

Title IX Sexual Harassment Policy  
Date of implementation: August 12, 2020  
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I. Labouré Values and Purpose of Policy

A. Statement of Institutional Values

Labouré College of Healthcare (“Labouré” or the “College”) is committed to establishing and maintaining an educational and employment environment that is free from sexual harassment, as defined below. This policy governs investigations and determinations of claims of sexual harassment that would, if proven, constitute a violation of Title IX. Claims of sexual misconduct other than sexual harassment will be considered under the Labouré Sexual Misconduct Policy. Claims of sex discrimination that would not violate Title IX, if proven, will be considered under the College’s Non-Discrimination Policy.

Sexual harassment is a violation of a person’s rights, dignity, and integrity, and is contrary to the mission and values of the College. Acts of sexual harassment are strictly prohibited and will not be tolerated.

The College takes all sexual harassment seriously and is committed to providing information, education, resources, support, interim supportive measures, and direction to the Labouré community to prevent and address sexual harassment. In response to a Formal Complaint, as defined below, that a member of the Labouré community has engaged in sexual harassment, the College will take all appropriate steps to eliminate the harassment, prevent its recurrence, and address its effects. To achieve equitable results, the College will carefully review and/or investigate all Formal Complaints of sexual harassment with an earnest intent to understand the perspective and experiences of each individual involved, and to provide for fair and impartial evaluation and resolution.

The College is committed to establishing and maintaining an environment free of all forms of sexual harassment. Sexual harassment, as defined in this policy, is a form of sex discrimination that unjustly deprives a person of equal treatment. It is prohibited by Title IX of the Educational Amendments of 1971, a federal law that provides that:

No person in the United States shall, on the basis of sex, be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, Massachusetts General Laws Chapter 151B, and other applicable statutes. This policy prohibits sexual harassment committed by any Labouré community member, regardless of gender related status.

The College is committed to ensuring that any response to a Formal Complaint of sexual harassment will treat the Complainant(s) and the Respondent(s) equitably by providing remedies to the Complainant(s) and by following a grievance process compliant with the applicable federal regulations set forth in 34 C.F.R. §106.45. As such, the College is committed to the following principles in its investigations of Formal Complaints:

- A Respondent is presumed to be not responsible until/unless a determination has been made;
- The burden of proof and burden of gathering evidence sufficient to reach a determination rest on the College, not the Complainant and/or the Respondent;
- All relevant evidence will be evaluated objectively;
- Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness;
- The Complainant and the Respondent will have equal opportunities to present witnesses (fact and expert) and to present other inculpatory and exculpatory evidence;
- The Complainant and the Respondent are not restricted from discussing the allegations under investigation; and
- The Complainant and the Respondent will have equal opportunities to inspect and review any evidence.

## B. Purpose & Scope of Policy

The purpose of this policy is to provide the Labouré community with a clear set of behavioral standards, definitions, and descriptions of sexual harassment. The policy is intended to protect and guide Labouré community members who have been affected by sexual harassment, whether as a Complainant, a Respondent, or a third party.

When used in this policy, "Complainant" refers to those persons who have made a Formal Report to the College that they are alleged to have been the victim of conduct that could constitute sexual harassment. "Respondent" refers to those persons who have been identified in a Formal Report to be the perpetrator of conduct that could constitute sexual harassment. "Third party" refers to any other person with information concerning a Formal Complaint of prohibited conduct, including any witness to the incident or any individual who makes a report to the College concerning someone else. "Employee" refers generally to all staff and faculty members, unless otherwise specified. A "Formal Complaint" is a document filed and signed by a Complainant or by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation. At the time of the Formal Complaint, the

Complainant must be participating in or attempting to participate in the education program or activity of the College. “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or to any official who has authority to institute corrective measures on behalf of the College.

In addition to defining prohibited conduct relating to sexual harassment that violates the standards of our community, this policy will also:

- Identify resources for all Labouré community members who are impacted by conduct prohibited by this policy;
- Identify the College’s Title IX Coordinator and his/her/their role;
- Identify the roles of the Title IX Investigator(s) and Title IX Decision-maker(s).
- Provide information about where a Labouré community member can obtain confidential support and access resources without making a Formal Report to the College’s Title IX Coordinator;
- Provide information about how a Complainant can report an incident of sexual harassment to the College, to outside law enforcement, or to neither; and,
- Provide information about how a Formal Complaint of sexual harassment concerning a Labouré community member will be investigated, evaluated, and resolved by the College.

This policy applies to the behavior of all Labouré community members, including students, faculty, and staff, that occurs within the educational programs and activities sponsored by the College. All Labouré community members are responsible for their actions and behavior.

Any individual affiliated with the College may make a report of sexual harassment to the Title IX Coordinator. Only a Complainant who is affiliated with the College may make a Formal Complaint alleging a violation of this policy. The College will provide resource options and respond promptly and equitably to all Formal Complaints of sexual harassment involving a Labouré community member. The College will engage in a Title IX investigation during which it is committed to maintaining fairness for all parties and balancing the needs and interests of individuals with the safety of the community.

Violations of this policy may result in disciplinary action. Depending on the nature of the violation, disciplinary consequences for violations of this policy may include denial of privileges, written warnings, disciplinary probation, suspension, and expulsion for students, and may include warnings (verbal or written), demotions, suspensions, and termination for employees. In addition, the College community should be aware that the conduct described in this policy may also violate federal or state laws and regulations.

Labouré reserves the right to amend or modify this policy at any time.

II. Statement on Privacy, Confidential Resources, & Other Resources

A. Privacy & Confidentiality

The College is committed to respecting the privacy of all individuals involved in a Formal Complaint of sexual harassment. In any Title IX review of a Formal Complaint, every effort will be made to protect the privacy and interests of the individuals involved in a manner that is consistent with the need for a thorough review of the allegations of the Formal Complaint. Such a review is essential to protecting the safety of the Complainant, the Respondent, and the broader campus community, and to maintaining an environment free from sexual harassment.

At all times, the College will respect and safeguard the privacy of those involved in a Formal Complaint of sexual harassment, and information relating to such a Formal Complaint will be shared only with individuals who “need to know” in order to assist in the College’s Title IX investigation and/or resolution of the Formal Complaint. In some cases, the Complainant may wish to keep his/her/their identity or other aspects of an incident confidential or may request that the College not pursue a Title IX investigation. In such cases, the College must balance these requests against the College’s responsibility to provide a safe environment free from sexual harassment for all Labouré community members. This responsibility may require that the College disclose certain aspects of the Formal Complaint to the alleged perpetrator, law enforcement officials, or others with a need to know such information. The College will seek to respect the request of the Complainant and, where it cannot do so, it will consult with the Complainant and keep her/him/them informed about the chosen course of action.

When considering a request for confidentiality, the College’s Title IX Coordinator will determine the degree of confidentiality that can be afforded, taking into account a range of factors, including, but not limited to, the following:

- Whether the Respondent is alleged to have committed sexual harassment in the past;
- The risk that the Respondent will commit additional acts of sexual harassment;
- Whether the sexual harassment was perpetrated with a weapon;
- Whether the Complainant is a minor;
- Whether the College possesses other means of obtaining relevant evidence; and,
- Whether the Formal Complaint suggests a pattern of sexual harassment at a particular location or within a particular group.

If the College, having conducted a safety and risk analysis, concludes that a Formal Complaint of sexual harassment represents an immediate threat to the Labouré campus community, the College may issue a timely notice of the conduct to the Labouré community to protect the health or safety of the broader campus community. This notice will not contain any biographical or other identifying information of the Complainant.

All Title IX investigative and sanction proceedings, and all related notices or statements issued by the College, will comply with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, other applicable law, and College policy. No information shall be released from such proceedings by the College, except as required or permitted by law or College policy.

## B. Confidential Resources

Labouré encourages victims of sexual misconduct to talk with a trained counselor about the incident. If a member of the College community wishes to obtain confidential assistance through off-campus resources without making a Formal Complaint with the College, he/she/they may use the following Confidential Resources:

### Off-Campus Resources

### Contact Information

Boston Area Rape Crisis Center  
(BARCC):

99 Bishop Allen Drive  
Cambridge, MA 02139  
(800) 841-8371 (24 hour hotline)  
[www.barcc.org](http://www.barcc.org)

BARCC provides counseling, legal advice, and advocacy to help victims consider their options; medical advocates to accompany them to the hospital; and legal advocacy. All services are free and available to victims of sexual misconduct and their friends/family.

The Network/La Red:

PO Box 6011  
Boston, MA 02114  
(617) 742-4911  
<http://tnlr.org/en/>

Provides free advocacy, support, and safety planning for LGBTQ victims of domestic and dating violence.

REACH Beyond Domestic Violence:

PO Box 540024  
Waltham, MA 02454  
(800) 899-4000 (free hotline)  
(781) 891-0724 (office)  
[www.reachma.org](http://www.reachma.org)

Provides free safety planning, advocacy, 24-hour hotline staffed by domestic violence crisis counselors, and shelter and support services to victims of domestic and dating violence.

Fenway Health Center: 1340 Boylston Street  
Boston, MA 02215  
(617) 267-9001 (help line)  
(617) 267-0900  
[www.fenwayhealth.org](http://www.fenwayhealth.org)

Provides comprehensive health services for the LGBTQ community and beyond. Also provides support via the above help line.

Victim Rights Law Center: 115 Broad Street  
Boston, MA 02110  
(617) 399-6720  
[www.victimrights.org](http://www.victimrights.org)

Provides free lawyers to represent victims on court-ordered no contact orders, school-based complaints, immigration, and other legal matters related to sexual assault and violence. Assistance is available in both English and Spanish.

The organizations identified above are available to offer support services and are able, if requested, to maintain the confidentiality of the victim's identity. If confidentiality is a concern, the victim should clarify the extent to which information should be kept confidential before disclosing information about the incident.

### C. Campus Resources

In addition to the Confidential Resources listed above, all Labouré community members have access to a variety of resources provided by the College that can provide crisis intervention services, counseling, and academic support. All of the staff listed below are trained to support individuals affected by sexual harassment and to coordinate with the Title IX Coordinator consistent with the College's commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will nevertheless maintain the privacy of an individual's information within the limited circle of those involved in the Title IX resolution process.

Matthew Gregory  
Assistant Vice President of Student Affairs and Title IX Coordinator  
Labouré College of Healthcare  
303 Adams Street  
Office C128  
Milton, MA 02186  
617-322-3506

[Matthew\\_Gregory@laboure.edu](mailto:Matthew_Gregory@laboure.edu)

Labouré Office of Public Safety  
Labouré College of Healthcare  
303 Adams Street  
Office C115  
Milton, MA 02186  
617-322-3571

D. Administrative Resources

Various administrative agencies can provide resources and legal assistance for victims of sexual harassment. Some agencies in the local Boston-area community include:

Massachusetts Commission Against Discrimination (MCAD)  
John McCormack Building  
One Ashburton Place  
Sixth floor, Room 601  
Boston, MA 02108  
(617) 994-6000

The MCAD prohibits sexual harassment in the workplace. The statute of limitations for filing a complaint is 300 days from the last date of discrimination.

Equal Employment Opportunity Commission (EEOC)  
JFK Federal Building  
475 Government Center  
Boston, MA 02203  
(800) 669-4000

The EEOC prohibits sexual harassment in the workplace. The statute of limitations for filing a complaint is 300 days from the last date of discrimination.

U.S. Department of Education, Office for Civil Rights (OCR)  
5 Post Office Square, 8th floor  
Boston, MA 02109  
(617) 289-0111

For assistance related to civil rights, students may visit the Department of Education, Office for Civil Rights website at <http://wdcrobo.colp01.ed.gov/CFAPPS/OCR/contactus.cfm>, which provides information regarding the address and phone number of the OCR office that serves their area, or they may call 1-800-421-3481. While OCR complaints should generally be filed within 180 days

of the last date of the alleged discrimination, OCR may extend this filing deadline in a variety of circumstances.

III. Prohibited Conduct & Definitions

The College prohibits all forms of sexual harassment, as defined below. The College also prohibits retaliation relating to any Formal Complaint of sexual harassment.

A. Definition of Sexual Harassment

Under Title IX, sexual harassment is a form of unlawful sex discrimination and consists of three basic types:

1. **Quid Pro Quo Harassment:** Any action by a College employee in which submission to conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's education, grades, recommendations, or extra-curricular or employment opportunities.

2. **Unwelcome Conduct:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity.

3. **Sexual Assault, Dating Violence, or Stalking:** "Sexual assault" as defined in 20 U.S.C. §1092(f)(6)(A)(v), namely, "an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. "Dating violence" as defined in 34 U.S.C. § 12291(a)(1), namely, "violence committed by a person – (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) 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; and (iii) the frequency of interaction between the persons involved in the relationship." "Stalking" as defined in 34 U.S.C. § 12291(a)(30), namely, "engaging in a course of conduct directed at a specific person that would cause a reasonable person to- (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress."

In any type of sexual harassment noted above, the effect will be evaluated based on the standard of a reasonable person in the position of the Complainant.

B. Forms of Prohibited Sexual Harassment

In some cases, sexual harassment is obvious and may involve an overt action, a threat, or a reprisal. In other instances, sexual harassment is subtle and indirect, with a coercive aspect that is unstated.

Sexual harassment can take many forms, including but not limited to:

- It can occur between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to staff) or between persons of unequal power status (e.g., supervisor to subordinate, faculty member to student, student leader to first-year student). Although sexual harassment often occurs in the context of an exploitation of power by the individual with the greater power, a person who appears to have less power in a relationship can also commit sexual harassment (e.g., student harassing faculty member).
- It can be committed by an individual or may be a result of the collective actions of an organization or group.
- It can be committed against an individual, an organization, or a group.
- It can be committed by an acquaintance, a stranger, or someone with whom the Complainant has a personal, intimate, or sexual relationship.
- It can occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- It does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Examples of behavior that might be considered sexual harassment include, but are not limited to:

- Unwanted sexual innuendo, propositions, sexual attention or suggestive comments and gestures; unwanted indecent exposure towards another person; humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression; insults and threats based on sex, gender, gender identity, sexual orientation or gender expression; and other oral, written or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome;
- Unwelcome leering or whistling at another in a sexually suggestive manner;
- The creation, display, or distribution of sexually explicit drawings, pictures, or written materials; sexually charged name-calling; sexual rumors or ratings of sexual activity/performance; or the circulation, display, or creation of e-mails or websites of a sexual nature;
- Non-academic display or circulation of written materials or pictures degrading to an individual or gender group;

- Unwelcome and objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, or kissing, or brushing against an individual's body;
- Undue and unwanted sexual attention, such as repeated flirting, objectively inappropriate or repetitive compliments about clothing or physical attributes, sexual activities, or sexual prowess; objectively inappropriate inquiries into one's sexual activities; or making sexually oriented gestures;
- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex, gender identity, sexual orientation, or gender expression;
- Use of a position of power or authority to: (1) threaten or punish, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment; or (2) promise rewards in return for sexual favors;
- Sexual assault;
- Sexual Violence: Engaging in physical sexual acts with someone who has not given her/his/their consent or who is incapable of giving consent. This includes rape, sexual assault, battery, and sexual coercion. Sexual violence may involve individuals who are known to one another or have an intimate and/or sexual relationship (relationship violence), or may involve individuals not known to one another. Examples include, but are not limited to:
  - o Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact;
  - o Having or attempting to have sexual contact of any kind with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner; or,
  - o Knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge.
- Sexual exploitation: An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. The act(s) of sexual exploitation are prohibited even if the behavior does not constitute another sexual misconduct offense. Sexual exploitation may involve individuals who are known to one another, have an intimate or sexual

relationship, or may involve individuals not known to one another. Examples include, but are not limited to:

- o Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- o Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- o Photographing or taping someone (via audio, video, or otherwise) involved in sexual activity, sexual intercourse/penetration, or in a state of undress, without their knowledge or consent. Even if a person consented to the sexual activity or intercourse/penetration, photographing or taping someone without their knowledge goes beyond the boundaries of that consent. The dissemination of photographs or video/audio of someone involved in sexual activity, intercourse/penetration, or in a state of undress, without their knowledge or consent constitutes a separate and additional act of sexual exploitation;
- o Voyeurism, which is the act of observing someone involved in sexual contact/activity or in a state of undress, without their knowledge or consent;
- o Prostituting another individual; or
- o Inducing incapacitation for the purpose of making another person vulnerable to non-consensual activity.
- Stalking and intimidation: A course of conduct involving more than one instance of unwanted attention, harassment, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to alarm that individual or place him/her/them in fear of harm or injury, including physical, emotional, or psychological harm. This includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or make unwelcome contact with another person. Stalking and cyber-stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another. Prohibited sexual intimidation involves threats to commit unwanted physical contact against someone based on his/her/their sex or gender related status. Examples of stalking and intimidation include, but are not limited to:
  - o Unwelcome following or surveillance of another person;
  - o Unwelcome appearances at a person's home, work, or place of study;

- o Making/sending frequent and unwelcome phone calls, emails, or text messages to another person;
- o Leaving unwelcome written messages or objects for a person;
- o Making verbal or written threats to harm another based on their sex or gender-related status; or
- o Vandalizing a person's property.
- Relationship violence: Relationship violence is any intentionally violent or controlling behavior by a person who is currently or was previously in a relationship with the victim. Relationship violence can also involve domestic violence committed by a person with whom the Complainant shares a child and/or residence. Relationship violence includes actual or threatened physical injury, sexual assault, psychological abuse, economic control, and/or progressive social isolation. Relationship violence can occur in all types of relationships. Relationship violence can include, but is not limited to:
  - o physical abuse or violence;
  - o psychological/emotional abuse, such as demeaning or humiliating language and conduct;
  - o controlling/possessive behavior, including social and economic control (such as limiting access to funds or interfering with employment);
  - o making him/her/they feel like: he/she/they is walking on eggshells; he/she/they must call his/her/their friends in secret; he/she/they must dress in a certain way; or
  - o any sexual exploitation, as defined above, that arises in the context of a relationship.
- Abusive, disruptive, or harassing behavior, whether verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender related status and/or in the context of intimate partner violence;
- Demeaning verbal or other expressive behavior of a sexual or gendered nature in instructional settings; and
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping; harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived gender related status of the harasser or her/his/their target.

C. Additional Conduct Related to Sexual Harassment Prohibited by this Policy

**Aiding or Facilitating Sexual Harassment:** Aiding or facilitating sexual harassment means promoting or encouraging the commission of any behavior prohibited under this policy. Members of the Labouré community are prohibited both from personally engaging in sexual harassment, as well as from engaging in conduct that assists or encourages another person to engage in sexual harassment.

**Retaliation:** Retaliating or attempting to retaliate or seek retribution against a Complainant, Respondent, or any other individual or group of individuals involved in the investigation and/or resolution of a Formal Complaint of sexual harassment is prohibited. Retaliation can be committed by any individual or group of individuals, not just a Respondent or Complainant. Retaliation may include abuse or violence, other forms of harassment, and/or making defamatory statements about another person.

#### D. Consent, Coercion, & Incapacitation

Consent to sexual activity must be clear, knowing, and voluntary. Consent must exist from the beginning to the end of each instance of sexual activity and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to any other forms of sexual contact. Further, consent to engage in a particular sexual act at any given time is not indefinite or ongoing consent to engage in that same act, or any other sexual act, on other occasions. Mutually understandable consent must be obtained by the initiator, or the person who wants to engage in the specific sexual activity, at every stage of sexual interaction.

Consent requires an affirmative, outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Consent is mutually understandable when a reasonable person would consider the words and/or actions of the parties to have expressed a mutually understandable agreement between them to do the same thing, in the same way, at the same time, with one another. Relying on non-verbal communication can lead to misunderstandings. When in doubt, ask before acting.

A lack of consent may be indicated in a variety of ways. First, a verbal “no,” even if it sounds indecisive or insincere, must be accepted as a lack of consent. If consent is requested verbally, the absence of any explicit affirmative verbal response constitutes lack of consent. In addition, if at any time a person’s words, actions, or demeanor suggest hesitancy, confusion, or uncertainty about engaging in sexual activity, the parties should stop and obtain mutual verbal consent before continuing sexual activity.

Consent may NOT be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. In the absence of an outward demonstration, consent does not exist. If at any time it is reasonably apparent that either party is hesitant, confused, or uncertain, both parties should stop and obtain mutual verbal consent before continuing sexual activity. In

the absence of mutually understandable words or actions, it is the responsibility of the initiator to make sure that he/she/they have consent from his/her/their partner(s).

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs.

Consent may be withdrawn by either party at any time. Withdrawal of consent must also be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

In Massachusetts, consent can never be given by a minor under the age of 16.

Consent cannot be obtained from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact. Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, and severe and/or pervasive emotional intimidation that places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity. If sexual acts were preceded by threats or coercion, there is no consent.

Individuals of any age are considered incapacitated and unable to consent to sexual activity if they are not able to make rational, reasonable judgments. Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless. Individuals may be incapacitated and unable to consent to sexual activity due to drug or alcohol consumption, either voluntarily or involuntarily, or if the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. Individuals are incapacitated if they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication.

Some indicators of incapacitation may include, but are not limited to:

- lack of control over physical movements or equilibrium;
- lack of awareness of circumstances or surroundings;
- an inability to communicate coherently or other signs of confusion or disorientation; and
- vomiting and/or lack of consciousness.

An individual may experience a blackout state in which he/she/they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's

level of intoxication. The relevant standard that will be applied is whether the Respondent knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.

Alcohol or drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. However, being intoxicated or impaired by drugs or alcohol is never an excuse to engage in sexual misconduct and does not excuse one from the responsibility to obtain consent. As stated above, even if Respondents are intoxicated they will be found responsible for sexual misconduct if they engage in sexual activity with another person who did not consent to the sexual activity.

#### IV. Reporting

When the College receives a Formal Complaint of sexual harassment, it is obligated to take immediate steps to investigate the incident and, where possible, to prevent and remediate any violations of this policy. When the College receives a report of sexual harassment, the Title IX Coordinator will determine whether to instigate a formal Title IX investigation. The College will promptly and thoroughly investigate and respond to all Formal Complaints of sexual harassment. The College will respond to all Formal Complaints in an integrated, consistent manner that treats each individual with dignity and respect. The College will approach each formal Complaint with an earnest intent to understand the perspective and experiences of each individual involved in order to ensure fair and impartial evaluation and resolution.

The College recognizes that the decision whether or not to make a Formal Complaint of sexual harassment is personal, and that there are many barriers to doing so, both individual and societal. Not every individual will be prepared to make a Formal Complaint to the College or to law enforcement, and individuals are not expected or required to pursue a specific course of action. The College recognizes that choosing to make a Formal Report and deciding how to proceed after making the Formal Complaint, can be a process that unfolds over time. Therefore, an individual does not have to decide whether or not to request disciplinary action at the time the Formal Complaint is made.

The College will respect an individual's autonomy in making these important decisions and will provide support that will assist each individual in making these determinations. The College will also honor a victim's decision as to whether or not to report the incident to law enforcement. A criminal complaint will not terminate the College's internal investigation or its response to a Formal Complaint of sexual harassment in its programs or activities.

##### A. Emergency/Immediate Reporting Options

In the event that an individual is the victim of sexual assault or sexual violence, the physical safety and emotional well-being of the person is of primary importance. A victim may have been physically injured in a number of ways, may have been exposed to a sexually transmitted disease, and/or may be at risk of impregnation. The College strongly encourages

any person who has been the victim of sexual assault/violence to seek immediate medical attention from the nearest hospital emergency room.

Additionally, if an assault has occurred very recently, there may be physical evidence present that can be collected. Although the collection of physical evidence does not require a victim to pursue criminal or civil charges, preserving evidence allows a victim to make the decision to do so in the future. If a victim is assaulted, he/she/they should not shower, change clothing, or brush his/her/their teeth. The decision to seek medical attention and gather any evidence will remain confidential. Local medical resources include the following:

Beth Israel Deaconess Medical Center: Rape Crisis Intervention Program  
330 Brookline Avenue  
Boston, MA 02215  
(617) 667-4645 (Request a Sexual Assault Nurse Examiner (S.A.N.E.))

Brigham and Women's Hospital: 75 Francis Street  
Boston, MA 02115  
(617) 732-5636 (Request a Sexual Assault Nurse Examiner (S.A.N.E.))

Individuals are strongly encouraged to call 911 if they are feeling unsafe and wish to reach local law enforcement or emergency medical care (including an ambulance) anywhere within the United States. Local law enforcement can also be reached at:

Milton Police Department  
40 Highland Street  
Milton, MA 02186  
617-698-3800

In addition, Campus Security can be reached at 617-322- 3571.

## B. Campus Reporting Options

To enable the College to respond to all Formal Complaints in a prompt and equitable manner, all individuals should make any Formal Complaint of sexual harassment directly to the Title IX Coordinator. Only the Title IX Coordinator and College officials who have the authority to institute corrective measures on the College's behalf are responsible for responding to Formal Complaints and reports of sexual harassment.

The College recognizes that a student or employee may choose to report sexual harassment to any trusted employee of the College. For example, a student may choose to confide in a faculty member or an admissions counselor. Likewise, an employee may choose to confide in a supervisor. However, any faculty member, staff member, or other employee who

receives a report of sexual harassment is not responsible for responding: he/she/they must immediately share the report with the Title IX Coordinator. The Title IX Coordinator is specifically charged with overseeing the investigation of and response to allegations of sexual harassment.

C. Timeframe for Reporting

Individuals are encouraged to make a Formal Complaint of sexual harassment as soon as possible to maximize the College's and/or law enforcement's ability to respond promptly and equitably. The College does not limit the timeframe for making a Formal Complaint, and upon receipt of any Formal Complaint, regardless of when the incident occurred, the College will conduct a Title IX assessment to determine if an investigation and/or any safety measures are necessary to maintain the safety of the community.

D. Coordination with Law Enforcement

The College encourages Complainants to pursue criminal action for incidents of sexual harassment when the incident constitutes a crime under the law of the jurisdiction where the incident occurred. If an individual chooses to report an incident of sexual harassment to Campus Security, then the College will notify the law enforcement agency with jurisdiction over the alleged crime. To the extent permitted by law, the College will also assist a Complainant in making a criminal report and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process.

The College's definitions of sexual harassment and its process and standard of proof for finding a Respondent responsible for sexual harassment differ from those used in criminal prosecutions. Thus, a Complainant may reasonably seek resolution through the College's Title IX Formal Complaint process, may pursue criminal action, may choose one but not the other, or may choose to make a Formal Complaint to both or neither. Law enforcement's determination regarding whether or not to prosecute a Respondent is not determinative of whether the College will conduct a Title IX investigation or conclude that a member of the Labouré community has committed sexual harassment in violation of this policy. However, any criminal disposition related to the Title IX complaint will be taken into consideration in a Title IX investigation. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. However, the College will, to the extent possible and consistent with its obligations to address promptly Formal Complaints under Title IX, cooperate and coordinate with local law enforcement officers and the prosecutor's office. For example, the College will comply with law enforcement agency requests for cooperation and such cooperation may require the College to temporarily suspend the fact-finding portion of a Title IX investigation while the law enforcement agency gathers evidence. In such cases, the College will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed its evidence gathering process.

E. Amnesty

The College encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The College recognizes that an individual who has been drinking or using drugs at the time of the incident may be reluctant to make a report for fear of being subject to discipline under the College's Drug and Alcohol Policy. A Complainant who makes a Formal Complaint of sexual harassment will not be subject to disciplinary action by the College for his/her/their own violation of these policies.

## F. Bystander Intervention

The College strongly encourages all community members to take reasonable and prudent actions to prevent or stop sexual harassment, including relationship violence, stalking and sexual assault. Taking action may include directly or indirectly confronting the situation (if it is safe to do so), taking steps to interrupt the situation, or seeking assistance from a person in authority. Labouré community members who choose to exercise this positive moral obligation will be supported by the College and protected from retaliation.

## G. Statement Against Retaliation

It is a violation of this policy to retaliate in any way against an individual or a group because the individual or group made a Formal Complaint of sexual harassment, was the subject of such a Formal Complaint, or otherwise participated in the College's investigation of such a Formal Complaint.

The College recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that a Respondent can also be the subject of retaliation by the Complainant or a third party. The College will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate. The Title IX Coordinator will review all reports of retaliation and determine whether to impose immediate corrective action or whether to refer the report for investigation pursuant to the processes identified in this policy. In making this determination, the Title IX Coordinator may consult with others. An individual who in good faith makes a Formal Complaint of sexual harassment, is the subject of such a Formal Complaint, or otherwise participates in the College's investigation of such a Formal Complaint may not be subject to retaliation even if the Formal Complaint is later not proven.

## V. Interim Supportive Measures

Upon receipt of a Formal Complaint of sexual harassment, the College will provide interim supportive measures and reasonable protective measures to a Complainant and a Respondent to prevent further acts of harassment, and to provide a safe educational and work environment. The College will determine the necessity and scope of any interim supportive measures. Interim supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, to the Complainant or the Respondent before or after the filing of a formal complaint. Such measures are designed to restore or

preserve equal access to the College's education programs or activities without unreasonably burdening the other party. Even when a Complainant or Respondent does not specifically request that interim protective action be taken, the College, after conducting an individualized safety and risk analysis and determined an immediate threat to physical health or safety, may choose to impose interim supportive measures at its discretion to ensure the safety of any individual, the broader College community, or the integrity of the review process.

Students seeking such assistance should speak with the Title IX Coordinator, who will coordinate such requests on behalf of the student. The College will maintain contact with the parties to ensure that all concerns are being addressed.

All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by an interim supportive measure. The College will take immediate and responsive action to enforce measures previously ordered or implemented by the College.

The College may impose any remedy that can be tailored to the involved parties to achieve the goals of this policy, even if not specifically listed here. The range of interim supportive measures may include, but are not limited to:

**No Contact Order:** A Complainant or Respondent may request, or the College may impose, communication and contact restrictions to prevent further, potentially harmful interaction. These communication and contact restrictions generally preclude in-person, telephonic, electronic, or third-party communications. In some cases, an individual may also wish to consider an Abuse Prevention Order or a Harassment Prevention Order from the local courts. This is a civil proceeding independent of the College. If a court order is issued, the College will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order. The College may also limit an individual or organization's access to certain College facilities or activities as part of the no contact order.

**Academic or Employment Modifications:** Any party involved in a Title IX investigation may request an academic or employment accommodation after a Formal Complaint of sexual harassment. An individual who requests assistance in changing his or her academic or employment situation after a Formal Report of sexual harassment will receive appropriate and reasonably available accommodations. These may include, but are not limited to:

- Academic accommodations, including a change in class schedule, taking an incomplete, dropping a course without penalty, attending a class via Skype or other alternative means, providing an academic tutor, or extending deadlines for assignments;
- Change in work assignment or schedule; and/or
- Providing an escort to ensure safe movement between classes and activities.

**Emotional Support:** The College will assist in providing a referral to off-campus agencies as detailed in this policy. Counseling and emotional support is available to any member of the campus community.

**Interim Separation:** Where the Formal Complaint of sexual harassment poses an ongoing risk of harm to the safety or well-being of an individual or members of the Labouré community, the College, having conducted an individualized safety and risk analysis and determined an immediate threat to physical health or safety, may place an individual on interim suspension or impose leave for an employee. In this case, the College will provide such a removed Respondent with notice and an opportunity to challenge the decision immediately following the removal. If the interim removal remains in place, pending resolution of the Formal Complaint, the individual may be denied access to campus. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the Title IX investigation and resolution within an expedited timeframe.

## VI. Title IX Complaint Process

### A. Title IX Coordinator

The College has appointed Matthew Gregory, Assistant Vice President of Student Affairs, as the Title IX Coordinator. In his role as Title IX Coordinator, Mr. Gregory oversees the College's centralized review, investigation, and resolution process for Formal Complaints of sexual harassment. He also coordinates the College's compliance with Title IX. He is knowledgeable and trained in state and federal laws that apply to matters of sexual harassment, as well as College policy and procedure.

The duties and responsibilities of the Title IX Coordinator include training, education, and climate checks, as well as the oversight of procedures that promptly and equitably eliminate sexual harassment, prevent its recurrence, and address its effects on individuals and the Labouré community. The Title IX Coordinator will:

- Oversee the investigation and resolution of all Formal Complaints of sexual harassment and all reports of sexual harassment;
- Meet with any individual, whether a Complainant, a Respondent, or a third party, to discuss interim supportive measures, resources, and procedural options on and off campus;
- Ensure prompt and equitable resolutions that comply with all requirements and timeframes specified in the complaint procedures;
- If deemed necessary, participate in assessment of periodic climate checks, tracking, and monitoring of sexual harassment allegations on campus; and,

- Participate in campus training, education, and prevention efforts.

The Title IX Coordinator is tasked with ensuring consistent application of this policy to all individuals and enabling the College to respond promptly and equitably to eliminate sexual harassment, prevent its recurrence, and address its effects. The Title IX Coordinator has the discretion to determine the appropriate procedural response to Formal Complaints of sexual harassment but not to determine the issue of responsibility.

Other matters that do not involve Formal Complaints of sexual harassment against a student may be referred to other departments within the College and/or handled under other policies, such as the Labouré Sexual Misconduct Policy, the Labouré Non-Discrimination Policy, or the Student Code of Conduct, for further investigation and resolution.

The Title IX Coordinator's contact information is:

Matthew Gregory  
Assistant Vice President for Student Affairs and Title IX Coordinator  
Labouré College of Healthcare  
303 Adams Street  
Office C128  
Milton, MA 02186  
617-322-3506  
[Matthew.Gregory@laboure.edu](mailto:Matthew.Gregory@laboure.edu)

The above contact information is distributed to all students, employees, applicants for admission or employment, and parents/guardians through the College's website. The above contact information is also included in all of the College's handbooks and catalogs.

## B. Timeframe for Resolution

The investigation and resolution of all Formal Complaints of sexual harassment will be reasonably prompt, with a goal of completion within 60 to 90 days. Extenuating circumstances, including, but not limited to, the complexity and severity of a Formal Complaint may require the process to be delayed or extended beyond 60 to 90 days; in such a situation, the College will provide the Complainant and the Respondent written notice of the delay or extension and the reasons for the delay or extension. If there is a cause for a delay or extension, the College will use best efforts to complete the process in as timely a manner as possible. In general, a Complainant and Respondent can expect to receive periodic updates from the Title IX Coordinator as to the status of the investigation and resolution.

## C. Title IX Grievance Procedures and Title IX Review

The following are the College's procedures for responding to and resolving Formal Complaints of sexual harassment asserted against a student or a College employee. The College will apply the same standard of evidence – i.e., preponderance of the evidence – in Formal Complaints of sexual harassment against a student Respondent and in Formal Complaints of sexual harassment against a College employee Respondent.

## 1. Formal Complaint

A Complainant may make an oral or written report of a violation of this policy (i.e., sexual harassment) by a member of the Labouré community in person, by telephone, or by email using the contact information of the Title IX Coordinator. Such a report should include as much information as possible including:

- The name of the accused individual (i.e., the Respondent), or if her/his/their name is unknown, information sufficient to allow the College to identify the Respondent, such as her/his/their photograph;
- A statement explaining the nature and circumstances of the Formal Complaint including a list of possible witnesses; and,
- The names, addresses, and telephone numbers of those making the Formal Complaint.

The Formal Complaint must be signed by the individual initiating the report (i.e., the Complainant). The Title IX Coordinator may sign a Formal Complaint; doing so does not make the Title IX Coordinator the Complainant for the purposes of the investigation. A Formal Complaint will result in a Title IX investigation to determine whether the Respondent violated any provisions of this policy.

Timeframe for Submitting a Formal Complaint: The College does not limit the timeframe for submitting a Formal Complaint but, at the time of the Formal Complaint, the Complainant must be participating in or attempting to participate in the education programs or activities of the College within the United States. Moreover, Complainants are encouraged to submit the Formal Complaint as soon as possible in order to maximize the College's ability to investigate and come to an appropriate resolution.

Withdrawal of Formal Complaint: If a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint, the Title IX Coordinator will assess whether sufficient evidence of sexual harassment exists to support completing an investigation. Among the factors that the Title IX Coordinator will consider in making this determination is whether prior Formal Complaints by the Complainant or others have been made against the Respondent. The College's decision to proceed in investigating a member of the Labouré community when the Complainant has withdrawn the Formal Complaint shall be made by the Title IX Coordinator in his/her/their sole discretion, but will take the Complainant's wishes into consideration. If the Title IX Coordinator determines that dismissal is appropriate, the College will promptly send written notice of the dismissal of the Formal Complaint and the reason(s) therefore simultaneously to the Complainant and the Respondent.

A file concerning the withdrawn Formal Complaint will be maintained by the Title IX Coordinator, so that the matter can be re-opened if, among other things, the Complainant later decides to reinitiate the Formal Complaint, or if independent evidence of sexual harassment by the Respondent comes to the College's attention, which the Title IX Coordinator determines warrants re-opening the investigation. If the investigation is re-opened, either because the Complainant decides to reinitiate the Formal Complaint or the College determines that there are grounds to do so, the College will promptly send written notice of the re-opening of the investigation and the grounds therefore simultaneously to the Complainant and the Respondent.

Dismissal of Formal Complaint: The College will investigate the allegations in a Formal Complaint but, if the conduct would not constitute sexual harassment as defined above even if proved, or if the conduct did not occur in the College's education programs or activities, or did not occur against a person in the United States, the College must dismiss the Formal Complaint with regard to Title IX. The College will promptly send written notice of the dismissal of the Formal Complaint and the reasons therefore simultaneously to the Complainant and the Respondent. Dismissal in the Title IX context does not preclude the College from taking action under another policy (e.g., the Labouré Sexual Misconduct Policy) in response to the allegations in the Formal Complaint.

The College may dismiss a Formal Complaint if the Respondent is no longer enrolled or employed by the College. The College also may dismiss a Formal Complaint if specific circumstances prevent the College from gathering evidence sufficient to reach a determination. In either case, the College will promptly send written notice of the dismissal of the Formal Complaint and the reasons therefore simultaneously to the Complainant and the Respondent.

## 2. Incomplete and Unofficial Reports

When the Title IX Coordinator receives a report that a member of the Labouré community has engaged in prohibited conduct, but the report does not meet the requirements of a Formal Complaint, the Title IX Coordinator will determine what steps should be taken to gather additional information. Thereafter, the Title IX Coordinator will direct the gathering of the additional information.

Once all available additional information has been obtained, the Title IX Coordinator will decide whether a Title IX investigation, in accordance with this policy, is warranted.

## 3. Advisors

The Complainant and Respondent may each choose and be accompanied to any meeting or interview related to these procedures by an advisor of his/her/their own choice, who may be, but is not required to be, an attorney. Each party's advisor may provide support related to any meeting or interview but may not participate actively in such meetings or interviews. During meetings and interviews, an advisor may quietly confer or pass notes with the party in a non-disruptive manner. The advisor may not intervene in a meeting or interview or address the Title

IX Investigator. The parties must each bear the expense of his/her/their advisor, if any, with the exception that if there is a hearing and a party does not have an advisor, the College will select an advisor of its choice (at the College's expense) to conduct any examination of a party or witness. Consistent with the College's obligation to resolve Formal Complaints of sexual harassment promptly, the College will take reasonable steps to accommodate the schedules of the parties' selected advisors but requests that the parties' selected advisors to be as flexible as possible with regard to scheduling.

4. Declining to Participate

A Complainant and/or Respondent may decline to participate in the investigative or Formal Complaint resolution process. The College may continue the process without the Complainant's and/or Respondent's participation. If a party or witness declines to submit to cross-examination at a live hearing, the Title IX Decisionmaker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility.

5. Investigation and Findings Process

After receiving a Formal Complaint of sexual harassment, the Title IX Coordinator will conduct a preliminary assessment to determine whether there is sufficient evidence to support the initiation of a formal investigation. If the Title IX Coordinator concludes that a Formal Complaint of sexual harassment warrants a Title IX Investigation, the following steps will generally be taken:

a. The Title IX Coordinator will appoint a Title IX Investigator. The Title IX Investigator is tasked with investigating the Formal Complaint and creating an investigative report that fairly summarizes the relevant evidence.

b. The College will appoint a Title IX Decision-maker, who cannot be the Title IX Coordinator or the Title IX Investigator. The Title IX Decision-maker is tasked with reviewing the final investigative report of the Title IX Investigator, conducting any hearing, if necessary, and issuing a written determination regarding the responsibility of the Respondent.

c. Prior to any meetings between any party and the Title IX Investigator, the Title IX Coordinator will promptly provide written notice to the parties (the "Initial Notice"), allowing sufficient time to prepare responses before any initial interview, that:

i. Provides a copy of this policy, which sets forth the grievance process, with advice that each read it carefully;

ii. Provides notice of the allegations potentially constituting sexual harassment as defined in this policy;

iii. Provides sufficient details known at the time (i.e., the identities of the parties involved, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known);

- iv. Includes a statement that the Respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the grievance process;
- v. Informs the Complainant and the Respondent that a Title IX Investigator has been appointed who will be investigating the allegations;
- vi. Identifies the Title IX Investigator by name to each;
- vii. Informs the Complainant and the Respondent that a Title IX Decision-maker has been appointed who will conduct any hearing, if necessary, and will issue a written determination regarding the Respondent's responsibility;
- viii. Identifies the Title IX Decision-maker by name to each;
- ix. Advises each of Confidential Resources, including advocates, health care providers, and counseling services in the local community;
- x. Advises each of the option to request that the College take steps to prevent unnecessary or unwelcome contact or communication with another member of the Labouré community;
- xi. Informs the Complainant and the Respondent that the burden of proof and burden of gathering evidence sufficient to reach a determination rest on the College, not the Complainant or the Respondent;
- xii. Advises the Complainant and the Respondent that each may have an advisor of his/her/their own choice, who may be, but is not required to be, an attorney and that the advisor may be present at all meetings, interviews, and hearings;
- xiii. Advises the Complainant and the Respondent that each may inspect and review the evidence and that both will have an equal opportunity to do so;
- xiv. Advises the Complainant and the Respondent of the importance of preserving evidence (e.g., text, e-mails, notes, photographs, etc.);
- xv. Advises the Complainant and the Respondent that each may present witnesses, both fact and expert, and each may present other inculpatory and exculpatory documentary evidence (e.g., texts, e-mails, notes, photographs, etc.) and that both will have an equal opportunity to do so;
- xvi. Provides notice of any provision of the College's code of conduct or other policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
- xvii. Advises the Complainant and the Respondent that any behavior that can be construed as retaliation against the Complainant, Respondent, and/or witnesses will be subject to immediate disciplinary action, up to, and including, suspension or dismissal from the College;
- xviii. Advises the Complainant of his/her/their option to pursue a criminal report or complaint action against the Respondent working with local police in addition to pursuing remedies and/or sanctions through the College's processes, or to seek a court order of protection/restraining order; and
- xix. Advises the Complainant that Labouré Campus Security is available to assist him/her/them in contacting and communicating with local police or in seeking court orders of protection/restraining orders.

If, in the course of the investigation, the College decides to investigate additional allegations about the Complainant and/or the Respondent, the Title IX Coordinator must promptly update the Initial Notice to the Complainant and the Respondent.

d. The Title IX Investigator will provide written notice to the Complainant and to the Respondent of the date, time, location, participants, and purpose of all investigative interviews, hearings, or other meetings, with sufficient time for the party to prepare to participate.

e. The Title IX Investigator shall interview the Complainant (if possible). The Title IX investigator shall ask the Complainant for, among other information, names, addresses, and other contact information (e.g., phone numbers and/or e-mail addresses) of witnesses. As a part of this process, the Title IX Investigator shall also assess whether interim supportive measures not already implemented for the Complainant are appropriate and, if so, work with the Title IX Coordinator or the to ensure that they are in place.

f. The Title IX Investigator shall then interview the Respondent (if possible). The Title IX Investigator shall ask the Respondent for, among other information, names, addresses, and other contact information (e.g., phone numbers and/or e-mail addresses) of witnesses. As a part of this process, the Title IX Investigator shall also assess whether interim supportive measures not already implemented for the Respondent are appropriate and, if so, work with the Title IX Coordinator or the to ensure that they are in place.

If at any point the Respondent admits to violating this policy, the Title IX Investigator will inform the Title IX Coordinator, who will terminate the resolution process. Where appropriate, the Title IX Coordinator will send the matter through the Sanctions Process detailed below. If the Complainant and Respondent each accept the issued sanction(s), the matter will be closed. If either party is unsatisfied with the sanction(s), he/she/they may request to proceed through the formal resolution process in full by submitting a written request to the Title IX Coordinator within five (5) business days of the receipt of the sanctions decision. The Title IX Coordinator maintains the ultimate discretion whether or not such a request should be granted.

g. The Title IX Investigator shall review Labouré records to assess whether any prior Formal Complaints have been made against the Respondent that relate to the subject of the Formal Complaint. The Respondent will be provided with a copy of any of his/her/their own records that relate to the subject of the Formal Complaint.

h. The Title IX Investigator shall make reasonable attempts to interview any relevant witnesses identified by the Complainant or Respondent, or identified by witnesses or any other source.

i. The Title IX Investigator shall review any documentary evidence submitted by the Complainant, Respondent, or other witnesses.

j. The Title IX Investigator shall gather and assess any other relevant evidence available to the College (e.g., additional witnesses not identified by the parties, security camera footage, etc.).

k. After reviewing any witness statements, documentary evidence, and other relevant evidence as noted above, the Title IX Investigator may, in his/her/their discretion, conduct follow-up interviews with the Complainant and the Respondent. The Title IX Investigator will provide the Complainant and the Respondent equal opportunities to present witnesses (fact and expert) and other inculpatory and exculpatory documentary evidence.

l. Following the foregoing investigation, the Title IX Investigator shall create a draft written report that summarizes his/her/their investigation, sets out the documentary evidence submitted by the parties/witnesses, and describes his/her/their determination(s) concerning the relevance of the documentary evidence (the “Title IX Investigator’s Draft Report”). Relevant evidence reviewed by the Title IX Investigator shall be described in the Title IX Investigator’s Draft Report and appended (and redacted, if necessary) in electronic or hard copy. The College will provide the parties and their advisors, if any, a copy of the Title IX Investigator’s Draft Report, including the relevant evidence in electronic or hard copy. The parties will have at least ten (10) days to submit a written response, which the Title IX Investigator will consider prior to completion of the investigative report.

m. At the conclusion of the investigation, but prior to the finalization of the investigative report, the Title IX Investigator shall submit the Title IX Investigator’s Draft Report (with a summary of evidence and the evidence attached in electronic or hard copy) to the Title IX Coordinator for review. The Title IX Coordinator may suggest additional clarification or the gathering of additional evidence, as appropriate. Relevant and clarifying comments provided by either party will be incorporated into the draft report by the Title IX Investigator in his/her/their discretion in consultation with the Title IX Coordinator, and the Title IX Investigator will note any significant deviations from previous statements. If the Complainant and/or Respondent identify additional relevant evidence, that evidence shall be gathered by the Title IX Investigator and included in the written report. Depending on the nature of the new evidence, it may be shared with the Complainant or the Respondent for comment. The Title IX Investigator shall revise the Title IX Investigator’s Draft Report to summarize all relevant evidence obtained during the investigation.

n. The Title IX Coordinator may offer feedback, which should be incorporated into the final draft, if applicable. The Title IX Investigator shall revise the Title IX Investigator’s Draft Report to reflect the Title IX Coordinator’s feedback, and the Title IX Investigator shall resubmit his/her/their revised final investigative report (the “Title IX Investigator’s Report”) to the Title IX Coordinator. The Title IX Investigator’s Report shall include, along with the information contained in the draft reports:

1. A summary of the allegations in the Formal Complaint;

2. A summary of the documentary evidence submitted by the parties/witnesses;
3. A description of his/her/their determination(s) concerning the relevance of the documentary evidence, attaching all relevant evidence in electronic or hard copy.
  - o. At least ten (10) days prior to any hearing, the College will send to each party, and each party's advisor, if any, the Title IX Investigator's Report in electronic or hard copy for their review and written response.
  - p. When the Title IX Investigator's Report is transmitted to the parties and their advisors, if any, the College shall simultaneously inform the Complainant and the Respondent and their advisors, if any, that the Title IX Decision-maker will be conducting a live hearing in the matter at which:
    1. The Title IX Decision-maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility;
    2. Cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally;
    3. If a party does not have an advisor, the College must select one and provide him/her/them to conduct cross-examination;
    4. If requested by either party, the College must provide for the live hearing to occur with the parties in separate rooms with technology enabling the Title IX Decision-maker and the parties, simultaneously, to see and hear the party or the witness answering questions;
    5. Only relevant questions may be asked of a party or other witness. The Title IX Decision-maker must determine whether cross-examination questions are relevant and must explain his/her/their decision to exclude a question as not relevant;
    6. Questions and evidence regarding the Complainant's sexual predisposition or prior sexual behavior are not relevant unless (i) offered to prove that someone other than the Respondent committed the alleged conduct or (ii) if they concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; and
    7. If a party or witness does not submit to cross-examination at a live hearing, the Title IX Decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility.

q. The College will create an audiovisual recording and/or a transcript of any live hearing and make it available to the parties for inspection and review.

r. Following the conclusion of any live hearing, the Title IX Decision-maker, applying the preponderance of the evidence standard, will issue a written determination regarding the Respondent's responsibility (the "Title IX Decision-maker's Determination"). The Title IX Decision-maker's Determination must include:

1. An identification of the allegations in the Formal Complaint;
2. A description of all procedural steps taken;
3. Findings of fact supporting the determination regarding the Respondent's responsibility;
4. Conclusions regarding the application of this Policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, any disciplinary sanctions the College will impose on the Respondent, and whether any remedies to restore the Complainant will be provided by the College; and
6. The College's procedures and permissible bases for the Complainant or the Respondent to appeal the Title IX Decision-maker's Determination.

s. The Title IX Coordinator will issue a letter to the Complainant and the Respondent transmitting the Title IX Decision-maker's Determination (the "Determination Letter"). Generally, the Determination Letter will be issued within three (3) business days of finalizing the Title IX Decision-maker's Determination. The Title IX Coordinator will send the Determination Letter, attaching a copy of the Title IX Decision-maker's Determination, to the Complainant and the Respondent simultaneously via certified mail, return receipt requested, and also by electronic mail (read receipt requested).

1. If the Respondent is found not to have violated any provision of this policy, the Determination Letter will inform the Complainant and the Respondent of the Complainant's right to appeal that decision, in accordance with the Appeals Process below.

2. If the Respondent is found to have violated any provision of this policy, the Determination Letter will inform the Complainant and the Respondent of the Respondent's right to appeal that decision, in accordance with the Appeals Process below.

## VII. Informal Resolution Process

A. The informal resolution process is a voluntary, remedies-based process designed to provide members of the Labouré community with an option to resolve certain disputes with other members of the community in a forum that is separate and distinct from the College's formal grievance processes under the Title IX Sexual Harassment Policy or the Sexual Misconduct Policy.

Subject to approval by the Title IX Coordinator, the informal resolution process is available in matters involving a student Complainant and a student Respondent or an employee Complainant and an employee Respondent, but is not available in matters involving a student and an employee.

The purpose of the informal resolution process is to eliminate the conduct which has been reported by the Complainant (and prevent its recurrence), and place both individuals in a position to pursue their academic, working, and non-academic interests in a safe, respectful, and productive educational and working environment. Under this process, there will be no disciplinary action taken against a Respondent, and the resolution will not appear on the Respondent's disciplinary record.

B. The following are features of the informal resolution process:

Participation in the informal resolution process is completely voluntary. All parties must consent in writing to participation in the informal resolution process.

No party will be required to participate in the informal resolution process and the College will not require, encourage, or discourage the parties from participating in the informal resolution process.

C. The College may offer the informal resolution process only under the following circumstances:

1. A Formal Complaint has been filed by the Complainant;
2. The Title IX Coordinator has determined, through an initial assessment, that the alleged conduct, if substantiated, would constitute Title IX Sexual Harassment or sexual misconduct under the Sexual Misconduct Policy, and the Title IX Coordinator has determined that the informal resolution process is appropriate for this matter.
3. All parties will be provided with a written notice disclosing the allegations, the requirements of the informal resolution process, and any outcomes resulting from participating in the informal resolution process.
4. At any time prior to signing an informal resolution agreement, any party has the right to withdraw from the informal resolution process and resume the formal grievance process.
5. Under the informal resolution process, there will be no disciplinary action taken against a Respondent, and the resolution will not appear on the Respondent's disciplinary record. If a formal complaint is filed against the Respondent in a subsequent matter under the Title IX Sexual Harassment policy or the Sexual Misconduct Policy, the Respondent's participation

in a prior informal resolution process will not be considered relevant and will not be taken into account in the resolution of the subsequent complaint.

6. Parties may be accompanied by a member of the College community who will serve as a support person to any meeting related to the informal resolution process. However, the College support person may not actively participate in meetings and may not serve as a proxy for the party.

7. Any individual who serves as a College support person is expected to be available for meetings as scheduled by the College. The College (including any official acting on behalf of the College) has the right at all times to determine what constitutes appropriate behavior on the part of a College support person and to take appropriate steps to ensure compliance with this policy.

8. Any agreements reached as part of the informal resolution process must be approved by the Title IX Coordinator in order to ensure consistency with the College's obligations under federal law. If the Title IX Coordinator determines at any time prior to the signing of the informal resolution agreement that the informal resolution process is no longer appropriate, the Title IX Coordinator may terminate the process.

9. Upon signing the informal resolution agreement, the parties are bound by its terms and cannot opt for a formal grievance process based on the conduct alleged in the formal complaint.

10. Failure to comply with the signed agreement may result in disciplinary action for either party.

11. If the parties' circumstances change significantly, they may request a supplemental agreement. The Title IX Coordinator will determine whether it is appropriate to proceed.

D. Initiation of the Informal Resolution Process

1. If the Complainant files a Formal Complaint and requests to engage in the informal resolution process, the Title IX Coordinator will consider whether the informal resolution process is appropriate in the particular matter. In making this determination, the Title IX Coordinator will consider the following factors:

2. The disciplinary record (or past conduct) of the Respondent relating to sexual misconduct, physical violence, failure to comply with a No Contact Order, and/or other relevant conduct;

3. The nature of the alleged conduct, whether allegations involve multiple victims and/or a pattern of conduct, or other evidence-informed factors indicative of increased risk to campus safety;
4. Whether the circumstances warrant the Title IX Coordinator filing a formal complaint (e.g., if there is sufficient evidence to proceed with an investigation/adjudication even absent participation by the Complainant); and/or
5. Whether proceeding with the informal resolution process is in accordance with the principles and objectives of the College's Title IX Sexual Harassment Policy/Sexual Misconduct Policy, as determined by the Title IX Coordinator.
6. If the Title IX Coordinator determines that a case is not appropriate for the informal resolution process, the Title IX Coordinator will inform the Complainant that the informal resolution process is unavailable.
7. If the formal grievance process has already begun, either party may seek to initiate the informal resolution process up until five (5) business days prior to the hearing. If both parties agree to participate in the informal resolution process and the Title IX Coordinator approves of the informal resolution process, the formal grievance process will be adjourned while the informal resolution process is pending. If an agreement is not reached, the formal grievance process will be resumed.
8. Upon initiation of the informal resolution process, the Title IX Coordinator will refer the matter to a trained informal resolution facilitator ("Facilitator"). The Facilitator will consult (separately) with each party in an effort to reach a resolution that best meets the interests and needs of the parties. Unless they mutually choose to do so as part of an agreement, the parties will not meet together in person as part of the process.

E. Potential Outcomes of the Informal Resolution Process

1. Depending on the nature and circumstances of the particular situation, parties may agree to outcomes such as:
  - a. Long-term extension of a mutual No Contact Order or No Communication Order;
  - b. Imposition of a No Contact Order that places the burden on the Respondent to limit the Respondent's physical and/or electronic proximity to the Complainant;
  - c. Restrictions on the Respondent from participation in particular organizations or events;
  - d. Provision to the Respondent of an "impact statement" written by the Complainant (describing the impact(s) that the Respondent's conduct had on the Complainant);

e. Conversation between the parties facilitated by a trained individual appointed by the Title IX Coordinator;

f. Other measures deemed appropriate by the Title IX Coordinator.

F. Failure to Comply with the Informal Resolution Agreement

Failure to comply with the signed agreement may result in disciplinary action for either party, consistent with the applicable disciplinary procedures.

G. Records Relating to the Informal Resolution Process

1. The records relating to the informal resolution process will be maintained in accordance with section X.B. below.

2. Prior to participating in the informal resolution process, the parties will be notified in writing that any information gathered in the informal resolution process may be used in the Title IX Sexual Harassment or Sexual Misconduct formal grievance processes if the informal resolution process ends prior to a written agreement being signed by the parties. However, the College will not draw any adverse inference based on a Respondent's participation in the informal resolution process, nor will such participation be considered an admission by the Respondent.

3. Even if the parties enter into a written informal resolution agreement, if information related to the violation of other College policies (i.e., policies other than the Title IX Sexual Harassment policy or the Sexual Misconduct Policy) comes to light through the informal resolution process, such information may be used in other College disciplinary processes.

H. Retaliation

The protections against Retaliation apply to individuals participating in the informal resolution process. Disciplinary consequences may result for those found responsible for Retaliation.

I. Time Frame for the Informal Resolution Process

The time frame for completion of the informal resolution process may vary, but the College will seek to complete the informal resolution process within thirty (30) business days of completion of the initial assessment. Should the time period extend beyond this time frame, the parties will be notified.

VIII. Sanctions Process

If the Title IX Decision-maker concludes that there has been a violation of this policy, or if the Respondent admits to violating this policy, the College will appoint a Sanctions Administrator to determine appropriate sanctions. The name of the Sanctions Administrator, and his/her/their contact information, shall be communicated to the parties in the Determination Letter. The Sanctions Administrator may not be the Title IX Coordinator, the Title IX Investigator, or the Title IX Decision-maker.

Upon review of the Title IX Decision-maker's Determination, the Sanctions Administrator may impose any sanction designed to eliminate the sexual harassment, prevent its recurrence, and remedy its effects, while supporting the College's educational mission and Title IX obligations. Sanctions may also serve to promote safety or deter students from similar future behavior. Any sanctions must be issued, and communicated to the parties, within five (5) business days of the issuance of the Determination Letter (the "Sanctions Letter").

The following, individually or in combination, are potential sanctions for violations of this policy. Where appropriate, the statement of the sanction includes the duration, any conditions to be observed during that period, and the conditions for termination of the sanction:

#### Major Sanctions:

- Expulsion from the College or a program of the College.
- Suspension from the College or a program of the College for a specific period of time.
- Deferred suspension from the College or a program of the College.
- Denial of graduation, diploma, or degree.
- Deferral of graduation, diploma, or degree for a specific period of time.
- Revocation or withdrawal of diploma or degree previously credited, awarded, or conferred.

#### Other Available Sanctions:

- Disciplinary probation. Disciplinary probation may involve counseling with faculty or administrative staff; restriction of student privileges; or prohibitions against participation in Labouré activities or events.
- Disciplinary reprimand or warning.

#### VIII. Appeals Process

The Complainant may request an appeal within ten (10) business days of a dismissal of a Formal Complaint or of the Determination Letter. The Respondent may request an appeal within ten (10) business days of the Sanctions Letter. Appeals must be in writing and submitted to the Title IX Coordinator (the "Notice of Appeal"). The Notice of Appeal shall consist of a written statement explaining the grounds for the appeal, and the bases therefore. The appeal may be based only on one or more of the following grounds: (1) a procedural irregularity that affected

the outcome of the matter; (2) new evidence that was not reasonably available at the time the dismissal or determination was made that could affect the outcome of the matter; and (3) a conflict of interest or a bias on the part of the Title IX Coordinator, the Title IX Investigator, the Title IX Decision-maker, or the Sanctions Administrator.

The Title IX Coordinator shall notify the non-appealing party of the appeal and shall provide him/her/them with a copy of the Notice of Appeal. The non-appealing party may submit a written response to the Title IX Coordinator within ten (10) business days of receiving the Notice of Appeal.

The College shall appoint an Appeals Officer to decide the appeal. The identity of the Appeals Officer shall be communicated to the parties as soon as practicable after his/her/their appointment. The Appeals Officer shall review the Title IX Decision-maker's Determination, the Notice of Appeal, and the response of the non-appealing party, if any. Within fourteen (14) business days after the deadline for the non-appealing party's response, the Appeals Officer will provide his/her/their written decision describing the result of the appeal and the rationale for the result simultaneously to the parties (the "Appeals Officer's Decision"). These conclusions may include, but are not limited to:

- Reopening of the investigation;
- Affirming the original findings and sanctions;
- Reversing of the original findings and sanctions;
- Modifying the original findings;
- Modifying the imposed sanctions and remedies.

The appeal is based on the record and is limited to the enumerated bases for appeal. The appeal is not a de novo review. Appeal decisions are final.

#### IX. Conflicts of Interest

In the event that the Complainant or Respondent believes that the Title IX Investigator, the Title IX Decision-maker, the Sanctions Administrator, and/or the Appeals Officer has a conflict of interest or bias in performing the functions required of him/her/them under this policy, the Complainant or Respondent may seek to disqualify that person from the resolution process. The Complainant or Respondent may seek to disqualify the Title IX Investigator, the Title IX Decision-maker, the Sanctions Administrator, and/or the Appeals Officer by submitting a written objection to the Title IX Coordinator within two (2) business days of receiving notice of the subject individual's appointment to his/her/their position. The written objection shall state the party's reasons for believing that the subject individual is incapable of fairly judging the matter.

The Title IX Coordinator will decide whether an objection is justified, and that decision is final. When necessary, the College will select a replacement for any removed individual. The parties will have an opportunity to object to any individual selected as a replacement.

X. Confidentiality, Record-Keeping, Education & Training

A. Confidentiality & FERPA

All documents created in connection with the above resolution process, including but not limited to any written complaint, the investigative draft reports, the Title IX Investigator's Report, the Title IX Decision-maker's Determination, the Determination Letter, the Sanctions Letter, the Notice of Appeal, any response thereto, and/or the appeals decision will be kept confidential by the College. They will be shared only with individuals with a "need-to-know" such information. To the extent any of these documents constitute "education records" under FERPA, they will be treated accordingly. All parties to Labouré Title IX grievance process are expected to maintain the confidentiality of any documents they receive in connection with the process; this shall in no way limit the parties from discussing the allegations under investigation. A party who improperly disseminates any such documents, or otherwise discloses the contents of those documents to third parties, will be subject to disciplinary action.

B. Recordkeeping

The College will maintain the following for a period of seven (7) years:

Each sexual harassment investigation, including:

1. The Formal Complaint, including any withdrawals of a Formal Complaint;
2. Any notices of dismissal issued by the College;
3. Any notices to a Respondent that the College is proceeding without a Complainant;
4. The Initial Notice to the parties;
5. All written communications with the parties regarding interviews, hearings, and all other meetings;
6. The Title IX Investigator's Draft Report, including any responses thereto from the parties;
7. The Title IX Investigator's Report, including any responses thereto from the parties;
8. Any communications from the Title IX Decision-maker to the parties scheduling the live hearing;
9. All audio-visual or other recordings of the live hearing;
10. The Title IX Decision-maker's Determination;
11. The Determination Letter;
12. The Sanctions Letter;
13. Any Notice of Appeal, including any responses thereto;
14. The Appeals Officer's Decision; and

15. All materials used to train the Title IX Coordinator, the Title IX Investigator, the Title IX Decision-maker, the Sanctions Administrator, and the Appeals Officer.

C. Education & Prevention

The College embraces an interdepartmental, multimodal, and situational approach to educate the Labouré community about this policy and to prevent sexual harassment. To that end, the Office of Student Affairs works collaboratively to provide the community with educational opportunities as follows:

Orientation/Welcome Week: Students receive the Student Handbook and the Student Code of Conduct, which include the policies of the College.

Publication of this Policy: The College will publish this policy on its website, in all handbooks, and in all catalogs.

D. Training

The Title IX Coordinator, the Title IX Investigator(s), the Title IX Decision-maker(s), the Sanctions Administrator(s), and the Appeals Officer(s) will receive training that includes but is not limited to the following:

1. The definition of sexual harassment;
2. The scope of the College's education programs and activities;
3. How to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes), and
4. How to serve impartially.

The Title IX Investigator(s) will receive additional training on issues of relevance so that he/she/they can create an investigative report that fairly summarizes the relevant evidence.

The Title IX Decision-maker(s) will receive additional training on relevance of questions and evidence and how to use any technology to be used at a live hearing.

All training materials referenced above will be made publicly available on the College's website.

The College trains faculty, staff, and Campus Safety on the following topics:

- Responding to reports and complaints;
- Bystander intervention;
- Record-keeping and documentation;
- Assessing and reporting complaints of sexual harassment and sexual misconduct;

- The availability of Confidential Resources;
- The availability of other campus resources for support, advocacy, and medical assistance

**LABOURÉ RESERVES THE RIGHT TO AMEND OR MODIFY THIS POLICY AT ANY TIME**