location of the hearing, the names of the Hearing Panel members, and how to challenge participation by any Hearing Panel member for bias or conflict of interest. Bias or conflict of interest will be judged by an objective standard (whether a reasonable person would conclude the decision maker is biased). Participants in the hearing will include the members of the Hearing Panel, the Complainant and the Respondent, their respective advisors, the investigators who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability. Cell phones and recording devices may not be used by the parties or their advisors in the hearing room(s) and/or process.

Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling the Hearing Panel and the parties to simultaneously see and hear any party or witness providing information or answering questions. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence. The Title IX Coordinator may postpone the hearing for good cause as determined by the Title IX Coordinator. Good cause may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

The Chair of the Hearing Panel is in charge of organizing the presentation of information to be considered at the hearing. Generally, the hearing will proceed in the following order:

1. Opportunity for Opening Statement by the Complainant
2. Opportunity for Opening Statement by the Respondent
3. Questions for the investigators by the Hearing Panel and, if desired, on behalf of Complainant and the Respondent (as described below)
4. Questions for the Complainant by the Hearing Panel and, if desired, on behalf of the Respondent (as described below)

5. Questions for the Respondent by the Hearing Panel and, if desired, on behalf of the Complainant (as described below)
6. Questions for each witness by the Hearing Panel and, if desired, on behalf of Complainant and the Respondent (as described below)
7. Opportunity for Closing Statement by the Respondent
8. Opportunity for Closing Statement by the Complainant

Formal rules of evidence will not apply. Except as otherwise expressly prohibited by this Policy, any information that the Chair of the Hearing Panel determines is relevant and not impermissible may be considered, including hearsay and/or history and information indicating a pattern of behavior. All evidence previously made available to the parties for inspection and review prior to completion of the investigative report as described above will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of questioning. Absent extraordinary circumstances as determined by the Chair of the Hearing Panel, no party may seek to introduce at the hearing any evidence not previously made available in accordance with the preceding sentence, other than the investigative report itself and any responses to the investigative report submitted by the parties as described above.

The Chair of the Hearing Panel will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant and/or impermissible information. Subject to the terms of this Policy, the Chair will have discretionary authority to determine all questions of procedure, to determine whether particular questions, evidence or information will be accepted or considered, to call breaks or temporary adjournments of the hearing, and/or to recall parties or witnesses for additional questions as the Chair deems necessary or appropriate. The Chair may impose additional ground rules as the Chair may deem necessary or appropriate for the orderly and efficient conduct of the hearing, which will apply equally to both parties.

Questioning by the Chair and Hearing Panel

The Chair of the Hearing Panel will facilitate questioning of the parties and any witnesses and will limit such questions to relevant and not impermissible questions and follow-up questions, including those challenging credibility.

Questions on Behalf of the Parties

The parties are not permitted to conduct direct questioning of the other party or witnesses during the hearing. The Hearing Panel Chair will allow each party to propose questions that the party wants asked of the other party or any witness. The Chair will screen each submitted proposed question in order to determine if it is relevant and not impermissible before it will be asked. The Chair will explain any decision to exclude a question as not relevant or otherwise impermissible. Such decisions by the Chair are final and not subject to objection or reconsideration during the hearing. The Chair will also not permit questions that are unclear and/or harassing of the party or witness being questioned. If the Chair determines that a question submitted by a party is unclear or harassing, the Chair will allow for the question to be clarified or revised. If the question is sufficiently clarified or revised so that it is no longer unclear or harassing, the question will be asked. All questions must be directed toward and asked through the Chair. The Chair will pose all submitted questions deemed relevant and not impermissible,

including those challenging credibility to the extent credibility is both disputed and relevant to evaluating one or more allegation under this Policy.

Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation. Any party or student witness may choose not to offer evidence and/or answer questions at the hearing. If a party or witness does not submit to some or all questioning at the hearing that are requested to be asked by a party as described above, the Hearing Panel may choose to place less or no weight upon statements by the party or witness. The Hearing Panel will not draw an inference as to responsibility based solely on a party's or witness's absence from the hearing or refusal to answer some or all questions.

The hearing will be recorded through either an audio recording or transcript. That recording or transcript will be made available to the parties, upon request, for inspection and review. Prior to obtaining access to the recording or transcript, the parties and their advisors must acknowledge in writing that they will not disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the grievance process.

Advisors

The Complainant and the Respondent may each have present with them during the hearing an advisor of their choice (at the party's expense, if the advisor is a paid advisor). The advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, address the Hearing Panel during the hearing, pose questions to the other party or witnesses, object to any aspect of the proceeding, or disrupt the hearing in any way. Any consultation with the advisee while the hearing is in progress must be done in a quiet nondisruptive manner or in writing. The advisor may consult with the advisee verbally outside the hearing during breaks, when such breaks are granted by the Chair of the Hearing Panel. If the Chair determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor. Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation. The Hearing Panel may be advised by and/or consult with the College's legal counsel as the Chair of the Hearing Panel deems necessary or appropriate.

Hearing Determinations

Following conclusion of the hearing, the Hearing Panel will deliberate and render a determination by majority vote as to whether the Respondent is responsible or not responsible for the alleged violation(s). The Hearing Panel will use "preponderance of the evidence" as the standard of proof to determine whether each alleged violation of the Policy occurred. "Preponderance of the evidence" means that the Hearing Panel must determine whether, based on the evidence presented, it is more likely than not that the Respondent engaged in the conduct charged.

In any case where a student is a Respondent or Complainant, each party may submit a written personal impact statement to the Title IX Coordinator for consideration by the Hearing Panel in determining an appropriate sanction if (and only if) there is a finding of responsibility on one or more of the charges. The parties must submit their statements to the Title IX Coordinator within 24 hours after the conclusion of the hearing. The Title IX Coordinator will provide each of the parties an opportunity to review any statement submitted by the other party.

In addition to the impact statement(s), if applicable and if any, factors considered when determining sanctions may include:

- the nature and severity of, and circumstances surrounding, the violation(s); the Respondent's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.);
- the Respondent's previous disciplinary history;
- per New York state law, past findings of domestic violence, dating violence, stalking or sexual assault may be admissible in the disciplinary stage that determines sanction.
- the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct;
- the need to remedy the effects of the conduct on the Complainant and/or the community;
- the impact of potential sanctions on the Respondent;
- sanctions imposed by the College in other matters involving comparable conduct; and
- any other lawful factors deemed relevant by the Hearing Panel.

The Hearing Panel will issue a written determination as to whether the Respondent is responsible or not responsible for the alleged violation(s). A written determination addressing responsibility for each of the allegations will be communicated to the Parties in writing, simultaneously. The written determination will include:

- A description of the alleged sex discrimination, sex-based harassment or other alleged charges that were adjudicated by the Hearing Panel,
- Information about the policies and procedures that Hilbert College used to evaluate the allegations
- A description of the procedural steps taken from the submission of the complaint through the determination, including notifications to the parties, interviews with parties and witnesses, methods used to gather other evidence, and hearing held;
- Findings of facts supporting the Hearing Panel's determination, including evaluation of the relevant evidence with respect to each charge of alleged conduct prohibited under this policy;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility,
- Any disciplinary sanctions Hilbert College will impose on the Respondent and whether remedies other than the imposition of disciplinary sanctions will be provided by Hilbert College to the Complainant, if there is a finding that a violation of this Policy occurred; and
- Hilbert College's procedures for Complainant and Respondent to appeal.

The Hearing Panel will provide the written determination to the parties simultaneously.

The Complainant and Respondent have the right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

Sanctions/Discipline

A student or College employee found to have engaged in conduct prohibited by this Policy is subject to a range of sanctions depending on the circumstances of each case.

Potential outcomes include but are not limited to the following:

- **Warning:** A formal statement that the behavior was unacceptable and that further infractions of any College policy, procedure, or directive may result in more severe disciplinary action.
- **Probation:** A written reprimand for violation of the Policy, providing for more severe disciplinary sanctions in the event that the Respondent is found in violation of any College policy, procedure, or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified privileges, exclusion from extracurricular activities, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Cessation of student or employment status for a definite period of time and/or until specific criteria are met.
- **Expulsion/Termination:** Permanent termination of student status or employment.
- **Withholding Degree and/or Diploma:** The College may withhold a student's degree and/or diploma for a specified period of time and/or deny a student participation in commencement activities.
- **Other Actions:** In addition to or in place of the above sanctions, a decisionmaker may assign any other sanctions as deemed appropriate, including but not limited to the following:
 - Mandated counseling so the Respondent has the opportunity to gain more insight into their behavior.
 - A "no contact" directive (including but not limited to continuation of a no contact directive imposed as a supportive measure) prohibiting contact with one or more identified persons, in person or through telephonic, electronic, written or other means. A no contact directive may include additional restrictions and terms.
 - Requiring the Respondent to write a letter of apology.
 - Requiring unpaid service to the campus or local community stated in terms of type and hours of service.
 - Restitution for damage to or misappropriation of property, or for personal injury, and other related costs.
 - Loss, revocation or restriction of housing privileges (e.g., exclusion from specified locations or alteration of status in the housing lottery or other selection system).
 - Monetary fines.

APPEALS

In all cases (except when a vendor, visitor, or other non-community member does not have a right to appeal), a Complainant or Respondent may appeal: (1) a determination resulting from a formal hearing, and (2) the College's dismissal of a complaint or any allegations therein. If a party wishes to appeal a determination, the party must submit written notice to the Title IX Coordinator of the party's intent to appeal within three (3) days of receiving the written notification of the decision or dismissal, indicating the grounds for appeal. In any case where the Respondent is a college employee the appeal shall be

submitted to a single Appeal Officer designated by the Title IX Coordinator, and the Appeal Officer's decision shall be final. Appeals in cases in which the Respondent is a student shall be submitted to an Appellate Panel comprised of two appeal panel members designated by the Title IX Coordinator. Sanctions are stayed pending the outcome of the appeal.

Any party may appeal on the bases of one or more of the following grounds:

- Procedural irregularity that would change the outcome;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that would change the determination regarding responsibility or dismissal of the matter;
- The Title IX Coordinator, investigator(s), or Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome. The professional experience of an individual need not disqualify the person from the ability to serve impartially. Furthermore, bias is not demonstrated by working in complainants' or respondents' rights organization.
- Any sanction imposed is disproportionate to the nature or severity of the violation(s) or otherwise inappropriate.

When a party submits a written notice of its intent to appeal to the Title IX Coordinator within three (3) days of the appealable decision, the College will notify the other party in writing and implement appeal procedures equally for both parties. If no written notice of either party's intent to appeal is sent, then the written determination becomes final after the time period to file an appeal (3 days) has expired.

Each party will be given a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. Each party will have at least three (3) days to submit its written appeal statement. If a party needs additional time, it can request such additional time from the decisionmaker for the appeal. Such requests will be granted on a case-by-case basis. If the decisionmaker for the appeal grants a request for additional time to submit a written statement, all parties will be granted the additional time. The decisionmaker for the appeal will not be the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator. Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

An appeal may be granted or denied. The decisionmaker for the appeal (i.e., an Appeal Officer or Appellate Panel) will issue a written decision describing the result of the appeal and the rationale for the result. This decision will be provided to both parties simultaneously and in writing. Once an appeal is decided, the outcome is final and constitutes the Final Determination.

Transcript Notations

For those crimes of violence that the College is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a formal grievance process and appeal, if any, shall include the following notation (as applicable):

- "Suspended after a finding of responsibility for a code of conduct violation";
- "Expelled after a finding of responsibility for a code of conduct violation".

Students withdrawing from the College during an investigation, or any time prior to the completion of the grievance process (including an appeal process), with respect to allegations of said violations, and does not participate through completion in any College process, will have the following noted on the transcript: “Withdrew with conduct charges pending.”

A student may request that the College remove a transcript notation for suspension, no earlier than one year after the conclusion of the suspension. The College will review the request and decide, in its sole discretion, whether the notation will be removed. Transcript notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

APPLICATION TO FACULTY AND STAFF

One or more of the College’s personnel policies or faculty and staff handbook policies may overlap with this policy in a particular situation. This policy applies to any situation where a student is the complainant or respondent. In all other situations, the College reserves the right to apply this policy or another applicable College policy or process. The sanctions that may be imposed upon faculty and staff for violations of this policy include, but are not limited to, written warning, a period of unpaid suspension, and termination of employment. The College will apply this policy to any situation where the College determines that Title IX requires the application of this policy.

ACADEMIC FREEDOM

The College is an academic institution at which academic freedom possessed by those who are teaching/conducting research and their students is necessary and valued. The College will not construe this policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

TIME FRAME FOR RESOLUTION

Hilbert College seeks to resolve Complaints in a timely manner. The College will endeavor to complete a review, investigate, and adjudicate Complaints within a reasonable time period, generally not more than one hundred and twenty (120) calendar days from receipt of the Complaint. Specific stages of the process will generally proceed within the following time frames: Initial Intake and review of Complaint: 5 days; Investigation: 40 days; Evidence Review and Investigative Report Review/Response: 30 days; Adjudication/Hearing Determination: 30 days; Appeal Process: 15 days.

Any time frames included in this policy may vary depending on the details of the reported situation and, in some cases, extenuating circumstances that may require an extension of the time frames. Extenuating circumstances may include the time of the academic year (e.g., during College breaks or final exams), the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation by local law enforcement, or other unforeseen circumstances. In the event that the investigation and resolution is delayed, Hilbert will notify the Complainant and Respondent of the reason(s) for the delay and the expected adjustment in the time frame.

SEXUAL VIOLENCE PREVENTION PROGRAMS

Hilbert College officials, including the Dean of Students, the Director of Counseling, the Director of Residence Life, and the Director of Campus Safety, work together to develop educational programs related to promoting awareness of personal safety and campus security specifically focused on sexual assault, domestic violence, dating violence, and stalking.

The campus education programs are intended to address the following: 1) Providing information during student orientation about rape and sexual assault, domestic and dating violence and stalking, including primary prevention; 2) Distributing educational information on definitions of sexual assault and possible penalties for assailants, including guidelines on how to avoid sexual assault; 3) Providing educational programs as part of curricular and co-curricular activities; 4) Providing information for on-campus and off-campus support services.

The Campus Safety and Security Committee, which is comprised of students, faculty, and administrative staff, is charged with the responsibility for reviewing and drafting appropriate policies in the area of personal safety, including rape and sexual assault.

Generally, information disclosed at public events and in climate surveys does not obligate the College to begin an investigation. For example, this includes information shared during public awareness events, such as “Take Back the Night” or a candlelight vigil. The College may, however, use the information to inform the need for additional education and prevention efforts.

REPORTING WORKPLACE SEXUAL HARASSMENT

In compliance with New York State law, sexual harassment, when committed by an employee, is considered a form of employee misconduct. With respect to sexual harassment of employees, any College supervisor or manager who receives a complaint or information about workplace sexual harassment is required to take appropriate action. Appropriate action may include immediately intervening if harassment is witnessed by the supervisor or manager, and in all instances includes reporting the situation to the Title IX Coordinator. In addition to being subject to discipline if they themselves engage in sexually harassing conduct or retaliation, individuals with supervisory authority over other College employees will be subject to discipline for knowingly allowing sexual harassment to continue. A reporting form is available online on the College’s website that employees may use, if they wish, to submit a report of workplace sexual harassment.

DISABILITY ACCOMMODATIONS

This procedure does not alter any institutional obligations under applicable federal state, and/or local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedures. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities. If the Complainant or Respondent discloses a disability, the Title IX Coordinator may consult, as appropriate, with Hilbert’s Disability Coordinator to provide support to students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

CLERY ACT COMPLIANCE

Hilbert College is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, Hilbert

will issue a timely warning to the campus community. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the Reporting Party will not be disclosed.

CAMPUS SEX CRIMES PREVENTION ACT

In accordance with federal law, Hilbert College maintains a registry of sex offenders living or working on campus which is available to students, faculty, and staff. The registry is located in the Office of Campus Safety.

DESIGNATION OF AUTHORITY AND COLLEGE COUNSEL

Any person assigned a role pursuant to this policy may designate their authority to another appropriate person to avoid conflicts of interest or in other circumstances, as deemed necessary.

Any College administrator or official involved in implementing this policy may seek the advice of the College's legal counsel, to be coordinated through the Title IX Coordinator.

COORDINATION WITH OTHER POLICIES

A particular situation may potentially invoke one or more College policies or processes. Hilbert College reserves the right to determine the most applicable policy or process and to utilize that policy or process.

RECORD RETENTION.

Hilbert College will create and maintain for not less than seven years the following records:

- Each investigation pursuant to this Policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript made in connection with a formal resolution, any disciplinary sanctions imposed on the Respondent and any remedies provided to the Complainant or other affected individuals designed to restore or preserve equal access to the College's education program or activity;
- Any appeal and result therefrom; and
- Any informal resolution and the result therefrom.

Hilbert College will also keep for not less than seven years records regarding the response to every report of sex-based harassment or other conduct prohibited under this Policy of which it becomes aware, even if no complaint was filed, including documentation of any supportive measures offered and implemented. If the College does not provide a party with requested supportive measures, then the College will document the reasons for that decision. In each instance, the College will document the reason for actions taken or not taken, and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity. The College will also maintain for not less than seven years records of all materials used to train the Title IX Coordinator, Deputy Title IX Coordinators, investigators, decisionmakers, persons who facilitate an informal resolution process, and persons responsible for considering appeals. The College will make these training materials available for inspection by members of the public on request.

STUDENTS' BILL OF RIGHTS IN CASES INVOLVING SEXUAL ASSAULT, DOMESTIC/DATING VIOLENCE, AND STALKING

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial process and or criminal justice process free from pressure by Hilbert College;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by Hilbert College, any student, the Accused and/or the Respondent, and/or their friends, family, and acquaintances within the jurisdiction of Hilbert;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a Reporting Individual or Complainant, Accused, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial process of Hilbert College.

RIGHTS IN CASES INVOLVING SEXUAL ASSAULT, DOMESTIC/DATING VIOLENCE AND STALKING

Anyone reporting an incident of sexual assault, domestic or dating violence or stalking has the right to:

- Notify Campus Safety, Local Law Enforcement or the New York State Police.
- Emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including:
 - Options to proceed, including the right to make a report to Campus Safety (reports to Campus Safety are reported to the Title IX Coordinator), Local Law Enforcement, and/or the New York State Police or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College, as set out in Hilbert College's Sexual Misconduct Policy.
 - Where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible.

- That the criminal justice process utilizes different standards of proof and evidence than the College's misconduct procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
- Whether the person they are reporting to is authorized to offer confidentiality or privacy;
- Any other reporting options.
- If they are a student, to contact the College's Wellness Center and/or Counseling Center, where they may be offered confidential resources pursuant to applicable laws and can be assisted in obtaining services for reporting individuals; or to contact non-College confidential resources, including the New York State Office of Victim Services at 1-800-247-8035 or <https://ovs.ny.gov>.
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to the College's Responsible Employees who can offer privacy or, in appropriate cases determined by the Title IX Coordinator, confidentiality, subject to the College's Sexual Misconduct Policy, and can assist in obtaining resources for reporting individuals;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College policy. A reporting individual's identity shall remain private if that is what the reporting individual wishes, however privacy is not the same as confidentiality and private information can be shared as necessary to implement and fulfill the College's obligations under the law and its policies and procedures;
- Disclose, if the accused is a College employee, the incident to Human Resources or to request that another employee assist in reporting to Human Resources;
- Receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court, such assistance to consist of facilitation in contacting appropriate local agencies who can provide direct assistance with court proceedings; and
- Withdraw a report or involvement from the College's processes at any time.

Policy Updated: October 1, 2024

This Policy will become effective on August 1, 2024