TIX SEXUAL MISCONDUCT
Policy & Procedures Handbook (Interim)

- SEXUAL HARASSMENT
- SEXUAL ASSAULT
- DATING VIOLENCE
- DOMESTIC VIOLENCE
- STALKING
- RETALIATION

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As changes occur, the most up-to-date information can be found online at:
http://www.palmer.edu/students/resources-offices/handbook-policies/
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CHAPTER 1: POLICY RATIONALE
Title IX prohibits discrimination in the United States on the basis of sex in education programs and activities that receive federal financial assistance:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . .” 20 U.S.C. § 1681.

This handbook constitutes Palmer College of Chiropractic’s (College) policy and procedures for the resolution of Title IX Sexual Misconduct Complaints (TIX Misconduct). The policy and procedures set forth in this handbook shall supersede and govern all such Complaints including those Complaints that may also arise under Collective Bargaining Agreements, the Faculty Handbook, the Student Code of Ethics or other published processes and procedures for Complaint resolution.

This Handbook has been updated to incorporate the Department of Education’s final regulations effective August 14, 2020. In recent years, Title IX has been known to include all forms of sexual misconduct. However, under the recently effective regulations, the College must narrow both the geographic scope of its authority to act under Title IX and the types of sexual misconduct that it must subject to its Title IX investigation and grievance process. Only incidents falling within the regulations’ definitions will be investigated and, if appropriate, brought to a live hearing under the Formal Grievance Process in this Handbook.

In replacing the prior Handbook, the College reaffirms its commitment to promoting the goals of fairness and equity in all aspects of its programs and activities. The College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

Title IX does not replace civil or criminal justice systems. Instead, in accordance with the final regulations, this Handbook offers supportive measures without regard to whether a Formal Complaint has been filed. It provides Complainants and Respondents with due process protections by following a fair grievance process to resolve Complaints.

A. This Handbook

1. Articulates behavioral expectations and defines prohibited TIX Misconduct;
2. Identifies the College’s TIX Coordinator, Deputy Coordinators, and their roles;
3. Describes options for reporting TIX Misconduct;
4. Describes how to file a Formal Complaint;
5. Provides appropriate remedies in the event TIX Misconduct has been proven.
B. Other Discrimination Not Addressed in This Handbook:

Other types of discrimination based upon protected classes under other federal, state or local laws involving the College are referenced in Chapter 3 and addressed elsewhere on the College’s website.

CHAPTER 2: GLOSSARY

Throughout this Handbook is the terminology “TIX Misconduct” which is an umbrella description of the various types of conduct prohibited by Title IX which includes sexual harassment as defined in 34 CFR § 106.30(A); sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v); dating violence as defined in 34 U.S.C. § 12291(a)(10); domestic violence as defined in 34 U.S.C. § 12291(a)(8); stalking as defined in 34 U.S.C. § 12291(a)(30); and retaliation as defined in 34 CFR § 106.71.

1. **Academic Day** is defined by the College’s on-line Academic Calendar for each Campus.

2. **Actual Knowledge** means notice of TIX Misconduct or allegations of such misconduct provided to the College’s Title IX Coordinator (TIX Coordinator) and deputies who have authority to institute corrective measures on behalf of the College.

3. **Advisor** means any one person chosen by a party or appointed by the College to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

4. **Affirmative Consent** is the standard in the determination of whether consent was given by both parties to sexual activity.

5. **Appeal Official** is an individual from within the College who hears appeals filed by a Complainant or a Respondent relating to a dismissal decision of a TIX Complaint or a finding of responsibility. The Appeal Official’s decision is final.

6. **Appeal Process** is the process by which a party or parties may challenge a dismissal decision of a TIX Complaint or a determination of responsibility rendered in the Formal Grievance Process.

7. **Burden of Proof** means the duty placed upon the College based upon the evidence gathered which proves or disproves the allegations in the Complaint under a preponderance of the evidence standard of proof.

8. **College Premises** means places on the campuses or on property owned or controlled by the College and at College-sponsored events or in buildings owned or controlled by the College’s recognized student organizations.

9. **Club or Organization** means College community members who have complied with the formal requirements for College recognition.
10. *College* means Main campus (Palmer College Foundation, d/b/a Palmer College of Chiropractic), West campus (Palmer College of Chiropractic West) and Florida campus (Palmer College Foundation, Inc., d/b/a Palmer College of Chiropractic Florida) with campuses respectively located in Iowa-Illinois; California; and Florida.

11. *Complainant* means an individual who is alleged to have been subjected to conduct that could constitute TIX Misconduct. A Complainant is a party to a Formal Complaint.

12. *Complaint* (see *Formal Complaint*)

13. *Consent* (see *Affirmative Consent*)

14. *Day* refers to an Academic Day when the College is in normal operation.

15. *Directly Related Evidence* refers to information or evidence that has a clear relationship to the allegations at issue but is not necessary to reach a determination regarding responsibility.

16. *Education program or activity* includes:
   - locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the alleged TIX Misconduct occurs;
   - any building owned or controlled by a student organization that is officially recognized by the College.

   Title IX responsibilities only apply to TIX Misconduct taking place in an education program or activity of the College against a person in the United States.

17. *Employee* is defined by the Employee Handbook as individuals employed by the College who are administrators, staff and faculty with the exception of those faculty members who are governed by separate collective bargaining agreements or faculty handbooks.

18. *Exculpatory evidence* tends to show a Respondent is not responsible for the alleged TIX Misconduct.

19. *Evidence* refers to documents, files, electronic communications, photographs, video footage, and any other information related to the allegations of sexual misconduct alleged in the Formal Complaint, whether inculpatory or exculpatory, on which the College will rely in reaching a determination regarding responsibility.

20. *Faculty member* is defined by the collective bargaining agreement or faculty handbook applicable to the individual faculty member employed on one of the three College campuses.

21. *Formal Complaint* is: 
a) a document filed by a Complainant (meaning a document or electronic submission such as by electronic mail that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the individual filing the Formal Complaint) alleging TIX Misconduct against a Respondent and requesting the College investigate the allegation of TIX Misconduct; or

b) a document signed by the TIX Coordinator alleging TIX Misconduct against a Respondent and requesting the College investigate the allegation of TIX Misconduct. Where the TIX Coordinator signs a Formal Complaint, the TIX Coordinator is not a Complainant or otherwise a party.

Note: Formal Complaint and Complaint may be used interchangeably throughout this Handbook but have the same meaning.

22. Formal Grievance Process refers to a method of formal resolution designated by the College to address alleged TIX Misconduct under this Handbook. See Chapter 18 for greater detail.

23. Good cause is adequate grounds to take an action, including but not limited to:
   a) the complexity of the case;
   b) the number of parties or witnesses involved;
   c) the amount of evidence available to obtain and consider;
   d) the unavailability of parties, witnesses or advisors due to extenuating circumstances;
   e) College closure or academic breaks;
   f) concurrent law enforcement activity;
   g) the necessity for language assistance or accommodation of disabilities; and
   h) any other extenuating circumstances articulated by the TIX Coordinator or investigators.

24. Hearing is a live proceeding managed by the Presiding Hearing Panelist during which the Hearing Panel questions the parties and witnesses, and the parties’ advisors question the opposing parties and witnesses to determine whether a Respondent is responsible or not responsible for TIX Misconduct.

25. Hearing Panel consists of those individuals who have decision-making and sanctioning authority as part of the College’s Formal Grievance process.

26. Inculpatory Evidence tends to show the Respondent is responsible for the alleged TIX Misconduct.
27. Informal Grievance Process is a voluntary resolution option that allows the parties to resolve disputes informally in a separate and distinct process from the Formal Grievance Process. See Chapter 17 for greater detail.

28. Investigative Case File is a compilation of all evidence collected by the investigators, whether inculpatory or exculpatory, related to the allegations of TIX Misconduct alleged in the Formal Complaint.

29. Investigative Process is that part of the Formal Grievance Process during which the investigators gather evidence related to the alleged TIX Misconduct; compile the investigative file; and write the investigation report.

30. Investigation Report is a report drafted by the investigators that fairly summarizes the relevant evidence gathered in response to the allegations raised in a Formal Complaint.

31. Investigator refers to a trained, neutral, fair and objective individual charged by the College with the responsibility of gathering facts and information relating to alleged TIX Misconduct, assessing relevance, synthesizing the evidence, and compiling this information into an investigation report.

32. Mandated Reporter refers to an employee of the College who is obligated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have reporting responsibility under this Handbook.

33. Member of the College Community refers to any person who is a student, faculty member, College official, Security Officer, College employee or member of any other organization or club recognized officially by the College. Members may consist of third parties including but not limited to clinic patients, vendors, contractors, and others doing business with the College as determined by the TIX Coordinator.

34. Notice occurs when the Title IX Coordinator and/or Deputy is informed of sexual harassment or sexual harassment allegations from a Complainant or a third party; witnesses sexual harassment; or receives a written or verbal complaint about sexual harassment or sexual harassment allegations.

35. Official with Authority (OWA) refers to the TIX Coordinator and Deputies who are College employees vested with the authority and responsibility to implement corrective measures for TIX Misconduct on behalf of the College under this Handbook.

36. Party/Parties means both Complainant or Respondent individually. Parties means both Complainant and Respondent collectively.
37. Preponderance of the Evidence means that based on the totality of evidence and reasonable inferences, it is more likely than not that the Respondent either did or did not engage in TIX Misconduct.

38. Presiding Hearing Panelist is the individual overseeing the Hearing Process. The Presiding Hearing Panelist serves as one of the Hearing Panel members, attending the Hearing and voting during the Hearing Panel’s deliberations.

39. Presumption of innocence means the Respondent is not responsible for the alleged TIX Misconduct until a determination of responsibility is made at the conclusion of the Formal Grievance Process.

40. Recipient means Palmer College of Chiropractic (see College).

41. Relevant evidence refers to evidence, whether inculpatory or exculpatory, on which the College will rely in reaching a determination regarding responsibility.

42. Remedies are actions taken at the conclusion of the Formal Grievance Process by the College to restore or preserve equal access to the College’s educational program and activities as appropriate.

43. Report/Reporting refers to facts and information brought to the attention of the TIX Coordinator and Deputies who are authorized by the College to institute corrective measures on its behalf. A report may or may not lead to a subsequently filed Formal Complaint.

44. Resolution refers to the result of an Informal or Formal Grievance Process.

45. Respondent means a member or group of the College’s community who has been alleged to have engaged in TIX Misconduct.

46. Responsible employees refers to employees of the College who are obligated by this Handbook to share knowledge with the TIX Coordinator of facts which may provide the basis for a Formal Complaint.

47. Retaliation means an individual who intimidates, threatens, coerces, or discriminates against any other individual for the purpose of interfering with any right or privilege secured by TIX or because the individual has made a report or Complaint, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or hearing under this Handbook.

48. Sanction means a consequence imposed at the conclusion of either the Informal or Formal Grievance Process.
49. Standard of Proof refers to the level of proof needed to prove a specific allegation. The standard of proof under this policy is preponderance of the evidence.

50. Student refers to all persons taking courses at the College, either full time or part-time, pursuing undergraduate, graduate or professional studies. Persons who withdraw after allegedly violating the Student Code of Ethics, who are not officially enrolled for a particular term but who have a continuing relationship with the College or who have been notified of their acceptance for admission are considered “students” as are persons who are living in College-owned and/or operated residences, although not enrolled in the institution. Furthermore, individuals who are not currently attending the College remain subject to decisions made under this policy upon re-enrollment for conduct that occurred during any period of attendance.

51. Supportive Measures refers to non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter TIX Misconduct.

52. TIX Coordinator and Deputies (TIX Coordinator) are employees designated and authorized by the College to coordinate and administer this Handbook. References to the TIX Coordinator throughout this Handbook may also include individuals assigned specific tasks by the TIX Coordinator.

53. Title IX Team (TIX Team) refers to the TIX Coordinator, deputy coordinators, coordinator assignees and any other member of the Informal or Formal Grievance Process.

54. Witness is an individual identified by the parties or the investigators who has knowledge of the alleged TIX Misconduct who can provide context to the allegations or who have other information that would be of assistance in making a determination of responsibility under a particular Formal Complaint.

CHAPTER 3: NOTICE OF NONDISCRIMINATION

As pointed out in Chapter 1 and noted in this Handbook’s cover page, this Handbook is devoted to TIX Misconduct under 20 U.S.C. § 1681 and the Department of Education’s final regulations effective August 14, 2020.

This Chapter is the College’s policy statement concerning other types of discrimination based upon protected classes under other federal, state or local laws involving the College.

The College is committed to establishing and maintaining a work and education environment free of any form of discrimination or harassment and does not tolerate discrimination or harassment of or by
its employees (including faculty), students, patients or anyone associated with or conducting business with the College.

The College prohibits discrimination and harassment in employment, admissions or in educational practices, programs, services or activities on the basis of age, ancestry, citizenship status, color, creed, disability, gender, gender identity, genetics, marital or registered domestic partner status, medical condition, national origin, race, religion, sex, sexual orientation, veteran and military status or other legally protected status.

Equal employment opportunity applies to recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, training, professional development, and all other terms and conditions of employment. Equal opportunity also applies to admissions, orientation, student employment, housing, academic and student programs, discipline and all other terms and conditions of admissions, enrollment, and educational practices.

**Reporting or Filing a Complaint of Discrimination or Harassment**

For more information or to file a Complaint refer to the College’s [Equal Opportunity Policy](#), [Notice of Nondiscrimination](#), or [Report a Complaint](#) which may be accessed on the College’s website at [https://www.palmer.edu/about-us/office-of-compliance/report-a-Complaint/](https://www.palmer.edu/about-us/office-of-compliance/report-a-Complaint/).

In addition to TIX Misconduct, sexual misconduct is also prohibited under Title VII of the Civil Rights Act of 1964; the Violence Against Women Reauthorization Act of 2013 (“VAWA”); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”); Iowa Civil Rights Act, Davenport Civil Rights Ordinance, Chapter 760 of Florida Statutes, California Fair Employment and Housing Act, California Education Code and/or Illinois Human Rights Act.

**Reporting or Filing a Complaint of Sexual Misconduct not Addressed in This Handbook**

For more information or to file a Complaint, contact the College’s [TIX Coordinator or deputies](#) also serving as Equal Opportunity Compliance Coordinators or refer to [Report Sexual Misconduct](#) on the College’s website. Information regarding sexual misconduct awareness, prevention and response may be accessed on the College’s website.
CHAPTER 4: SCOPE AND JURISDICTION

A. Scope

This Handbook applies to the entire College community, which is defined as including the Main campus (Palmer College Foundation, d/b/a Palmer College of Chiropractic), West campus (Palmer College of Chiropractic West) and Florida campus (Palmer College Foundation, Inc., d/b/a Palmer College of Chiropractic Florida) with campuses respectively located in Iowa-Illinois; California; and Florida and any other person(s), groups, or organizations affiliated with any Palmer campus.

B. Jurisdiction

1. JURISDICTION REQUIREMENTS

   This Handbook addresses TIX Misconduct which encompasses all of the prohibited conduct described in Chapter 6 that occurs on the basis of sex and meets all of the following requirements:
   a. The alleged conduct occurred within the United States;
   b. The alleged conduct occurred as a part of the College’s education program or activity:
      1) within locations, events or circumstances over which the College exercises substantial control over both the Respondent and the context in which the TIX Misconduct allegedly occurs;
      2) or any building owned or controlled by a student organization that is officially recognized by the College;
      At the time of filing a Formal Complaint, a Complainant is participating in or attempting to participate in the educational program or activity at the College; and
   c. The alleged conduct constitutes sexual harassment as defined in Chapter 6.

2. JURISDICTION ASSESSMENT

   Upon receipt of a Formal Complaint, the TIX Coordinator will respond to any immediate health or safety concerns raised. Next, the TIX Coordinator will conduct an initial assessment for the purpose of determining whether the alleged misconduct, if substantiated, would constitute TIX Misconduct under this Handbook.

   In assessing whether the alleged TIX Misconduct meets the Jurisdiction requirements, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the misconduct defined in this Handbook can be committed between strangers or acquaintances as well as people involved in intimate or sexual relationships.
Following this initial assessment, the TIX Coordinator may take any of the following courses of action:

a. If the allegations forming the basis of the Formal Complaint would, if substantiated, constitute TIX Misconduct, the TIX Coordinator shall implement appropriate supportive measures. In addition, the TIX Coordinator shall initiate an investigation of the allegations in the Formal Complaint as described in Chapter 18. However, if the TIX Coordinator deems the Formal Complaint appropriate for the Informal Grievance Process, upon consent of both parties, the TIX Coordinator may instead refer the matter to the Informal Grievance Process as described in Chapter 17.

b. If the allegations forming the basis of the Formal Complaint would not, if substantiated, constitute TIX Misconduct, the TIX Coordinator shall dismiss the Formal Complaint (and either party may appeal this dismissal). However, if appropriate, the TIX Coordinator may refer the matter to the Sexual Misconduct (Non-Title IX) Policy & Procedures Handbook Process for review.

In addition, at any time during the investigation or prior to a Formal Grievance Process Hearing, the College may dismiss a Formal Complaint if:

a. The Complainant notifies the TIX Coordinator in writing that the Complainant wishes to withdraw the Formal Complaint or any allegations therein;

b. The Respondent is no longer enrolled or employed by the College; or

c. Specific circumstances prevent the College from gathering sufficient evidence to reach a determination as to the Formal Complaint or the allegations therein.

Once the jurisdictional assessment has been completed, the College shall electronically and simultaneously notify the parties of its decision, including its rationale for the decision.

Both parties have an equal right to appeal that decision as described in Section B3 immediately following.

If neither party appeals this jurisdictional assessment decision within five (5) academic days of that notification, then that decision is final.
3. **APPEAL OF JURISDICTION ASSESSMENT**

A designated Appeal Official will review and decide an appeal of the jurisdictional assessment on one or more of the following bases:

   a. procedural irregularity that **affected the outcome**;

   b. new evidence that was not reasonably available at the time of the jurisdictional assessment was decided that **could affect the outcome**;

   c. the TIX Coordinator or judicial assessment decision-maker had a conflict of interest or bias for or against Complainant or Respondent generally, or the individual Complainant or Respondent that **affected the outcome**.

To appeal, a party must electronically submit a written appeal statement to the TIX Coordinator within five (5) academic days of the date of the electronic notice of the jurisdictional assessment decision. The Appeal Official may deem a late submission reasonable only under extenuating circumstances by deciding what constitutes valid extenuating circumstances.

The appeal shall consist of a written statement outlining the basis for the appeal and supported by relevant information to substantiate the appeal.

The non-appealing party will be provided with a copy of the appealing party’s written statement and may submit a written response to the TIX Coordinator within five (5) academic days of the electronic notice from the College notifying the non-appealing party of the appeal. The non-appealing party’s statement will be provided to the appealing party. No further appeal submissions from either party shall be permitted.

In deciding an appeal, the Appeal Official may consider not only the parties’ written statements, but also may consider other materials the Appeal Official deems relevant which have been shared with the parties.

The parties will simultaneously be provided the written appeal decision electronically including the rationale for the decision.

**C. Consolidation of Formal Complaints**

Provided the allegations arise out of the same facts or circumstances, after a Formal Complaint has been assessed and meets the jurisdictional requirements of this Chapter, the TIX Coordinator has the discretion to consolidate multiple Formal Complaints alleging TIX Misconduct:
a. against more than one Respondent; or
b. by more than one Complainant against one or more Respondents; or
c. by one party against the party.

D. Coordination with Equal Opportunity Policy

A report or Formal TIX Complaint can sometimes occur in conjunction with allegations or discrimination and/or harassment on the basis of age, ancestry, citizenship status, color, creed, disability, national origin, race, religion, veteran status or other characteristic protected by applicable law. Under these circumstances, the College will coordinate the review, investigation and resolution efforts to collectively address all the reported complaints.

E. Sexual Misconduct Not Addressed in this Handbook

Allegations of sexual discrimination that do not meet the jurisdictional requirements of this Handbook because the allegations do not constitute TIX Misconduct as defined in this Chapter may constitute violations of the College’s Sexual Misconduct (Non-Title IX) Policy and Procedures Handbook. Under those circumstances, the College will coordinate the review, investigation and resolution efforts to address such complaints.

CHAPTER 5: TIX COORDINATOR AND TITLE IX RESPONSE TEAM

A. Administrative Oversight

The College has appointed the Title IX Coordinator and deputies (TIX Coordinator) as the Officials with Authority (OWA) to institute corrective measures on behalf of the College. The TIX Coordinator is responsible for the administration, coordination, dissemination and implementation of this Handbook including, but not limited to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent TIX Misconduct and retaliation.

All Complaints or reports of suspected TIX Misconduct or inquiries about or concerns regarding this Handbook are to be directed to the TIX Coordinator.

B. TIX Response Team

Response to Complaints, notices or reports of TIX Misconduct requires a team effort. The TIX Response Team includes the TIX Coordinator, deputy coordinators, the investigators and any College official assigned a specific role in responding to or resolving Complaints under this Handbook. On a case-by-case basis, others may be added to this response team as appropriate.
C. TIX Response Team Training

The TIX Coordinator and Deputies, investigators, hearing panel members, appeal officials and any other individual who has an assigned role by the College in responding to and resolving TIX Misconduct receive relevant and appropriate training for the roles they are assigned. Such training does not rely on sex stereotypes but instead promotes impartial investigations and adjudication of Complaints of TIX Misconduct. Training topics include, but are not limited to:

> The scope of the College’s education program or activity;
> How to conduct an investigation and grievance process including hearings, appeals and informal grievance processes, as applicable;
> How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias;
> Technology to be used at a live hearing;
> Issues of relevance of questions and evidence, such as when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant; and
> Issues of relevance to create an investigation report that fairly summarizes relevant evidence.

D. Independence and Conflict-of-Interest

The TIX Coordinator manages the TIX Team and acts with independence and authority free from bias and conflicts of interest. The TIX Coordinator oversees all resolutions under this Handbook. The members of the TIX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

Concerns involving bias, conflict of interest or any other concern regarding any TIX Team member should be reported to the TIX Coordinator. Concerns regarding the TIX Coordinator should be reported to the Provost.
E. TIX Coordinator and Deputy Coordinator – Main Campus

The TIX Coordinator is located in the Campus Center, 4th floor. The Deputy TIX Coordinator is located in the Campus Center, 3rd floor. Office Hours are Monday-Friday 8 a.m. to 4:30 p.m. CST

MAIN CAMPUS

Earlye Adams Julien, PHR, M.S. Ed.
Senior Director for Compliance
Also Serving as TIX Coordinator
Office of Compliance
1000 Brady Street
Davenport, IA  52803
563-884-5476
earlye.julien@palmer.edu

Lori Larsen, B.A.
Compliance Specialist
Also Serving as Deputy TIX Coordinator
Office of Compliance
1000 Brady Street
Davenport, IA  52803
563-884-5246
lori.larsen@palmer.edu
F. TIX Coordinator and Deputy Coordinator – West Campus

The deputy TIX coordinator on the West campus is located in Student Services. Office Hours are Monday-Friday 8 a.m. to 4:30 p.m. PST.

**WEST CAMPUS**
Michael Crump, M.Ed.
Director of Student Services
Also Serving as Deputy TIX Coordinator
Office of Student Services
90 E. Tasman Drive
San Jose, CA 95134
408-944-6122
michael.crump@palmer.edu

Earlye Adams Julien, PHR, M.S. Ed.
Senior Director for Compliance
Also Serving as TIX Coordinator
Office of Compliance
1000 Brady Street
Davenport, IA 52803
563-884-5476
earlye.julien@palmer.edu

1. Palmer College of Chiropractic, San Jose, Calif., campus
2. Baypointe Light Rail Station
G. TIX Coordinator and Deputy Coordinator – Florida Campus

The deputy TIX coordinator on the Florida campus is located in Building 2, Human Resources Department. Office Hours are Monday-Friday 8 a.m. to 4:30 p.m. EST.

**FLORIDA CAMPUS**
Cheryl Shaw, PHR, M.B.A.
Human Resources Manager
Also Serving as Deputy TIX Coordinator
Office of Human Resources
4777 City Center Parkway
Port Orange, FL 32129-4153
386-763-2665
cheryl.shaw@palmer.edu

Earlye Adams Julien, PHR, M.S. Ed.
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Also Serving as TIX Coordinator
Office of Compliance
1000 Brady Street
Davenport, IA 52803
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earlye.julien@palmer.edu
CHAPTER 6: PROHIBITED TIX MISCONDUCT

The College prohibits TIX Misconduct by or against any member of the College community. TIX Misconduct consists of a specific list of unacceptable behaviors that could impact the employment or educational environment. The following identifies behaviors that violate this Handbook.

TIX Misconduct is an umbrella term that includes the following as defined below:

- Sexual harassment;
- Sexual assault;
- Dating violence;
- Domestic violence;
- Stalking and cyber-stalking; and
- Retaliation.

Acts of TIX Misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

A. TIX Sexual Misconduct Definitions

1. SEXUAL HARASSMENT
   Sexual harassment is conduct on the basis of sex that satisfies one or more of the following:

   a) **Quid Pro Quo Sexual Harassment**
      An employee of the College, conditions the provision of an aid, benefit, or service of the College, on an individual’s participation in unwelcome sexual conduct; and/or

   b) **Title IX Sexual Harassment**
      Unwelcome conduct, determined by a reasonable person to be so severe, and pervasive, and, objectively offensive, that it effectively denies a person equal access to the College’s education, program or activity.

2. SEXUAL ASSAULT
   Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.

   a) **Forcible Rape:**
      Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ or another person, without the consent of the Complainant.

   b) **Forcible Sodomy:**
      Oral or anal sexual intercourse with another person, forcibly, and/or against that
person’s will (non-consensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

c) Sexual Assault with an Object:
The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person’s will (non-consensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

d) Forcible Fondling:
The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person’s will (non-consensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

e) Sex Offenses, Non-forcible:
(1) Incest
Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by applicable state law.

(2) Statutory Rape
Non-forcible sexual intercourse, with a person who is under the statutory age of consent of applicable state law.

3. DATING VIOLENCE

Violence, on the basis of sex, committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

a) The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition.

b) For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

c) Dating violence does not include acts covered under the definition of domestic violence.

4. DOMESTIC VIOLENCE

Violence, on the basis of sex, committed:

a) by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common; or

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b) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; or
c) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the relevant state; or
d) by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of the relevant state.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

5. STALKING

Engaging in a course of conduct, on the basis of sex, directed at a specific person, that would cause a reasonable person to fear for the person’s safety, or the safety of others; or suffer substantial emotional distress.

For the purposes of this definition:

a) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

b) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

c) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

6. RETALIATION UNDER THIS HANDBOOK

No individual may intimidate, threaten, coerce, or discriminate against any other individual for the purpose of interfering with any right or privilege secured by this Handbook or because the individual has made a report or Formal Complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding or hearing under this Handbook.

Complaints alleging retaliation under this Handbook, including for the exercise of rights under this Handbook, must be filed with the TIX Coordinator and will be addressed and processed accordingly. If the individual who allegedly retaliated is not affiliated with the College and not otherwise subject to this Handbook, the College will process the Complaint and take appropriate measures.

The College retains the right to charge an individual for making a materially false statement in bad faith during the course of an investigation, proceeding or hearing. A determination whether
or not the Respondent has engaged in TIX Misconduct is not sufficient alone to conclude the alleged retaliator made a materially false statement in bad faith.

Retaliation constitutes an independent violation of this policy and may occur even when there is a finding that no sexual misconduct took place.

The exercise of rights protected under the First Amendment, if applicable, does not constitute retaliation prohibited under this Handbook.

B. Other Definitions

1. FORCE
Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

2. COERCION
Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

3. AFFIRMATIVE CONSENT

Standard in the Determination of Consent

a) Affirmative Consent (Consent) is the standard in the determination of whether consent was given by each party involved in the sexual activity. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity. Consent is affirmative, conscious, voluntary, and revocable.

b) It is the responsibility of each person to ensure they have the affirmative consent of the other(s) to engage in sexual activity.

c) Lack of protest or resistance does not constitute consent; nor, does silence constitute consent.

d) Consent must be ongoing throughout a sexual activity and can be revoked at any time by each party during sexual activity. Consent to one form of sexual contact does not
constitute consent to other forms of sexual contact. For example, an individual may agree to kiss but choose not to engage in fondling or sexual intercourse.

e) The existence of a dating relationship or past sexual relations between the persons involved will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

Invalid Defense Regarding Consent

The Respondent’s belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making such determination, the Hearing Panel will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent’s belief is not a valid defense where:

a) The Respondent’s belief arose from the Respondent’s own intoxication or recklessness;

b) The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or

c) The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:

   (1) asleep or unconscious;

   (2) unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or

   (3) unable to communicate due to a mental or physical condition.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

CHAPTER 7: REPORTING SUSPECTED TIX MISCONDUCT

A. Responsibility by a Member of the College Community to Report Suspected TIX Misconduct

The College recognizes that any member of the College community who is impacted by or witnessed suspected TIX Misconduct may choose to report such conduct to any employee. For example, a student may choose to confide in a faculty member, an administrator or a coach, all of whom are
considered “responsible employees” who must immediately report the incident to the TIX Coordinator or Deputy. Similarly, an employee may choose to confide in a supervisor or fellow employee who are also considered “responsible employees.”

Under this Handbook, any employee who receives a report of suspected TIX Misconduct must immediately disclose that report to the TIX Coordinator or Deputy. The Coordinator and deputies are the Officials with Authority (OWA’s) responsible for implementing the procedures in this Handbook. All College employees (including faculty, employees and administrators), coaches, student employees, student leaders, and student organization officers are required to disclose to the TIX Coordinator or Deputies any incident or report of behavior or conduct involving suspected TIX Misconduct.

Individuals described above who fail to report an incident or report of suspected TIX Misconduct of which they become aware may be subject to disciplinary action up to and including termination of employment or dismissal as a student.

The College strongly encourages all students to report suspected TIX Misconduct and to seek assistance for themselves and others who experience such suspected TIX Misconduct.

Simply reporting TIX Misconduct does not constitute a Formal Complaint. To file a Formal Complaint, refer to Chapter 8 in this Handbook for instructions.

B. How to Report Suspected TIX Misconduct to the College

Any member of the College community may report TIX Misconduct to the College through the TIX Coordinator. Members of the College community who become aware of an incident of TIX Misconduct are to report the incident immediately to the College through the following reporting options:

1. By contacting the College’s TIX Coordinator or any deputy TIX Coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses and/or phone numbers listed in this Handbook. A reporting form may be obtained from the TIX coordinator and/or deputies. Or

2. Through the College’s website for online reporting.

Reports should contain sufficient information for the College to be able to adequately respond including, but not limited to, who was involved and when and where the incident(s) occurred.
Simply reporting TIX Misconduct does not constitute a Formal Complaint. To file a Formal Complaint, refer to Chapter 8 in this Handbook for instructions.

C. Time Limit to Report TIX Misconduct

There is no time limit for making a report of TIX Misconduct to the College. However, a reporting party is strongly encouraged to bring forward incidents of or share information about TIX Misconduct as soon as possible after the incident occurred.

D. Reporting Off-Campus TIX Misconduct

All incidents of TIX Misconduct, including those occurring off campus, should be reported to the College through the TIX Coordinator. For example, when the behavior:

1. Involves conduct directed at a College student or other member of the College community that occurs at a College-sponsored activity, sporting event, educational activity (e.g. preceptorship, internship, service learning experience) or at a student organization-sponsored activity;
2. Occurs when the Complainant or Respondent were acting in an official capacity for the College;
3. Constitutes a violation of federal, state or local law or ordinance;
4. Violates College policies; or
5. Demonstrates a threat to Campus safety and security.

E. Reporting Online TIX Misconduct

While the College may not control websites, social media, and other venues in which harassing online or other electronic communications are made, the policies of the College are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited under this Handbook when those behaviors are made in an employee’s or student’s official College capacity; occur in the College’s education program or activities; pose disruption or a negative effect on the College’s education program or activities; or use the College’s networks, technology, or equipment.

Members of the College community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College community.
F. Emergency/Immediate Campus Security or Law Enforcement Reporting Options

1. Campus Security
   The College encourages all members of the College community to contact Campus Security at any time to seek security assistance on campus or to provide assistance in contacting the TIX Coordinator as appropriate after an incident of sexual misconduct. For information or questions regarding Campus Security, see Chapter 13 in this Handbook: Campus Security.

2. Local Law Enforcement
   Individuals who have experienced TIX Misconduct have the right to notify or decline to notify law enforcement. In keeping with its commitment to taking all appropriate steps to prevent, eliminate, and remedy any TIX Misconduct, the College encourages all impacted individuals with concerns about potential criminal conduct to seek assistance from law enforcement immediately after an incident of TIX Misconduct.

   Local law enforcement agencies do not typically notify the College of reports of criminal activity, so the College will not have notice of an incident of misconduct unless a report is also made to the College. Accordingly, the College encourages impacted individuals to notify the College of TIX Misconduct that has been reported to law enforcement.

   Campus Security may be contacted at any time to provide assistance in contacting local law enforcement.

G. Medical Assistance

1. The College encourages all individuals who have experienced TIX Misconduct involving an assault to immediately seek appropriate assistance from a medical provider. When such assistance is appropriate, this is the best option to obtain any necessary care and ensure preservation of evidence needed for an effective investigative and remedial response.

2. A medical practitioner can provide emergency and/or follow-up medical or psychological services, discuss any health-care concerns in a confidential setting and may bring peace of mind. A medical exam has two goals: first, to diagnose and treat the full extent of any physical or psychological injury, which may include sexually transmitted infection, pregnancy or depression. Second, such an examination may include properly collecting and preserving evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather
evidence immediately does not commit an individual to any course of action. The decision to seek medical attention and gather any evidence will remain confidential and preserve the full range of options to seek resolution through this Handbook; other College Complaint processes; or through the pursuit of criminal action.

For information about medical assistance contact:

**MAIN CAMPUS/QUAD CITIES AREA RESOURCES**

A. Genesis Hospital  
   Iowa: 563-421-1000  
   Illinois: 309-792-9363

B. Trinity Medical Center  
   Iowa: 563-742-5000  

**WEST CAMPUS/BAY AREA RESOURCES**

Santa Clara County Valley Medical Center: Main Clinic 408-885-5000

**FLORIDA CAMPUS/PORT ORANGE AREA RESOURCES**

Sexual Assault Response Team Hotline: 800-940-7273; 386-258-7273

**H. Clery Act Statistical Reporting Obligations**

Individuals reporting crimes may remain anonymous. However, the College includes statistics about the occurrence of campus crimes in its annual security report and provides those statistics to the United States Department of Education. In such cases, all personally identifiable information is kept confidential.

This report helps to provide the community with a clear picture of the extent and nature of campus crime, to enhance greater community safety.

The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the impacted individual.
I. Clery Act Timely Warning Reporting Obligations

Individuals impacted by TIX Misconduct should be aware that College officials must promptly issue warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the College community. The College will make reasonable efforts to ensure that an impacted individual’s name and other identifying information is not disclosed while still providing enough information for College community members to make appropriate safety decisions in light of the potential danger.

J. Notification by the College to Law Enforcement Agencies

College Officials will determine, consistent with state and local law, whether appropriate law enforcement or other authorities shall be notified by the College of any sexual misconduct incidents.

CHAPTER 8: FILING A FORMAL COMPLAINT OF TIX MISCONDUCT WITH THE COLLEGE

A. Required Elements of a Formal Complaint of TIX Misconduct

1. **Required Elements** of a Formal Complaint of TIX Misconduct

   Simply reporting TIX Misconduct does not constitute filing a Formal Complaint. **To file a Formal Complaint:**

   a) **The Complainant must Submit** a physically or electronically signed document or electronic submission (such as by electronic mail or through an online portal) to the TIX Coordinator;
   
   b) **The Complainant must allege** TIX Misconduct as defined in Chapter 6 against a named Respondent;
   
   c) **The Formal Complaint must be filed by the individual** who experienced the alleged TIX Misconduct;
   
   d) **The Complainant must allege** as the person who experienced the misconduct that he/she was participating or attempting to participate in a College Education Program or Activity in the United States at the time of the TIX Misconduct; and
   
   **The Complainant must request** the College investigate the allegation(s).

2. A Complaint signed by the TIX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s) is also considered a Formal Complaint. When the TIX Coordinator signs a Complaint, the TIX Coordinator is not a Complainant.
(unless specified) and will otherwise fulfill the duties as Coordinator for the submitted Formal Complaint.

3. If the Respondent is unknown or is not a student or employee of the College, the TIX Coordinator will assist the Complainant in identifying appropriate College supportive measures; local resources; and/or when criminal conduct is alleged may assist the Complainant in making a criminal report.

B. How to File a Formal Complaint of TIX Misconduct with the College

1. The College urges members of the College community who wish to file a Formal Complaint to submit the Complaint immediately to the TIX Coordinator through the following options:

   a) By contacting the TIX Coordinator or any deputy by telephone, email, or in person during regular office hours at their respective locations, email addresses and/or phone numbers listed in this Handbook; or

   b) Online at: Report a Complaint

   c) Through Lighthouse, the College’s confidential third-party online reporting service at: https://www.lighthouse-services.com/palmer. (Note: While Lighthouse includes an anonymous reporting feature, a Formal Complaint of TIX Misconduct requires the name, signature and contact information of the Complainant.)

2. Formal Complaints of TIX Misconduct should contain sufficient information for the College to be able to adequately respond including, but not limited to, who was involved and when and where the incident(s) occurred. A Formal Complaint form may be obtained from the TIX Coordinator and/or Deputies.

C. Time to File a Formal Complaint of TIX Misconduct with the College

There is no time limit for filing a Formal Complaint of TIX Misconduct with the TIX Coordinator. However, a Complainant is strongly encouraged to file a Complaint of TIX Misconduct as soon as possible after the incident(s) occurred.

Acting on a Complaint significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the TIX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.
When a Complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice or Complaint.

The College may ultimately be unable to adequately investigate a Complaint if too much time has passed or if a Respondent has left the College. Other factors that could negatively impact the College’s ability to investigate may include but are not limited to the loss of physical evidence; potential departure of witnesses; or loss of memory. The College will, however, help the Complainant identify and access external filing options and provide available supportive measures. See Chapter 11.

D. Criminal Complaint

A Complainant may make a criminal Complaint about TIX Misconduct to the appropriate law enforcement authorities. Not all TIX Misconduct is criminal behavior. Law enforcement authorities can assist a Complainant in determining whether conduct experienced was criminal in nature and warrants a criminal Complaint. See Chapter 10.

The College encourages a Complainant to pursue criminal action for incidents of TIX Misconduct that may also be crimes. Upon request, the College will also assist the Complainant in making a criminal report. The College will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process.

However, a Complainant may also choose not to pursue criminal action. Under most circumstances, the local police department will not force a Complainant to pursue charges if the Complainant is not willing to do so.

The definitions and burden of proof in this Handbook differ from criminal law. The Complainant may seek resolution through this Handbook; pursue criminal action; or choose to pursue both.

E. College Complaint

In its sole discretion, the College by its TIX Coordinator may file a Formal Complaint, join with a member of the College community who has initiated such a Complaint, or intervene and maintain through this Handbook any Formal Complaint initially brought by another member of the College community.

Requests from a potential Complainant who does not file a Formal Complaint or a reporting party to “just record my concerns” or “not take any action at this time” may not be honored depending on
the circumstances involved. If at any time the College believes an investigation is justified, an investigation may proceed without the support or participation of the potential Complainant or a reporting party.

F. External Complaint

Individuals may file a Complaint with the Department of Education’s Office for Civil Rights regarding an alleged violation of Title IX by visiting

http://www2.ed.gov/about/offices/list/ocr/Complaintintro.html or calling 1-800-421-3481.

1. OFFICE FOR CIVIL RIGHTS (OCR)

   Office for Civil Rights (OCR)
   U.S. Department of Education
   400 Maryland Avenue, SW
   Washington, D.C. 20202-1100
   Customer Service Hotline #: (800) 421-3481
   Facsimile: (202) 453-6012
   TDD#: (877) 521-2172
   Email: OCR@ed.gov
   Web: http://www.ed.gov/ocr

2. REGIONAL OFFICE FOR CALIFORNIA

   Office for Civil Rights
   U.S. Department of Health & Human Services
   50 United Nations Plaza - Room 322
   San Francisco, CA 94102
   415-437-8310
   415-437-8329 Fax
   [415-437-8311 (TDD)]

3. REGIONAL OFFICE FOR FLORIDA

   Office for Civil Rights
   U.S. Department of Health and Human Services
   Atlanta Federal Center, Suite 3B70
   61 Forsyth Street, S.W.
   Atlanta, GA 30303-8909
   404-562-7886
   404-562-7881 Fax
CHAPTER 9: ANONYMITY, AMNESTY, PRIVACY AND CONFIDENTIALITY

A. Anonymity

Because of the inherent difficulty in investigating and resolving allegations of TIX Misconduct that are vague or from unidentified persons, the College encourages individuals to provide full information and identify themselves when making reports or Formal Complaints of TIX Misconduct. However, any generalized or anonymous reports received by the College will be reviewed by the TIX Team in accordance with this Handbook.

Anonymous reports may be made online at: https://www.lighthouse-services.com/palmer.

Anonymous reports do not constitute a Formal Complaint. A formal complaint requires the name, signature and contact information of the Complainant.

B. Amnesty

The College encourages good faith reporting of suspected TIX Misconduct under this Handbook. To that end, the College will not pursue charges of ethical misconduct relating to alcohol and drugs under the Student Code of Ethics against a student who makes a good faith report, Formal Complaint or is a witness to an incident of suspected TIX Misconduct. This amnesty applies only to such conduct occurring at or near the time of the incident, regardless of the location at which the suspicious information was revealed.

In order to further encourage good faith reporting by students, the College may offer leniency with respect to other charges of ethical misconduct under the Student Code of Ethics which may come to light as a result of such reports, depending upon the circumstances involved.
C. Privacy

Although the words “confidential/confidentiality” and “private/privacy” are frequently used interchangeably, for the purposes of this Handbook, privacy and confidentiality have different and distinct meanings.

Privacy means the information related to a report or Formal Complaint of TIX Misconduct will be shared with a limited number of College employees who need to know in order to assist in the assessment, investigation, and the ultimate resolution of the report or Formal Complaint.

The College makes reasonable efforts to maintain the privacy of the information it receives in connection with reports and Formal Complaints of TIX Misconduct. However, information is appropriately shared with a limited number of College employees who have a legitimate educational “need to know” when disclosure is required by law, policy, or is necessary to facilitate established College processes, including an equitable investigation and resolution of reports and Formal Complaints of sexual misconduct.

All employees who are involved in implementing this Handbook received specific training and guidance about sharing and safeguarding private information in accordance with applicable state and federal laws. The privacy of student education records will be protected in accordance with FERPA. The privacy of employee records will be protected in accordance with the College’s Human Resources Policies.

The College may contact emergency contacts to inform them of situations in which there is a significant and articulable health and/or safety risk.

D. Confidential Reporting

As pointed out in the previous section regarding privacy, for the purposes of this Handbook, privacy and confidentiality have different and distinct meanings.

Confidentiality exists in two separate contexts:

1. Confidentiality exists in the context of laws that protect communications in certain relationships, including those between medical and clinical care providers; mental health care providers; counselors and their patients; attorneys and their clients; ordained clergy and their parishioners; and spouses.

2. Confidentiality exists in the privilege the College has designated between certain individuals who have privileged communications.
The persons who specific relationships are protected by law or by College designation are called Confidential Resources. This means that when a party shares information with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or court order requires or permits disclosure of such information. Confidential information may be disclosed when:

a) the individual gives written consent for its disclosure;
b) there is a concern the individual likely caused serious physical harm to self or others; or
c) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities.

The College recognizes that the decision whether or not to report or file a Formal Complaint of TIX Misconduct is personal. Not every individual will choose to report or file a Formal Complaint of TIX Misconduct to the College or to law enforcement. Individuals are not required to pursue a specific course of action.

There are several confidential community resources available for individuals seeking to talk to someone about an incident of sexual misconduct in a confidential manner without making a report to the College, filing a Formal Complaint to the College, or triggering an investigation or action by the College. These resources can provide crisis intervention services, counseling, medical attention and assistance in interfacing with the criminal justice system. All individuals who have experienced or have been impacted by TIX Misconduct are encouraged to utilize the resources that are the best suited to their needs.

**CHAPTER 10: DIFFERENCES BETWEEN THIS HANDBOOK AND LEGAL PROCESSES**

This Handbook does not mirror criminal or civil legal processes. The College may pursue enforcement of this Handbook whether or not legal proceedings are also in process and may use information from third party sources (such as law enforcement agencies and the courts) to determine whether or not TIX Misconduct is established.

This Handbook, particularly the Formal Grievance Process and Informal Grievance Process, are administrative, not legal. Therefore, rules of law, evidence and criminal/civil procedure do not apply and will not be utilized with minor exceptions as discussed in this Handbook. The College does not have subpoena power; the ability to collect or process forensic evidence (e.g., sexual assault examination kits, DNA tests); or the ability to issue warrants.
Proceedings under this Handbook may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the TIX Coordinator. The College will not generally wait for the conclusion of any criminal investigation or proceeding to commence its own investigation and take any necessary supportive measures to protect the Complainant and Respondent.

However, the TIX Coordinator will cooperate with law enforcement in order that the College’s TIX Misconduct processes do not interfere with the integrity or timing of a criminal investigation. At the request of law enforcement, the College may temporarily defer the fact-finding portion of its investigation.

A. Legal Determinations

Neither law enforcement’s determination of whether or not to arrest or prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether TIX Misconduct violating the College policy occurred. The College cannot and does not determine whether a crime has been committed. That can only be done through the legal process.

Determinations made or sanctions imposed under this Handbook shall not be subject to change solely because criminal charges arising out of the same facts giving rise to a TIX Misconduct Complaint were dismissed, reduced or resolved in favor of or against the Respondent.

B. Special Considerations

When a Respondent is charged by federal, state, or local authorities with a violation of law, the College will not request or agree to special consideration for that party because of his or her status with the College. If the alleged criminal or civil offense is also being processed under this Handbook, the College may advise legal authorities of the existence of the TIX Misconduct Complaint and how such matters are typically handled under this Handbook.

C. Transcripts

If the Respondent is a current student, no notation will be placed on that student’s transcript while the Complaint is pending under this Handbook. If the Respondent withdraws or seeks to transfer from the College while a TIX Misconduct Complaint is pending, that student’s transcript will reflect the status of that Complaint. Such a transcript notation is subject to later modification or deletion to reflect the outcome of the Complaint.
CHAPTER 11: SUPPORTIVE MEASURES FOR COMPLAINANTS AND RESPONDENTS

In response to a report or a Formal Complaint of TIX Misconduct, either or both the Complainant and Respondent involved in an alleged TIX Misconduct incident, may seek or the College may offer supportive measures.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter TIX Misconduct and/or retaliation.

Supportive measures do not mean the College has made a determination of responsibility for the misconduct allegations. Supportive measures may be sought or offered by the College to the Complainant or Respondent even if a Formal Complaint has not been filed by the Complainant against the Respondent.

Upon receiving a report of TIX Misconduct from a Complainant, the TIX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and consider the Complainant’s wishes with respect to such measures. In addition, the TIX Coordinator will inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint. The TIX Coordinator will explain to the Complainant the process for filing a Formal Complaint and available options for resolution. Finally, the TIX Coordinator will also consider supportive measures as appropriate and reasonably available for the Respondent.

The College will determine the necessity and scope of any supportive measures. Even when either or both parties do not specifically request such measures be taken, the College may choose to impose such supportive measures at its discretion.

To the extent possible, the College will:

1. Maintain the privacy of the supportive measures, provided that privacy does not impair the College’s ability to provide the supportive measures.
2. Act to ensure as minimal an academic impact on the parties as possible.
3. Implement measures in a way that does not unreasonably burden the other party.

The supportive measures provided to either or both parties may change over time. The parties are encouraged to communicate with the TIX Coordinator throughout the process so that such measures
are effective and appropriate based upon the parties evolving needs. Such measures as then appropriate may be kept in place after the TIX Misconduct report allegations have been resolved.

The range of supportive measures may include, but is not limited to, the following:

**A. Limited-Contact Directive**

Either or both parties may request, or the College may impose, communication and contact restrictions to prevent potentially harmful interactions. These communications and contact restrictions generally preclude in-person, telephone, electronic or third-party communications.

**B. Restricted Access**

The College may limit either or both parties’ access to certain College facilities or activities as part of a limited contact directive.

**C. Facilitation of On-Campus Compliance with a Court Order**

In some cases, either or both parties may consider seeking a Protective Order from the local courts. These civil proceedings are independent of the College. If the College is provided with a copy of a court order, the College will, to the extent feasible, attempt to facilitate on-campus compliance with the order.

**D. Academic or Employment Modifications**

Either or both parties may request modifications to academic or employment conditions as supportive measures. These may include, but are not limited to:

1. Academic or other course-related adjustments, such as but not limited to a change in class schedule; taking an incomplete; dropping a course without penalty; or extending course deadlines;
2. Employment modifications such as but not limited to work assignments; scheduling; work locations; or leaves of absence.

**E. Student Housing Modifications**

If either or both parties reside in College-owned housing, then such persons may request changes in housing services or locations.
F. Security Assistance

Either or both parties may request assistance from Security to help identify and implement safety measures such as assigned parking or requesting an escort on campus for movement between classes and activities.

G. Emotional Support

The College may assist in identifying Campus Support Services as outlined in this Handbook. Additionally, the College may assist in identifying and referring either or both parties to community services for counseling, emotional support and other helpful community resources outlined in this Handbook or on the College’s website.

H. Disability Accommodations

This Handbook does not alter any College obligations under federal or state disability laws including, but not limited to, the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Either Party may notify the TIX Coordinator of the need for reasonable accommodations at any point before or during the processing of a Formal Complaint provided the accommodations do not fundamentally alter those processes. The TIX Coordinator will work with the appropriate disability services coordinator or Human Resources in determining any reasonable accommodations.

I. Failure to Comply with Supportive Measures

Either or both parties are encouraged to report concerns asserting that the other party or any College community member has interfered with or prevented the implementation and functioning of a supportive measure. After notice and assessment of any such concerns, the College shall take appropriate action to remedy the concern. Such remedial action may include imposing discipline.

CHAPTER 12: EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE

The College may remove a Respondent on an emergency basis from its education programs and activities whether the grievance processes are underway or not. The reason being that risks from TIX Misconduct may occur at any time.

An emergency situation must arise from the alleged TIX Misconduct. The determination of an immediate risk situation is not limited solely to the details of the alleged TIX Misconduct itself, but may also evaluate and be responsive to the Respondent’s related post-incident actions or behaviors.
An emergency removal is not a determination of responsibility or a sanction/discipline imposed for the alleged TIX Misconduct. The presumption of innocence remains until a determination is made at the conclusion of the Formal Grievance Process.

If the Respondent’s actions pose an immediate and identifiable threat, but do not arise from the TIX Misconduct allegation(s), then the College may proceed in accordance with the applicable Student Code of Ethics, Collective Bargaining Agreements, Faculty Handbooks, Employee Handbooks, and the College’s other policies and procedures.

Under the August 2020 TIX regulations, there is a five-step process for evaluating the necessity and implementation of an emergency removal.

**A. Step 1: Prompt Individualized Safety and Risk Analysis**

In conducting an individualized safety and risk analysis, the College does not consider generalized hypothetical beliefs or assumptions that the Respondent could pose a risk to someone’s physical health or safety. The College will conduct an individualized safety and risk analysis, that will focus upon the particular Respondent by examining the specific circumstances arising from the allegations of TIX Misconduct posing an immediate threat to a person’s physical health or safety.

The safety and risk analysis will be performed by the Behavioral Intervention Team in consultation with the TIX Coordinator using its standard objective risk threat assessment procedures. All Team Members shall be free of bias and avoid conflicts of interest.

**B. Step 2: Required Findings of Immediate Threat to the Physical Health or Safety of Another**

The individualized safety and risk analysis must confirm there is an immediate threat justifying an emergency removal. Questions may arise, for example, regarding the significance and weight that should be applied to a Complainant’s subjective fear of a threat versus an objective reasonable person standard. The analysis should assess the Respondent’s propensity, opportunity, and ability to effectuate a stated or potential threat. The determination will be fact specific subject to whether appropriate supportive measures would serve as a less restrictive means to negate or sufficiently minimize the likelihood of a threat’s occurrence.

The immediate threat must be to the physical health or safety of one or more individuals who may be the Complainant, Respondent or any other individual such as a third-party witness. The word “physical” modifies “health or safety”. This distinction is important in order to emphasize this
emergency removal process is not used inappropriately to prematurely punish the Respondent by relying on a person’s mental or emotional health or safety to justify an emergency removal. Emotional and mental well-being of the Complainant may be addressed by Supportive Measures.

As a consequence, if the Respondent presents an immediate non-physical health or safety threat to another individual (e.g. emotional impact), then the College’s response focuses upon appropriate Supportive Measures to allow the individual equal access to education programs and activities, not the Respondent’s emergency removal.

If the Respondent threatens to physically harm the Complainant in response to TIX Misconduct allegations, an immediate threat to the Complainant’s physical safety may justify emergency removal. Similarly, the Respondent’s threat of physical self-harm after being accused of TIX Misconduct may also justify emergency removal.

C. Step 3: Student/Employee with a Disability

The Respondent may not be subject to emergency removal without full consideration of a prior self-identified disability to Student Disability Services or Human Resources. The Behavioral Intervention Team will consult with Student Disability Services or Human Resources, as appropriate, in performing the individual safety and risk analysis regarding any self-identified disability brought forward by the Respondent.

D. Step 4: Appropriateness of Supportive Measures Rather than an Emergency Removal

The emergency removal analysis requires a careful balancing of concurrent factors such as to:

- provide equal access to education programs and activities;
- consider the adverse impact of separating the Respondent from educational opportunities and benefits; and
- satisfy the College’s obligation to protect the health and safety of its community.

In assessing an emergency removal, the College will also consider the anticipated timing to complete an investigation and the grievance process since removal will vary in its length and impact based upon the duration of the process. The College may conduct interim assessments of whether the immediate threat to physical health or safety of a student, employee or another individual remains unchanged or has sufficiently dissipated to support the Respondent’s return to the education programs and activities, in whole or in part.
E. Step 5: Post Removal Challenge

If the College determines removal is necessary, the Respondent will be provided notice with an opportunity to challenge the decision immediately following the removal to a designated College Official. The Respondent seeking to challenge the decision shall submit a written request with supporting documentation. The Respondent shall be notified by written decision regarding the emergency removal. The decision of the designated College Official shall be final.

There is no appeal process for emergency removal decisions.

F. Administrative Leave

Consistent with applicable Collective Bargaining Agreements, Faculty Handbooks, Employee Handbooks, and other College policies and procedures, the College has the authority to place an employee or faculty Respondent on administrative leave during the TIX Misconduct process.

An administrative leave is not a determination of responsibility or a sanction/discipline imposed for the alleged TIX Misconduct. A presumption of innocence remains until the determination is made at the conclusion of the Formal Grievance Process.

Administrative leave will take into consideration a reported self-identified disability by Respondent to Student Disabilities Services or Human Resources.

CHAPTER 13: CAMPUS SECURITY

Campus Security may be contacted at any time to seek assistance on campus or to provide law enforcement information.

http://www.palmer.edu/Security/

For information or questions regarding Campus Security contact:

A. Main Campus

SECURITY: 563-884-5555

Security is provided by Per Mar, a third party contractor. For additional information contact:

Brian Sharkey
Senior Director for Campus Safety and Security
B. West Campus

24-hour First Security Services: 800-400-1110
*After hours’ desk (South entrance): 408-944-6186
*Cell phone (security on-site) 408-568-5951

Security is provided by First Security Services, a third party contractor. For additional information contact:
Lonnie Contreras
Director of Campus Administration
408-944-6011
lonnie.contreras@palmer.edu

C. Florida Campus

SECURITY: 386-763-2777

Security is provided by United American, a third party contractor. For additional information contact:

Charlie Brown
Manger of Safety & Security
386-763-2608
Charlie.brown@palmer.edu

- Operational hours: 386-763-2777 or 32777 from a campus phone
- After hours: 800-227-9805

After providing security assistance or law enforcement information, Security will promptly report any TIX Misconduct allegations to the TIX Coordinator for further processing according to the policies outlined in this Handbook.

CHAPTER 14: CAMPUS SUPPORT SERVICES

The College encourages College community members to seek these campus support services listed below as needed.
A. Main Campus

1. Academic Support Services & Resource Referrals for Students
   Academic Support Services
   Kevin Cunningham, D.C., Ph.D.
   563-884-5898
   kevin.cunningham@palmer.edu

2. Employment Support Services & Resource Referrals for Employees and Faculty
   Human Resources
   Barry Pence, M.B.A., SPHR, SHRM-SCP
   563-884-5866
   barry.pence@palmer.edu

B. West Campus

1. Academic Support Services & Resource Referrals for Students
   Student Services
   Michael Crump, M.Ed.
   408-944-6122
   michael.crump@palmer.edu

2. Employment Support Services & Resource Referrals for Employees and Faculty
   Human Resources
   Barry Pence, M.B.A., SPHR, SHRM-SCP
   563-884-5866
   barry.pence@palmer.edu

C. Florida Campus

1. Academic Support Services & Resource Referrals for Students
   Academic Support Services
   Victor Hidalgo, M.S.
   386-763-2780
   victor.hidalgo@palmer.edu

2. Employment Support Services & Resource Referrals for Employees and Faculty
   Human Resources
   Cheryl Shaw, PHR, M.B.A.
CHAPTER 15: CONFIDENTIAL COMMUNITY RESOURCES

The law creates a privilege of confidentiality between medical and clinical care providers; mental health care providers; counselors and their patients; attorneys and their clients; ordained clergy and their parishioners; and spouses.

This means that when a party shares information with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or court order requires or permits disclosure of such information. Confidential information may be disclosed when:

- the individual gives written consent for its disclosure;
- there is a concern the individual likely caused serious physical harm to self or others; or
- the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities.

Reports of TIX Misconduct may be made to these confidential community resources without making a report to the College or triggering an investigation or action by the College. The College encourages members of the College community to seek the support of confidential community resources as needed. Individuals impacted by an alleged TIX Misconduct incident are encouraged to seek appropriate help through available confidential community resources, regardless of whether or not the incident was reported to the College. These resources can provide crisis intervention services, counseling, medical attention and assistance in interfacing with the criminal justice system.

Confidential Resource may share non-identifiable information for statistical tracking purposes or as required by the Clery Act.

A. Local Resources

1. Main Campus

   a. Survivor Services of Family Resources
      
      http://www.famres.org/services/survivor-services
      
      Iowa: 563-326-9191
      Illinois: 309-797-1777

      A confidential community based program that serves the needs of women, men, children and families whose lives have been affected by domestic or sexual violence, human trafficking, or other violent crimes.
b. **Personal Counseling Brochure**

2. West Campus

a. YWCA Rape Crisis Center in Santa Clara County
   
   408-287-3000
   650-493-7273
   800-572-2782 – Crisis Line

   A confidential community based program that provides support, assistance, crisis counseling, resources and accompaniment to a forensic-medical exam to survivors or significant others either at the hospital or through a 24-hour hotline.

b. **Personal Counseling Brochure**

3. Florida Campus

a. Sexual Assault Response Team
   
   888-956-RAPE (7273)

   A statewide organization committed to victims and survivors of sexual violence. The hotline provides information and assistance on all aspects of sexual violence, including rape, child abuse, stalking and sexual harassment.

b. **Personal Counseling Brochure**

**B. Additional Employee Resources (all three campuses)**

The Employee Assistance Program (EAP) is a College-sponsored benefit intended to provide confidential, short-term counseling and referral services that will help employees and immediate family members.

ComPsych Guidance Resources (the College’s EAP) can be accessed 24 hours a day by calling 800-272-7255 or logging onto [http://www.guidanceresources.com/](http://www.guidanceresources.com/). If, upon assessment, the counselor feels that outside assistance is necessary, a subsequent referral will be made. Please contact the Human Resources department at 563-884-5276 for a password to access the web-based benefits.

**C. Other Resources**

1. Rape and Sexual Violence
National Sexual Assault Hotline/Rape Abuse Incest National Network (RAINN)
800-656-HOPE (4673)
www.rainn.org

A confidential hotline that connects survivors of sexual assault with a trained staff member from a local sexual assault service provider.

2. Domestic Violence

National Domestic Violence hotlines:
800-799-SAFE (7233)
800-787-3224 (TTY)

A confidential 24/7/365 hotline that provides resources and information to anyone experiencing domestic violence.

3. Suicide Prevention

a. National Suicide Prevention Lifeline
800-273-TALK (8255)
www.suicidepreventionlifeline.org
A national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

b. Jed Foundation
800-273-TALK (8255)
www.jedfoundation.org
A nonprofit organization to protect emotional health and prevent suicide for our nation’s teens and young adults.

4. Gay Lesbian Bisexual Transgender Resources

LGBT National Hotline
888-843-4564
www.GLBTNationalHelpCenter.org
A national help center serving gay, lesbian, bisexual, transgender and questioning people by providing free and confidential peer-support and local resources.
D. Other Mental Health and Well-being Resources

1. Ulifeline (http://www.ulifeline.org). An anonymous, confidential, online resource center developed especially for college students. Find help and information regarding mental health and suicide prevention.

2. American Psychological Association (www.apa.org). The APA is a professional psychological association which provides information on a wide variety of topics.


CHAPTER 16: THE COLLEGE’S RESPONSE TO REPORTS OF TIX MISCONDUCT

A. Actual Knowledge

The College will respond to allegations of TIX Misconduct under this policy when the College has actual knowledge of TIX Misconduct allegations that occurred within the scope and jurisdiction of this Handbook. See Chapter 4 for more detailed information.

The College is considered to have actual knowledge only when notice of sex discrimination or sexual harassment allegations are reported to the College’s Officials with Authority (OWA) to institute corrective measures under this Handbook on behalf of the College. Under this policy, the College’s OWA’s include the TIX Coordinator and deputies. Therefore, all College employees (including faculty, employees and administrators), coaches, student employees, student leaders, and student organization officers are considered responsible employees required to immediately disclose to the Coordinator or Deputies any incident or report of behavior or conduct involving suspected TIX or other Sexual Misconduct or allegations of TIX or other Sexual Misconduct.

The mere ability or responsibility to report TIX Misconduct or to inform a student about how to report TIX Misconduct, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the College.
B. Examination of Reports of TIX Misconduct for TIX Jurisdiction

1. **EXAMINATION OF REPORTS**
   Although a report of TIX Misconduct may be received through many sources, the College has directed all reports of TIX Misconduct be brought to the TIX Coordinator. The TIX Coordinator shall respond to all reports and complaints of TIX Misconduct.

   TIX Misconduct grievance processes are unique to the nature of the allegation, the location where the misconduct took place, the person making the allegation and against whom the allegation is directed (i.e. employee, faculty, student, 3rd party) as well as their association with the College and the level of due process required to resolve a Complaint. Accordingly, reports of TIX Misconduct are reviewed by the TIX Coordinator to ensure such reports are directed to the jurisdiction of the appropriate process recognized by the College.

2. **DETERMINATION OF SCOPE AND JURISDICTION**
   Reports determined to meet the scope and jurisdiction of Title IX will be processed under this Handbook. See Chapter 4 for greater detail. Reports of non-TIX Sexual Misconduct will be formally dismissed under this Handbook and directed to the jurisdiction of another appropriate process recognized by the College.

C. Risk Assessment

   The College will make an initial assessment of any risk of harm to individuals or to the College community and will take reasonable steps necessary to address those risks.

D. Orientation Meeting with the Complainant

   The TIX Coordinator will discuss with the Complainant the availability of supportive measures that are available whether the Complainant files a Formal Complaint or not, consider the Complainant’s wishes with respect to supportive measures, share information regarding community resources and law enforcement, explain the process for filing a Formal Complaint, explain the Formal grievance process, and any informal grievance process options. The Complainant will also be notified during this meeting of the right to have an Advisor present and the role the Advisor may play in the process.

E. Promptness

   All allegations are acted upon promptly by the College once it has received actual knowledge/notice of allegations of TIX Misconduct. The resolution of Formal Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.
Any time the general timeframes for resolution outlined in the College’s procedures will be delayed, the College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time (if known) that will be needed as a result of the delay.

CHAPTER 17: INFORMAL GRIEVANCE PROCESS

A. General Guidelines for Informal Grievance Process

1. The purpose of the Informal Grievance Process is to determine if the Complaint may be resolved informally on a basis which is satisfactory to both parties and the College.

2. After the filing of a Formal Complaint, the Complainant may request to engage in the Informal Grievance Process. The TIX Coordinator has the discretion to initially decide whether the Informal Grievance Process is appropriate in the particular matter.

3. If the TIX Coordinator determines a Complaint is not appropriate for the Informal Grievance Process, then the Complainant will be informed that the process is unavailable.

4. The Department of Education’s regulations permit the use of an Informal Grievance Process if the TIX Misconduct Complaint involves:
   a) a student Complainant and a student Respondent;
   b) an employee Complainant and an employee Respondent; or
   c) an employee Complainant and a student Respondent.

5. The regulations prohibit the use of an Informal Grievance Process if the Complainant is a student and the Respondent is an employee of the College.

6. Subject to the voluntary consent of the parties with approval of the TIX Coordinator, the College will facilitate the Informal Grievance Process when a Formal Complaint has been filed.

7. Informal resolutions present an alternative way to resolve Formal Complaints in a less adversarial manner than an investigation and live hearing under the Formal Grievance Process.

8. Informal resolutions may address situations in which the facts underlining the Complaint are not contested by the parties. In such a limited set of circumstances, the Complainant, Respondent and TIX Coordinator may agree on resolving the allegations of a Formal Complaint that includes disciplining the Respondent. Of course, if a Respondent does not believe discipline is appropriate, then the Respondent may withdraw from the Informal Grievance Process in order to begin or resume the Formal Grievance Process.

9. If the Formal Grievance Process has begun, either Complainant or Respondent may seek to initiate the Informal Grievance Process prior to the commencement of a live hearing. If both
parties agree to participate in the Informal Grievance Process with the approval of the TIX Coordinator, the Formal Grievance Process will be adjourned while the Informal Grievance Process is pending. If an informal resolution is not reached, the Formal Grievance Process will be resumed.

10. If the Informal Grievance Process does not result in a written agreement being signed by the parties, the College will not draw any adverse inference based on a Respondent’s participation. Nor will such participation be considered an admission by the Respondent.

11. Protections against retaliation apply to individuals participating in the Informal Grievance Process. Disciplinary action may result from those found responsible for retaliation.

B. Voluntary Written Consent from Complainant and Respondent

1. The Informal Grievance Process (Informal Process) is separate and distinct from the Formal Grievance Process (Formal Process). For this reason, prior to engaging in the Informal Process, the TIX Coordinator will explain to the Complainant and Respondent what the Informal and Formal Processes entail in order for each of them to make an informed decision to voluntarily attempt to reach an informal resolution as an alternative.

2. Before the Informal Grievance Process is used, the Complainant and Respondent must be informed in writing of:

   a) the TIX Misconduct Complaint allegations;
   b) the requirements of this Informal Grievance Process (including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations); and
   c) any consequences resulting from participating in the Informal Grievance Process (including the records that will be maintained or could be shared).

3. The TIX Coordinator will meet individually with the Complainant and Respondent to determine if the Complaint may be resolved informally on a basis which is satisfactory to both parties and the College. If Complainant and Respondent agree to pursue the Informal Grievance Process, then each party must submit to the TIX Coordinator a signed voluntary written informed consent.

4. At any time prior to agreeing to a resolution, either party has the right to withdraw from the Informal Grievance Process and begin or resume the Formal Grievance Process with respect to the Formal Complaint.

C. Course of Informal Grievance Proceedings

1. Once voluntary written consent has been obtained, the parties shall engage in one of the following:
a) meet together with the TIX Coordinator in person or through a technologically-assisted medium such as Skype, Teams, Zoom, FaceTime, WebEx, or similar technology; or

b) meet individually with the TIX Coordinator in person or through a technologically-assisted medium such as Skype, Teams, Zoom, FaceTime, WebEx, or similar technology.

2. The parties may be accompanied by an Advisor who will serve as a support person in any meeting related to this process. However, the Advisor may neither actively participate nor serve as a spokesperson for the party. Any individual who serves as an Advisor is expected to make themselves available for all meetings as scheduled by the TIX Coordinator. The TIX Coordinator has the right at all times to determine what constitutes appropriate behavior on the part of an Advisor and to take appropriate steps to ensure compliance with this process.

3. Any agreement reached as part of the Informal Grievance Process must be approved by the TIX Coordinator in order to ensure consistency with the College’s federal obligations. If the TIX Coordinator determines at any time prior to the signing of an Informal Resolution Agreement that the proposed resolution is no longer appropriate, the TIX Coordinator may terminate the process.

4. Upon signing an Informal Resolution Agreement, the Complainant and Respondent are bound by its terms and cannot opt for a Formal Grievance Process resolution based upon the conduct alleged in the Formal Complaint. Neither party may appeal an Informal Resolution Agreement.

5. Any agreed Informal Resolution Agreement reached through this process will be documented and maintained by the TIX Coordinator. Informal resolutions involving employees may also be placed in their personnel files.

6. The failure of either party to comply with the signed Informal Resolution Agreement may result in disciplinary action.

7. If the parties’ circumstances change significantly, either may request a Supplemental Agreement subject to the TIX Coordinator’s determination that it is appropriate to consider such a supplement. Any Supplemental Agreement must be written and signed by the Complainant, Respondent and TIX Coordinator.

D. Informal Grievance Process Timeline
The timeline for completion of the Informal Grievance Process may vary, but the College will seek to complete that process within thirty (30) academic days. Should the timeline be extended for good cause by the TIX Coordinator both parties will be notified in writing.
CHAPTER 18: FORMAL GRIEVANCE PROCESS

A. General Guidelines

1. This Formal Grievance Process (formal process) is the same for TIX Misconduct Complaints whether the parties are students, employees, faculty or other individuals participating in one of the College’s education programs or activities.

2. This formal process will take place when a TIX Misconduct Complaint is brought forward that is not informally resolved under Chapter 18; and the Complainant seeks a formal resolution.

3. The College may consolidate Formal Complaints involving allegations against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party where the allegations of TIX Misconduct arise out of the same facts or circumstances.

4. Resolution proceedings are private. All persons present at any time during the formal process are expected to maintain the privacy of the proceedings in accordance with College policy. While there is an expectation of privacy around what is shared with parties during this process, the parties have discretion to share their own knowledge and evidence with others if they so choose. The College encourages parties to discuss this with their Advisors before doing so.

B. Standard of Proof

The standard of proof under this Handbook is preponderance of the evidence. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the Respondent violated this Handbook.

C. Notification of Allegations and Intent to Investigate

1. NOTIFICATION TO THE RESPONDENT

When the College receives a Formal Complaint alleging TIX Misconduct that it intends to investigate, the Respondent will be notified of such intent in writing including sufficient information known at the time (i.e. time and location) upon commencement of the formal process. The initial notification may be somewhat limited by the factual details provided to the College by the Complainant. However, the College will make its best efforts to include in such initial notification and/or any subsequent notifications sufficient detail concerning the following:

   a) identity of the parties involved (if known);
   b) specific TIX Misconduct alleged;
   c) conduct constituting the alleged misconduct; and
d) date(s) and location(s) of the alleged incident(s) (if known)

As more information becomes available during the investigation, additional details about the alleged misconduct will be equally provided to the Respondent and Complainant.

2. ORIENTATION MEETING WITH THE RESPONDENT

The TIX Coordinator will discuss with the Respondent the availability of supportive measures that are available, share information regarding community resources, explain the grievance process, and any informal grievance process options, if applicable.

D. Dismissal of a Formal TIX Complaint

1. The College may dismiss a Formal Complaint if:

   a. At any time during the investigation or hearing a Complainant notifies the TIX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;

   b. The Respondent is no longer enrolled or employed by the College; or

   c. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

2. If the College dismisses a Formal Complaint, the parties will be notified simultaneously and electronically in writing of the dismissal and the reasons for the dismissal.

CHAPTER 19: ADVISORS

A. Right to an Advisor

1. Once a Formal Complaint has been filed with the TIX Coordinator, all parties, whether Complainants or Respondents have the right to an Advisor of their choice to assist them during the course of the formal process. Because the parties are engaged in that process, they are encouraged to obtain an Advisor as early as possible in the process.

2. A party may engage an Advisor at any point in the formal process. However, an Advisor is required for the purpose of conducting cross-examinations at a live hearing.

3. An Advisor is not part of the appeal process.

4. Witnesses are not entitled to Advisors.
B. Who Can Serve as an Advisor

1. The parties may select an Advisor. The Advisor may be a friend, mentor, family member, union representative, attorney, or other individual to advise, support, and/or consult with that party throughout the formal process.

   In selecting an Advisor, the party must understand the TIX Coordinator must be satisfied that the chosen Advisor has the availability, time and inclination to fully participate to avoid any unreasonable scheduling delays. Accordingly, not only the Advisor but also the party must adjust their schedule to comply with the reasonably prompt timeframes set by the College for concluding the formal process.

2. The College may make reasonable provisions to allow an Advisor who cannot attend in person to participate by telephone, video conferencing, or other similar technologies as may be convenient and available.

3. The parties shall notify the TIX Coordinator of the identity of the Advisor at least one academic day in advance of the intent by that advisor to attend any meetings, interviews or other proceedings.

4. The Advisor may be an attorney. If either or both parties retain an attorney, such party shall notify the TIX Coordinator of the identity of that attorney at least three academic days in advance of the intent by that attorney to participate in any of the Formal Grievance proceedings in order that the other party may have an opportunity to obtain an attorney, if they so choose. The College may also appoint an attorney to represent the College’s interests throughout the formal process.

5. The College has a pool of trained persons to serve as Advisors who are familiar with this Handbook and the Formal Grievance Process. If a party so chooses, the TIX Coordinator will offer to assign a trained Advisor to that party.

6. If either party chooses an Advisor from outside the pool of those identified by the College, that Advisor may not be trained and familiar with this Handbook and the Formal Grievance Process.

7. If one party selects an attorney as an Advisor and the other party does not or cannot afford an attorney, the College has no obligation to provide an attorney to that other party.

8. A party may elect to change Advisors during the formal process. In other words, the parties are not obligated to use the same Advisor throughout these proceedings. The parties will provide timely notice to the TIX Coordinator if either party intends to change Advisors at any time.

9. The parties also have the right to choose not to have an Advisor at any stage of the formal process. However, a party **must** have an Advisor present to participate in the live hearing.
10. The Advisor cannot have institutionally conflicting roles, such as being a TIX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions, if applicable.

11. Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Hearing Panel.

C. Sharing Information with Advisors

1. The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

2. The College’s duty is to the Complainant and Respondent not to either of their Advisors. All communications are made directly with the parties unless specifically requested in writing.

3. If a party requests that all communication be made through their Advisor, the College will comply with that request at the discretion of the TIX Coordinator. If requested, the College will provide a consent form that authorizes the College to share records directly with the party’s Advisor. The party must either complete and submit this form to the TIX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.

4. Advisors are expected to maintain the privacy of the records shared with them. Records obtained for the purposes of this process may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College’s privacy expectations.

5. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

D. Advisor’s Request for Informational Meeting

An Advisor may request to meet with the TIX Coordinator at the commencement of the grievance process and prior to any meetings or interviews to clarify and understand their role and the College’s policies and procedures. An Advisor should direct all process-related questions to the TIX Coordinator.
E. Advisor’s Role

1. ADVISOR’S ROLE IN THIS FORMAL GRIEVANCE PROCESS

An Advisor may accompany the party to meetings related to this formal process. Advisors should advise the party on this process, help the parties prepare for each meeting, and are expected to advise ethically, with integrity, and in good faith.

2. ADVISOR’S ROLE DURING THE INVESTIGATION

a. The role of the Advisor within the investigation phase of the formal process is limited. An Advisor may be present during the party’s interview(s) with the investigator(s) to advise the party on the investigation process.

b. The Advisor may consult with the party quietly or in writing, or during breaks, but may not speak on behalf of the party to the investigator. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

c. Complainants and Respondents are expected to respond to questions from the investigator(s) on their own behalf throughout the investigation phase of the formal process.

d. The Advisor may not make a presentation or represent the party during an interview. The Advisor may not testify in or obstruct an interview, author written submissions, or disrupt an interview. The Advisor may not offer facts or submit argument on behalf of the party for inclusion within the record.

e. The Advisor may not ask questions of the party on the record. Any questions posed or factual assertions or argument provided by the Advisor during a party’s interview is prohibited and will not be included in the record.

f. The Advisor may ask investigation process-related questions of the investigator.

3. ADVISOR’S ROLE DURING THE HEARING

a. The role of the Advisor in the hearing phase of the formal process is limited. An Advisor may be present during the hearing to advise the party on the hearing process. The Advisor may also conduct cross-examination of the parties at the hearing, during the appointed time after the Hearing Panel has fully completed their questioning phase of the hearing process.

b. The Advisor may consult with the party quietly or in writing, or during breaks, but may not speak on behalf of the party to the Hearing Panel. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.
Both Complainants and Respondents are responsible for presenting their own information before the Hearing Panel and are expected to respond to questions from the Hearing Panel on their own behalf throughout the hearing process. Therefore, Advisors are not permitted to speak or to participate directly in the hearing, with the exception of the cross-examination period.

c. The Advisor may not make a presentation or represent the party during the hearing. The Advisor may not testify in or obstruct the hearing, author written submissions, or disrupt the hearing. The Advisor may not offer facts or submit argument on behalf of the party for inclusion within the record.

d. Other than during the cross-examination phase of the hearing, the Advisor may not ask questions of the party on the record. Any questions posed or factual assertions or argument provided by the Advisor during the hearing is prohibited and will not be included in the record.

e. Complainants and Respondents are expected to respond to questions from the Advisors on their own behalf during the cross-examination phase of the hearing process.

g. The TIX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this policy.

F. Advisor’s Compliance with College Policies

1. All Advisors including union representatives and attorneys are subject to the same College policies and procedures and subject to the same limitations and restrictions.

2. If an Advisor disrupts or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the TIX Coordinator will determine how to address the Advisor’s non-compliance and future role, if any.

CHAPTER 20: INVESTIGATIONS

After a Formal Complaint has been assessed and found to meet the jurisdictional requirements of Chapter 4, then an investigation will be conducted.

A. Notice of Investigation

When the College receives a report or Formal Complaint that it intends to investigate, the Complainant and Respondent will be notified in writing of such intent. The initial notification may be somewhat limited by the factual details provided to the College by the Complainant. However, the College will include the identity of the Complainant and make its best efforts to include in such initial notification and/or any subsequent notification sufficient detail concerning the specific TIX Misconduct alleged,
conduct constituting the alleged misconduct, and date(s) and location(s) of the alleged TIX Misconduct. As more information becomes available during the investigation, additional details about the alleged TIX Misconduct will be equally provided to the Complainant and Respondent.

If, during the investigation, information is disclosed that may also constitute additional TIX or other non-TIX Sexual Misconduct, the Complainant and Respondent will be informed in writing that such additional information will be included in the formal process. Both parties will be provided sufficient time to review the additional allegations to prepare a response to those allegations.

B. Appointment of Investigators

The TIX Coordinator will select investigators who are impartial; free of conflicts of interest and biases for or against Complainants or Respondents generally; or the individual Complainant or Respondent. The investigators have not only been trained but are also experienced in investigating TIX Misconduct. Typically, two individuals will be selected to serve as investigators. The TIX Coordinator has the discretion to determine whether the investigators will be internal (a College employee) or external (an individual outside of the College community), or a combination of both internal and external investigators.

C. Persons Authorized to Conduct Investigation

No one other than the investigators selected by the TIX Coordinator will be authorized to conduct an investigation on behalf of the College under this Handbook.

D. Investigation Timeline

The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. The College strives to complete investigations within sixty (60) academic days.

There may be circumstances that require the extension of the timeline for good cause. The timeline may be extended to maintain the integrity and completeness of the investigation; comply with a request by external law enforcement; accommodate the absence of a party, advisor or witness; a request for language assistance; reasonable accommodations for disabilities or health conditions; or for other legitimate reasons including the complexity of the investigation and the severity and extent of the alleged TIX Misconduct. The College will notify the parties in writing of any extension of the timeline for good cause, and the reason for the extension.
Although cooperation with law enforcement may require the College to temporarily suspend an investigation, under such circumstances, the College will promptly resume its investigation as soon as it is notified by the law enforcement agency that the agency has completed its evidence gathering process or for any other reason. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation. If appropriate, the College will take immediate steps to provide supportive measures for Complainant or Respondent when law enforcement becomes involved.

Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether or not TIX Misconduct took place.

E. General Principles of an Investigation

1. FACT-FINDING PROCESS

The investigation is a neutral, fact-finding process.

2. DETERMINATION OF RESPONSIBILITY

It is not the investigators’ role to determine the responsibility, if any, of Respondent. For more information regarding determination of responsibility see Chapter 22.

3. PRESUMPTION OF GOOD FAITH

TIX Misconduct complaints are presumed to have been made in good faith. A determination at the conclusion of the formal process that the alleged TIX Misconduct does not constitute prohibited TIX Misconduct under this Handbook or that there is insufficient evidence to establish the alleged TIX Misconduct occurred as complained does not mean the Formal Complaint was made in bad faith.

4. PRESUMPTION OF INNOCENCE

Respondent is presumed not responsible until a determination is made at the conclusion of the formal process.

5. EQUITABLE INVESTIGATION

The investigators will conduct an equitable investigation that is thorough, impartial, and fair including:

a. analyzing and documenting the available evidence;

b. taking into account the unique and complex circumstances pertaining to the alleged TIX Misconduct; and
c. synthesizing all available evidence which may include not only inculpatory but also exculpatory evidence.
   > inculpatory evidence shows or tends to show Respondent may have engaged in TIX Misconduct as alleged.
   > exculpatory evidence shows or tends to show Respondent may not have engaged in TIX Misconduct as alleged.

F. Investigation Process

1. **BURDEN OF PROOF AND GATHERING EVIDENCE**

   The College, and not the parties, has the burden of proof and the burden of gathering evidence. Following the hearing, the Hearing Panel shall make a determination, by a preponderance of the evidence, whether or not Respondent has been shown to have committed prohibited TIX Misconduct.

   This burden does not rest with either party. Either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the College. A party’s failure to participate does not indicate either responsibility or lack of responsibility.

   The investigators will undertake a thorough search for relevant facts and evidence pertaining to the Formal Complaint. The investigators will ask both parties for all information related to the alleged TIX Misconduct including, but not limited to, the names of witnesses, emails, texts, social media posts, photographs, the existence of video footage, and other documentary evidence. A party may suggest questions to be posed to the other party or witnesses.

   During the course of the investigation, the investigators may independently identify and interview witnesses and obtain evidence other than presented by the parties. The parties and witnesses are expected to provide all available relevant evidence to the investigators. The investigators will identify and request relevant information from any available source.

2. **INFORMATION PROTECTED BY LEGAL PRIVILEGE**

   The investigators will seek, but not require, a voluntary waiver of legal privilege if information protected under a legally recognized privilege is provided by or sought from the parties. Information protected by legal privilege may not be relied upon by the investigators or decision-makers unless the privilege is voluntarily waived.

3. **NOTICE OF INVESTIGATION INTERVIEWS**

   The investigators will meet and interview separately Complainant and Respondent. Complainant and Respondent will receive written notice of investigation interviews including the date, time, location, participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare and participate.
4. **ROLE OF ADVISOR DURING INVESTIGATION**

Complainant and Respondent may have an Advisor present during the interview(s) with the investigators. The role of the Advisor within the investigation is limited. Complainants and Respondents are expected to respond to questions from the investigators on their own behalf. The Advisor may consult with their advisee quietly, in writing, or during breaks, but may not speak on behalf of the advisee to the investigators. The Advisor may not interrupt an advisee’s answer to a pending question posed by the investigators. The Advisor may not ask questions of their advisee on the record. The Advisor may ask the investigators process-related questions. The Advisor may not offer facts or submit argument on behalf of their advisee for inclusion within the record. Any questions posed or factual assertions or argument provided by the Advisor during a party’s interview is prohibited and will not be included in the record.

5. **EQUAL OPPORTUNITY FOR PARTICIPATION**

Complainant and Respondent have an equal opportunity to discuss the TIX Misconduct allegations under investigation, suggest questions, suggest witnesses for the investigators to interview, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The investigators may decline to interview witnesses the investigators deem unlikely to yield relevant information. Even though parties are not restricted from presenting evidence attesting to the parties’ character, such evidence generally is not considered relevant.

6. **MULTIPLE INTERVIEWS**

The investigators may request to interview Complainant, Respondent or any witness more than once during the investigatory process. The investigators’ request to interview one party more times than the other bears no correlation with the potential responsibility determination, nor is it indicative of investigators bias or unfairness.

7. **AUDIO RECORDINGS OF INTERVIEWS**

Interviews conducted by the investigators may be audio recorded for note taking purposes. Written summaries of the interviews will be provided to the parties for review. The parties and witnesses may request to listen to the audio recorded interview but may not access the recorded interviews of others. No one other than the investigators will be allowed to audio record investigation interviews. To do so may result in discipline/sanctions.

8. **WITNESS PARTICIPATION IN COLLEGE INVESTIGATION**

Witnesses (as distinguished from the parties) who are employees or students of the College are expected to fully cooperate with and truthfully participate in the College’s investigation and Formal Grievance Process. Failure of such witnesses to cooperate with and/or participate in the investigation and/or Formal Grievance Process may constitute a violation of this Handbook warranting discipline/sanctions.

9. **LOCATION**

In-person interviews for parties and all potential witnesses are ideal. However, certain
circumstances (e.g., preceptorships, academic breaks, social distancing) may require individuals to be interviewed remotely. Skype, Teams, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably protect the security/privacy of remote interviews.

10. WRITTEN STATEMENTS

Witnesses may provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the investigators, though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement will not be used as evidence.

11. PATTERN OF EVIDENCE

Evidence of an occurrence or occurrences of TIX Misconduct so distinctive and so closely resembling either party’s version of the alleged incident(s) as to tend to prove a material fact may be considered. Where there is evidence of a pattern of similar TIX Misconduct, either before or after the misconduct alleged, regardless of whether there has been a prior responsibility determination of TIX Misconduct, this information may be relevant to the determination of TIX Misconduct responsibility. Instances will be rare. The relevance of such evidence must be based on an assessment of whether or not the previous or subsequent occurrence was substantially similar to the conduct alleged in the Formal Complaint or indicates a pattern of behavior substantially in conformity with that pattern.

12. PRIOR SEXUAL BEHAVIOR

Complainant’s predisposition or prior sexual behavior are not relevant and will not be used during the investigation and Formal Grievance Process, unless offered to prove that someone other than Respondent committed the misconduct alleged by the Complainant, or if the questions and evidence concern specific incidents of Complainant’s prior sexual behavior with respect to Respondent and are offered to prove consent.

G. Investigation Report

1. EVIDENCE FILE

After each party has been interviewed and had the opportunity to identify witnesses and other potentially relevant information and evidence, and the investigators have completed any witness interviews and any gathering of evidence, the investigators will prepare a file containing the collected evidence. The evidence file will include directly and indirectly related evidence related to the allegations raised in the Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation. The evidence file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence.
The evidence file will be provided by the investigators to the Coordinator. The investigators will also provide to the Coordinator an updated Notice of the Allegations, as appropriate.

The Coordinator will provide the evidence file, redacted of personally identifiable information in accordance with privacy regulations, to each party and their advisor in electronic form. In all cases, any information relied on in the formal process will be provided to the parties and their advisors. The Coordinator will also provide an updated Notice of the Allegations, as appropriate.

2. WRITTEN RESPONSES

Within ten (10) academic days of receiving the evidence file, each party may respond in writing in electronic format, which may include a request that the investigators collect additional information. If the investigators believe that further information is needed following receipt of any responses from the parties, the investigators will pursue any additional investigative steps as needed. The parties and their advisors will be provided with each party’s written responses to the case file, if any, as well as any additional information collected by the investigators, in electronic format.

3. CONCLUSION OF EVIDENCE-GATHERING

The investigators have sole discretion to determine when to close the evidence-gathering phase of the investigation and finalize the investigative file. Generally, the evidence-gathering phase of the investigatory process concludes after the parties provide written responses to the investigative file, unless additional evidence is provided within the responses. The parties’ written responses will be appended to the Investigative File.

4. INVESTIGATION REPORT

Following their review of the parties’ responses (if any) to the evidence file, the investigators will create a written investigation report that summarizes all relevant evidence; the report will not contain irrelevant information.

At least ten (10) academic days prior to the hearing, the investigation report will be provided to the parties via electronic format.

The parties may choose to provide a written response in electronic format to the investigation report, which must be submitted at least five (5) academic days prior to the start of the hearing. At least 48 hours prior to the hearing, the parties will be provided with the other party’s written response to the investigation report, if any, in electronic format.
5. **DETERMINATION OF TIX JURISDICTION REVIEW**

The TIX Coordinator will review the investigation report and the parties’ written responses, if any. TIX Coordinator will then once again assess whether or not the investigation information relating to the alleged TIX Misconduct meets the jurisdictional requirements. The College will consider the totality of the facts and circumstances involved in the incident(s) as investigated, including the nature of the alleged conduct and the context in which it occurred. The TIX Coordinator will follow the jurisdiction assessment and appeal provisions set forth in Chapter 4.

6. **REFERRAL FOR HEARING**

Provided dismissal does not occur and the Formal Complaint is not resolved through the Informal Grievance Process, once the final investigation report is shared with the parties, the TIX Coordinator will refer the matter for a hearing.

The hearing will not be scheduled less than ten (10) academic days from the conclusion of the investigation – when the final investigation report is transmitted to the parties.

**CHAPTER 21: HEARING**

**A. General Guidelines**

1. The TIX Coordinator who administers this Handbook and its processes shall determine who hears and decides allegations of TIX Misconduct. A Hearing panel (typically consisting of three individuals), selected by the TIX Coordinator, will hear cases alleging TIX Misconduct. One of the individuals on the Hearing Panel shall serve as the Presiding Hearing Panelist.

2. Prior to the hearing, the Hearing Panel will be provided with the evidence file, investigation report, and any responses to the investigation report. All members of the Hearing Panel shall review the evidence file (including the parties’ responses), ask questions during the hearing as they deem appropriate, and participate in the deliberations leading to the Hearing Panel’s determination of responsibility.

3. In advance of the hearing, parties will be required to identify witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each witness would be asked to provide, such that the Presiding Hearing Panelist can determine their relevance. The Presiding Hearing Panelist has the discretion to exclude from the hearing evidence/witnesses/questions deemed irrelevant.

4. At least five (5) academic days prior to the hearing, the parties and their Advisors will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely).

5. Hearings normally shall be conducted in private.
6. Admission of witnesses to the hearing may be excluded other than to testify.

7. The Presiding Hearing Panelist will have absolute discretion with respect to administering the hearing. The Presiding Hearing Panelist will decide whether evidence and witnesses are relevant or irrelevant, with the understanding that the introduction of relevant evidence and witnesses will always be permitted. The Presiding Hearing Panelist will explain any decision to exclude a question and/or witness due to irrelevance.

8. The Presiding Hearing Panelist will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, witness, or Advisor.

9. At the TIX Coordinator’s discretion, pre-hearing meetings may be scheduled with each of the parties and their Advisors to explain the hearing protocol.

10. All procedural questions are subject to the final decision of the TIX Coordinator.

11. Criminal or civil court process, procedure and rules of evidence do not apply under this Handbook.

B. Record of the Hearing

There shall be a single, verbatim record, such as an audio recording, of all hearings (in person or remote) before the Hearing Panel. The record shall be the property of the College. The TIX Coordinator will make the recording (or a transcript) available to the parties for inspection and review. No one other than the Coordinator will be allowed to record the proceeding. Any other record of the hearing or any other recording is prohibited and violations may result in discipline.

C. Expectation regarding the Complainant, Respondent and Witnesses during the Hearing

1. In all proceedings under this policy, including at the hearing, the Complainant, the Respondent, and the witnesses and other individuals sharing information are expected to provide truthful information.

2. If the Complainant, the Respondent, or a witness informs the College that they will not attend the hearing (or will refuse to be cross-examined), the hearing may proceed, as determined by the TIX Coordinator. The Hearing Panel may not, however: (a) rely on any statement or information provided by that non-participating individual in reaching a determination regarding responsibility; or (b) draw any adverse inference in reaching a determination regarding
responsibility based solely on the individual’s absence from the hearing (or their refusal to be cross-examined).

3. Each party may make requests related to the format or the nature of their participation in the hearing. The TIX Coordinator will accommodate requests by either party for the hearing to occur with the parties located in separate locations with technology enabling the Hearing Panel and the parties to simultaneously see and hear the party answering questions. As appropriate and/or at the discretion of the TIX Coordinator, hearings may be conducted in person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other.

D. Case Presentation

While the hearing is not intended to be a repeat of the investigation, the parties will be provided with an equal opportunity for their Advisor to conduct cross examination of the other party and/or of relevant witnesses. A typical hearing may include brief opening remarks by the Presiding Hearing Panelist; questions posed by the Hearing Panel to one or both of the parties; questions posed by the Hearing Panel to any relevant witnesses; and cross-examination by either party’s Advisor of the other party and relevant witnesses.

The parties’ Advisor will have the opportunity to cross examine the other party (and witnesses, if any). Such cross examination must be conducted directly, orally, and in real time by the party’s Advisor and never by a party personally. Only relevant cross examination questions may be asked of a party or witness. Before a party or witness answers a cross-examination question that has been posed by a party’s Advisor, the Presiding Hearing Panelist must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

CHAPTER 22: DELIBERATION AND DETERMINATION OF RESPONSIBILITY

A. Deliberation and Determination

1. Following the hearing, the Hearing Panel will consider all of the relevant evidence and deliberate regarding responsibility.

2. The Hearing Panel shall make a determination, by a preponderance of the evidence, whether or not the Respondent has been shown to have committed prohibited TIX Misconduct.

3. The Presiding Hearing Panelist shall write the written outcome determination letter.
4. The parties will simultaneously be provided with the written outcome determination letter via electronic format.

5. Employees or students found to have conducted themselves in a manner prohibited by this Handbook may be subject to sanctions/discipline up to and including termination of employment and/or dismissal as a student.

6. The possible sanctions/discipline will be determined and reviewed in consideration of the possible sanctions in accordance with existing applicable institutional, academic and human resources policies; collective bargaining agreements; faculty handbooks; and student handbooks/publications including the Student Code of Ethics.

B. Outcome Determination Letter

The outcome determination letter will be provided simultaneously to both parties by the TIX Coordinator. The content of each letter may differ based upon consideration such as FERPA requirements and confidentiality interests. A copy of the outcome determination letter may be provided to the Respondent’s supervisor or others with the need to know as determined appropriate by the TIX Coordinator.

CHAPTER 23: POSSIBLE DISCIPLINARY SANCTIONS AND REMEDIES

A. Sanctions

Sanctions may be imposed on a Respondent that has been determined responsible for a TIX Misconduct violation. Previous disciplinary action involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility.

1. Factors considered when determining sanctions may include, but are not limited to:
   a. The nature, severity of, and circumstances surrounding the violation(s);
   b. The Respondent’s disciplinary history;
   c. The need to bring an end to the sexual misconduct, and/or related retaliation;
   d. The need for sanctions to prevent future recurrence of sexual misconduct, and/or related retaliation;
   e. The need to remedy the effects of sexual misconduct, and/or related retaliation on the Complainant and the community; and
   f. The impact on the parties.

2. Potential Sanctions for Students

   a. Warning: A written reprimand for misconduct.
   b. Loss of privileges: Denial of specified privileges for a designated period of time.
   c. Fines: Previously established and published fines may be imposed.
d. Restitution: Compensation for loss, damage or injury. This may take the form of appropriate services and/or monetary or material replacement.
e. Discretionary sanctions: Educational remediation, denial of academic credit, work assignments, services to the College, psychological evaluation, counseling, treatment or other related discretionary assignments.
f. Clinic suspension: Separation from the Clinic (with the exception of receiving patient care) for a definite period of time. Conditions for readmission may be specified.
g. College suspension: Separation from the College for a definite period of time. Conditions for readmission may be specified.
h. College residential premises suspension: Separation from the residence and any other College-owned residential premises for a definite period of time. Conditions for readmission may be specified.
i. College residential premises expulsion: Permanent separation from the residence and any other College-owned residential premises.
j. College dismissal: Permanent separation from the College.

3. Potential Sanctions for Employees

   a. Oral reprimand documented in writing
   b. Written reprimand
   c. Suspension with or without pay
   d. Discharge

4. Potential Sanctions for Faculty

   a. Oral reprimand documented in writing
   b. Written reprimand
   c. Suspension with or without pay
   d. Discharge

B. Remedies

When a Respondent has been determined responsible for a TIX Misconduct violation the College may also offer remedies, or additional measures, to the Complainant to eliminate any hostile environment caused by the TIX Misconduct, prevent the recurrence of any Title IX Misconduct, and remedy the effects of the TIX Misconduct on the Complainant and the College community.

Remedies that may be offered or provided to a Complainant may include the same Supportive Measures referenced below and within Chapter 11.

   a. Education/Training
   b. Personal Counseling
   c. Limited-Contact Directive
d. Restricted Access  
e. Academic Modifications/Employment Modifications  
f. Student Housing Modifications  
g. Security Assistance  
h. Emotional Support

Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

CHAPTER 24: APPEAL OF OUTCOME DETERMINATION

A. Basis for Appeal Submissions
An appeal is limited in scope. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of College policy has occurred. Appeals may be submitted on one or more of the following bases:

1. procedural irregularity that *affected the outcome*;  
2. new evidence that was not reasonably available at the time the outcome determination was decided that *could affect the outcome*;  
3. the TIX Coordinator, investigator(s), or Hearing Panel decision-makers had a conflict of interest or bias for or against complainants or respondents generally, or the individual Complainant or Respondent that *affected the outcome* of the matter;  
4. severity or proportionality of the sanctions/discipline.

B. Submitting an Appeal
A decision by the Hearing Panel may be appealed by either party. To appeal, a party must electronically submit a written appeal statement to the TIX Coordinator within five (5) academic days of the date of the electronic notice of the outcome determination letter. The Appeal Official may deem a late submission reasonable only under extenuating circumstances by deciding what constitutes valid extenuating circumstances.

The appeal shall consist of a written statement outlining the basis for appeal and supported by relevant information to substantiate the appeal.

C. Written Response by the Non-Appealing Party
The non-appealing party will be provided with a copy of the appealing party’s written statement and may submit a written response to the TIX Coordinator within five (5) academic days of the electronic notice from the College notifying the non-appealing party of the appeal. The non-appealing party’s statement will be provided to the appealing party. No further appeal submissions from either party shall be permitted.
D. Appeal Decision

A designated Appeal Official will hear all appeals. The decision of the Appeal Official is final.

In deciding an appeal, the Appeal Official may consider not only the parties’ written statements, but also may consider other materials the Appeal Official deems relevant which have been shared with the parties.

The parties will simultaneously be provided with the written Appeal decision electronically including the rationale for the result.

- If the Appeal Official finds the outcome determination and sanctions/discipline, if any, should stand, the parties will be so informed. The Title IX process will then be concluded.

- If the Appeal Official finds that there was procedural irregularity that affected the outcome determination, the matter will be remanded to the Hearing Panel with instructions from the Appeal Official to determine appropriate further action.

- If the Appeal Official finds that new evidence is available which was not reasonably available at the time of the outcome determination regarding responsibility, and such evidence could alter the outcome, the matter will be remanded to the Hearing Panel with instructions from the Appeal Official for appropriate further action.

- If the Appeal Official finds that the TIX Coordinator, investigator(s), or member(s) of the Hearing Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the determination, the Appeal Official will take appropriate steps to address and remediate the impact of the bias or conflict consistent with this Handbook.

- If the Appeal Official finds that the sanctions/discipline are too severe or not proportional, the Appeal Official may amend the sanctions/discipline. The Title IX process will then be concluded.

The Appeal Official will strive to complete the appeal review within twenty (20) academic days of receipt of both parties’ written statement.

E. Effective Date of the Decision

Unless further proceedings are necessary under this Handbook, the determination regarding responsibility and sanctions/discipline, if any, becomes final either on:

- the date the parties are provided with the written Appeal decision, if an appeal is filed; or,

- if an appeal is not filed, the date upon expiration of appeal rights.