



## TIX SEXUAL MISCONDUCT Policy & Procedures Handbook

- 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

This handbook contains the College's policy and procedures for the resolution of Title IX Sex Discrimination and/or Sexual Harassment Reports (TIX misconduct).

Palmer College of Chiropractic (College) is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the College has developed internal policies and procedures that provide a prompt, fair, and impartial process to resolve allegations of TIX misconduct as well as related allegations of retaliation.

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.

In response to any report of TIX misconduct, the College will take appropriate steps to assess and investigate such report in accordance with the provisions of this Handbook. Where prohibited sexual harassment is found to have occurred, the College will take appropriate actions to eliminate any harassment, prevent its recurrence and remedy its effects.

This handbook:

1. Articulates behavioral expectations and defines prohibited TIX misconduct;
2. Identifies resources and support available to members of the College community impacted by TIX misconduct;
3. Identifies the College's TIX coordinator, deputy coordinators, and their roles;
4. Describes options for reporting sexual misconduct;
5. Describes how to file a formal TIX complaint;
6. Describes the review, informal resolution process, investigation and formal grievance process of reports of TIX misconduct.

## CHAPTER 2: GLOSSARY

- *Academic Day* refers to a business day when the College is in normal operation.
  - *Actual Knowledge* refers to notice of sex discrimination or sexual harassment allegations to the College's Officials with Authority (OWA) explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College under this policy. OWA's under this policy include the Title IX Coordinator and deputies.
  - *Advisor* refers to any one person chosen by a party or appointed by the institution 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.
  - *College Premises* refers to all land, buildings, facilities and other property in the possession of, owned, used or controlled by the College, including adjacent streets, alleys, sidewalks and parking lots within the parameters.
  - *Club or Organization* refers to any number of persons who have complied with the formal requirements for College recognition
  - *College* refers to the entire unit of Palmer College of Chiropractic, including operations on the Main campus; the West campus; and the Florida campus.
  - *Complainant* refers to an individual who files a complaint making allegations of sexual misconduct and requesting the allegations be investigated under this policy.
  - *Complaint (formal)* refers to a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the recipient investigate the allegation.
  - *Confidential Resource* refers to an individual or organization that is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status) under this policy or relevant law.
- Consent* refers to an understandable exchange of affirmative words or actions that indicate a willingness to participate in mutually agreed upon sexual activity.
- *Day* refers to an Academic Day when the College is in normal operation
  - *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.
  - *Education program or activity* refers to locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the College.

- *Employee* defined by the Employee Handbook refers to all individuals employed by the College who are administrators, staff and faculty who are not governed by a collective bargaining agreement or faculty handbook.
- *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.
- *Final Determination* refers to a conclusion by the preponderance of the that the alleged conduct occurred and whether it did or did not violate policy.
- *Finding* refers to a conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged.
- *Formal Grievance Process* refers to a method of formal resolution designated by the College to address prohibited conduct under this policy.
- *Grievance Process Pool* refers to any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Panel* refers to those who have decision-making and sanctioning authority within the College's Formal Grievance process.
- *Informal Grievance Process* refers to an alternative resolution to the Formal Grievance Process.
- *Investigator* refers to the person or persons charged by the College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *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 Policy.
- *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. A person's status in a particular situation shall be determined by the Coordinator or his/her designee
- *Not 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
- *Notice* refers to an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

- *Official with Authority (OWA)* refers to an employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College under this policy. OWA's under this policy include the Title IX Coordinator and deputies.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Preponderance of the Evidence* or *More likely than not* means that based on the totality of evidence and reasonable inferences drawn therefrom it is more likely than not that the responding party violated this Policy.
- *Presumption of innocence* refers to the Respondent is not considered responsible for the reported allegations of misconduct unless and until the Respondent is determined to be responsible for a policy violation by the Hearing Panel or Appeal Deciding Official.
- *Recipient* means a postsecondary education program that is a recipient of federal funding.
- *Relevant evidence* refers to evidence, whether inculpatory or exculpatory, on which the school will rely in reaching a determination regarding responsibility
- *Remedies* refers to post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Recipient's educational program.
- *Respondent* refers to an individual means an individual which has been alleged of conduct that could constitute a violation under this policy .
- *Resolution* refers to the result of an informal or Formal Grievance Process.
- *Retaliation* refers to an adverse action and includes, but is not limited to intimidating, threatening, coercing, harassing, discriminating, or any other conduct that could interfere with or discourage a reasonable person from engaging in activity protected under this policy.
- *Responsible employees* refers to employees of the College who are obligated by policy to share knowledge, notice, and/or reports of sexual misconduct or retaliation to the Title IX Coordinator
- *Sanction* refers to a consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* refers to the umbrella category offenses of TIX sexual harassment. See [Chapter 6: Prohibited Conduct](#) for greater detail.
- *Sexual Misconduct* refers to the umbrella category of prohibited conduct under this policy including sexual harassment, sexual assault, stalking, dating violence, and domestic violence. See [Chapter 6: Prohibited Conduct](#) for greater detail.

- *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.
- *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 11 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.
- *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 harassment, discrimination, and/or retaliation.
- *Third Party* refers to a person who is not a College student, student organization, faculty member, or employee. A third party is a person or organization that engages in any College employment or education program or activity, or who otherwise interacts with the College, including but not limited to volunteers, contractors, vendors, patients, visitors and guests. For example, a third party may include but is not limited to visitors, guests, patients, contractors and others who are invited to or do business with the College but are not students, student organizations, faculty members or employees.
- *Title IX Coordinator* refers to the official designated by the College to be responsible for the administration of the College’s Title IX policy and its associated processes. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any other College officials assigned a specific role to respond to and resolves TIX complaints.

## CHAPTER 3: NOTICE OF NONDISCRIMINATION

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.

The College's nondiscrimination practices in employment, admissions or in educational practices, programs, services or activities include conduct prohibited by Title IX of the Education Amendments of 1972 which states:

*"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."*

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 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/>.

### ***Reporting or Filing a Complaint of Sex Discrimination, Sexual Harassment, Sexual Violence or Any Other Sexual Misconduct***

For more information or to file a complaint refer to Chapter [?] of this Handbook, contact the College's [Title IX Coordinator or deputies](#) 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 and Jurisdiction

1. This Policy applies to the entire College community, which is defined as including the Davenport 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) and any other person(s), groups, or organizations affiliated with any Palmer campus.
2. Applicable laws and federal governmental guidance mandate that the College provide for prompt and appropriate resolution of reports of sexual misconduct. Accordingly, this handbook shall govern all such reports, which may alternatively be described as allegations, complaints, concerns, or misconduct under applicable institutional policies; collective bargaining agreements; faculty handbooks; employee handbooks; the Student Code of Ethics; or other College processes and procedures.
3. This policy applies to the education program and activities of the College, to conduct that takes place on the campus or on property owned or controlled by the College, at College-sponsored events, or in buildings owned or controlled by the College's recognized student organizations. The Respondent must be a member of the College's community in order for this Handbook to apply.
4. This policy may be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program.
5. Regardless of where the conduct occurred, the College will address reports and complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity.
6. The College may extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial College interest. A substantial College interest includes but is not limited to:
  - a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
  - b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;

- c. Any situation that is detrimental to the educational interests or mission of the College.
- 7. If the Respondent is unknown or is not a member of the College community, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from the College property and/or events.
- 8. All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.
- 9. The core purpose of this policy is the prohibition of discrimination and harassment under Title IX. Sometimes, such discrimination involves exclusion from activities, such as admission, athletics, or employment. Other times, such discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence.

When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to this Handbook only when:

- a. The College receives a complaint filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on sex or retaliation for engaging in a protected activity against a Respondent and requesting that the recipient investigate the allegation; and
  - b. The conduct alleged in the formal complaint would constitute sexual harassment as defined in this Handbook; and
  - c. If the alleged conduct occurred in the College's education program or activity as defined in this Handbook; and
  - d. If the conduct occurred in the United States; and
  - e. If at the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity of the College.
- 10. When a TIX complaint is reported, the allegations are subject to resolution under this Handbook.
  - 11. A Complainant refers to an individual who files a complaint making allegations of sexual misconduct and requesting the allegations be investigated under this policy.
  - 12. Respondent means an individual which has been alleged of conduct that could constitute a violation under this policy.
  - 13. A Respondent may be either an individual or a group of individuals who have been accused of violating this Policy.
  - 14. Reporting party means and individual or group who makes a report of sexual misconduct allegations under this Policy.

15. A student is defined in the Student Code of Ethics as a person enrolled at the College, both full-time and part-time, pursuing undergraduate, graduate or professional studies. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the College are considered students. Also, persons who are accepted or conditionally accepted are considered students. Furthermore, individuals who are not currently attending the College remain subject to decisions made within the disciplinary process upon re-enrollment for conduct that occurred during any period of attendance.
16. Student organizations are defined in the Student Code of Ethics and Student Handbook as a club or organization formed to contribute to the educational and social development of students. Registration provides access to College facilities but does not imply the College sanctions the organization or its activities.
17. Student organizations may be named as a Responding Party for the conduct of individual members. Conduct that may hold a group responsible include the following types of circumstances when:
- a. a member of an organization is allegedly violating this policy and other members present failed to indicate disapproval or by continued presence without objection implicitly condoned the behavior;
  - b. the conduct arises out of; or is directly related to the student organization's activities; or an environment created by the organization;
  - c. the conduct is that of guests of an organization, or by persons authorized or permitted to represent themselves as connected with the organization;
  - d. an organization, implicitly or explicitly, places prospective members in a subordinate status prior to achieving full membership, or imposing any kind of probationary period prior to full membership, and hazing occurs; or
  - e. the conduct may be outside of the context of College activities but has the effect of posing a serious threat to the College community or creating a hostile environment for any members of the College community.
18. It is not the number of members involved that is critical to the determination of organizational responsibility. The question is whether the activities relate to a student organization in any of the above sets of circumstances.
19. A faculty member is defined by the collective bargaining agreement and faculty handbook applicable to the individual faculty member employed on one of the three College campuses.

20. An employee is defined by the employee handbook as all employees who are administrators, staff and faculty who are not governed by a collective bargaining agreement or faculty handbook.
21. A third party is a person who is not a College student, student organization, faculty member, or employee. A third party is a person or organization that engages in any College employment or education program or activity, or who otherwise interacts with the College, including but not limited to volunteers, contractors, vendors, patients, visitors and guests. For example, a third party may include but is not limited to visitors, guests, patients, contractors and others who are invited to or do business with the College but are not students, student organizations, faculty members or employees. If a responding party is a third party, the College's authority to take action may be limited, and is determined by the context of the alleged sexual misconduct, and the nature of the relationship of the third party to the College. The Title IX coordinator will determine the appropriate manner of resolution which may include, but is not limited to:
- referral to local law enforcement;
  - the restriction from access to campus or College activities; and/or
  - following the informal and formal resolution procedures in this Handbook.
22. The College will offer resources and assistance to all College community members who experience and/or are affected by sexual misconduct. In instances where this Handbook does not apply, the College will assist in identifying and contacting external law enforcement agencies and appropriate community resources.
23. This policy applies to acts of sexual misconduct and related retaliation committed by or against students, student organizations, faculty members, employees or third parties when:
- The conduct occurs on or off College premises including online activities;
  - The conduct occurs in the context of a College employment or education program or activity, including but not limited to College-sponsored academic, athletic extracurricular, research, online or internship programs or activities;
  - The conduct occurs off College premises or outside the context of a College employment or education program or activity, but has a continuing adverse effect on or creates a hostile environment for students, student organizations, faculty members, employees or third parties while on College premises or in any College employment or education program or activity; or
  - The conduct indicates the responding party may present a danger or threat to the health or safety of the College community.
24. Sexual misconduct, including sexual harassment, can occur:
- Between peers (e.g., student to student, employee to employee, faculty to faculty).
  - Between persons of unequal power status (e.g., supervisor to subordinate, faculty to student, coach to student-athlete, student leader to student). Sexual misconduct may be

committed by the person who appears to have less power in a relationship (e.g. student to faculty member).

## **B. Coordination with Equal Opportunity Policy**

A report of discrimination or harassment under Title IX of this Policy and Procedures Handbook for Resolution of Sexual Misconduct Reports related to an individual's sex can sometimes occur in conjunction with a complaint of misconduct 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 discrimination/harassment complaints.

## **CHAPTER 5: TITLE IX COORDINATOR AND TITLE IX RESPONSE TEAM**

### **A. Administrative Oversight**

The College has appointed the Title IX coordinator (TIX Coordinator) and deputies as the Officials with Authority (OWA) to institute corrective measures on behalf of the College. The Title IX coordinator and deputies are responsible for the administration, coordination, dissemination and implementation of the policy and procedures set forth in this Handbook including, but not limited to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

All complaints or notice of alleged policy violations, reports of suspected TIX misconduct or inquiries about or concerns regarding this Handbook are to be directed to the TIX Coordinator or appropriate deputy.

### **B. TIX Response Team**

Response to 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, investigators, hearing panel members, appeal deciding officials and any other individual who has an assigned role by the College in responding to and resolving TIX sexual misconduct receive relevant and appropriate training for the roles they are assigned. Such training does not rely on sex stereotypes and promotes impartial investigations and adjudication of complaints of TIX sexual 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 resolution 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, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant; and
- Issues of relevance to create an investigative 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 policy and these procedures. 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. Title IX Coordinator and Deputy Coordinator – Main Campus

The Title IX 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

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Also Serving as Title IX Coordinator  
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# Palmer College of Chiropractic Davenport Campus



## E. Title IX Coordinator and Deputy Coordinator – West Campus

The deputy Title IX 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 Title IX Coordinator

Office of Student Services

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Earlye Adams Julien, PHR, M.S. Ed.

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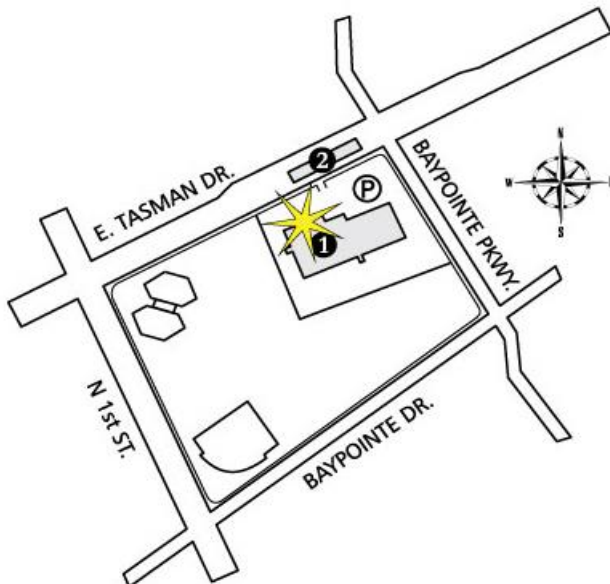
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1. Palmer College of Chiropractic, San Jose, Calif., campus
2. Baypointe Light Rail Station



## F. Title IX Coordinator and Deputy Coordinator – Florida Campus

The deputy Title IX 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 Title IX Coordinator

Office of Human Resources

4777 City Center Parkway

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Earlye Adams Julien, PHR, M.S. Ed.

Senior Director for Compliance

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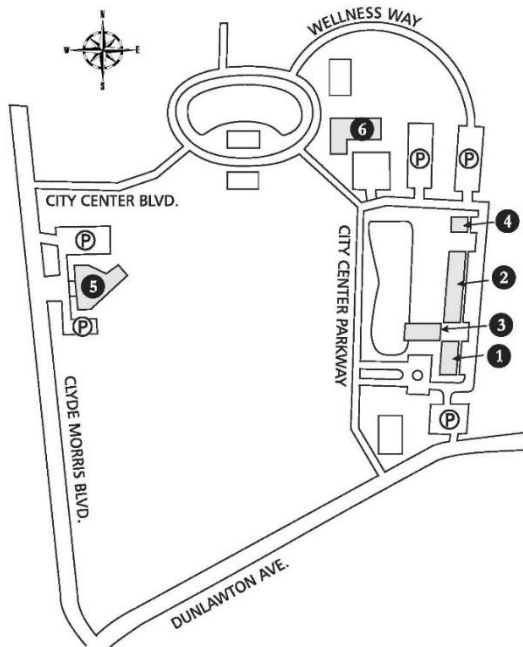
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1. Building One
2. Building Two
3. Building Three
4. Central Energy Plant
5. Allen Green Civic Center
6. Port Orange YMCA

## CHAPTER 6: PROHIBITED TITLE IX SEXUAL MISCONDUCT

The College prohibits Title IX (TIX) sexual misconduct by or against any member of the College community. TIX Sexual misconduct consists of a specific list of unacceptable behaviors that could impact the employment or educational environment. The following identifies behaviors that violate the College's TIX Sexual Misconduct Policy.

TIX sexual 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 sexual 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 recipient, conditions the provision of an aid, benefit, or service of the recipient, 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.

**d) 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.

**e) 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.

**f) 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
- 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.

## **6. 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.

## **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. CONSENT

- a. Consent is knowing, and, voluntary, and clear permission by word or action to engage in sexual activity.
- b. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.
- c. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.
- d. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.
- e. Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.
- f. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.
- g. Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.
- h. Consent in relationships must also be considered in context. When parties consent to bondage, discipline/dominance, submission/sadism, and masochism (BDSM) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

#### **4. INCAPACITATION**

- a. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.
- b. It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.
- c. Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).
- d. Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- e. This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

#### **5. RETALIATION**

- a. The College strictly prohibits retaliation of any kind against an individual who has initiated or made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, hearing or other process or procedure under this policy.
- b. Retaliation refers to an adverse action and includes, but is not limited to intimidating, threatening, coercing, harassing, discriminating, or any other conduct that could interfere with or discourage a reasonable person from engaging in activity protected under this policy.
- c. Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.
- d. Complaints of policy violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege under this policy, constitutes retaliation.

- e. Retaliatory behavior may be engaged in by the individual accused of sexual misconduct, or friends, family, other persons or groups acting in support of or on behalf of that individual.
- f. Retaliation constitutes an independent violation of this policy and may occur even when there is a finding that no sexual misconduct took place.
- g. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.
- h. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will investigate and take appropriate remedial action, which may include disciplinary action, in response to any report of retaliation.

## **CHAPTER 7: RESPONSIBILITY TO REPORT SUSPECTED SEXUAL MISCONDUCT**

The College recognizes that any member of the College community who is impacted by sexual misconduct may choose to report such conduct to any employee. For example, a student may choose to confide in a faculty member, or a coach, all of whom are considered “responsible employees” who must immediately report the incident to the Title IX coordinator or deputy. An employee may choose to confide in a supervisor, also considered a “responsible employee.” Under this Handbook, any employee who receives a report of sexual misconduct must immediately disclose that report to the Title IX coordinator or deputy.

All College employees (including faculty, employees and administrators), coaches, student employees, student leaders, and student organization officers are required to disclose to the Title IX coordinator or deputies any incident or report of behavior or conduct involving suspected sexual misconduct.

Individuals described above who fail to report an incident or report of suspected sexual 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 students and student organizations to report sexual misconduct and to seek assistance for themselves and others who experience such prohibited conduct or who may be at medical risk while under the influence of drugs and/or alcohol.

Under this Handbook, students who:

- Report sexual misconduct;



- Participate as witnesses in investigations;
- Seek medical assistance for themselves or another by contacting Campus Security or calling 911

will not be subject to disciplinary charges under the Student Code of Ethics for personal consumption of alcohol and/or drugs. These students may be directed to appropriate services.

Similarly, students who are responding to reports of sexual misconduct will not be subject to disciplinary charges under the Student Code of Ethics for personal consumption of alcohol and/or drugs. These students may be directed to appropriate services.

However, this amnesty provision does not apply to a person who has given another person alcohol and/or drugs without their knowledge and with the intent of causing them to become incapacitated and therefore vulnerable to experiencing sexual misconduct.

This policy does not grant amnesty for other charges of ethical misconduct under the Student Code of Ethics.

All students are strongly encouraged to report information regarding any incident of potential sexual misconduct to the Title IX coordinator or deputies.

## CHAPTER 8: FILING A COMPLAINT OF SEXUAL MISCONDUCT

### A. Filing a Complaint with the College

#### 1. Definition of a Formal Complaint

Simply reporting TIX Misconduct **does not** constitute a formal complaint. **To file a formal complaint, a complainant:**

- Must submit** a physically or electronically signed document or electronic submission (such as by electronic mail or through an online portal) to the Title IX Coordinator or deputy; and
- The submission **must allege** a policy violation by a Respondent; and
- The submission **must request** that the College investigate the allegation(s).

A complaint signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s) is also considered a formal complaint.



Where a Title IX Coordinator or deputy signs a complaint, the Title IX Coordinator or deputy is not a complainant (unless specified) and will otherwise fulfill the duties as Coordinator for the submitted complaint.

## 2. **How to File a Formal Complaint**

Any member of the College community may report sexual misconduct through the Title IX coordinator or deputies. The College urges members of the College community who want to file a formal complaint to submit the complaint immediately to the College through the following reporting options:

- a) By contacting the College's Title IX coordinator or any deputy Title IX 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; or
- b) Online at: [Report a Complaint](#)
- c) Through Lighthouse, the College's website for online reporting (which also allows for anonymous reporting) at: <https://www.lighthouse-services.com/palmer>

A reporting form may be obtained from the Title IX coordinator and/or deputies. Complaints 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.

## **B. 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.

The College encourages a complainant to pursue criminal action for incidents of sexual misconduct that may also be crimes. Upon request, the College will also assist a 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 reporting party 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. A complainant may seek resolution through this Handbook; pursue criminal action; or choose to pursue both.

Neither law enforcement's determination whether or not to prosecute a respondent, nor the outcome of any criminal prosecution, is determinative of whether sexual misconduct violating

this Handbook has occurred. Proceedings under this Handbook may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

### **C. College Complaint**

In its sole discretion, the College may file a complaint of sexual misconduct, join with a member of the College community who has initiated a complaint, or intervene and maintain through the process any complaint of sexual misconduct initially brought by another member of the College community.

Requests from 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 reporting party.

### **D. Time to File a Complaint**

There is no time limit for filing a complaint to the College. However, a complainant is strongly encouraged to file a complaint of TIX sexual misconduct allegations as soon as possible after the incident occurred. The College may ultimately be unable to adequately investigate 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 include 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 support and resources.

## **CHAPTER 9: REPORTING SEXUAL MISCONDUCT**

### **A. Reporting Suspected Sexual Misconduct**

Any member of the College community may report sexual misconduct through the Title IX coordinator or deputies. Members of the College community who become aware of an incident of sexual misconduct are to report the incident immediately to the College through the following reporting options:

- a) By contacting the College’s Title IX coordinator or any deputy Title IX 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 Title IX coordinator and/or deputies. Or
- b) 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 (?) in this Handbook for instructions.**

## **B. Reporting Off-Campus Sexual Misconduct**

All incidents of sexual misconduct, including those occurring off campus, should be reported to the College. For example, sexual misconduct is within the College's interest 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 reporting party or responding party 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.

## **C. Reporting Online Sexual 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.

## **D. Time Limit to Report Sexual Misconduct**

There is no time limit for making a report to the College. However, a reporting party is strongly encouraged to bring forward incidents of or share information about sexual misconduct allegations as soon as possible after the incident occurred. The College may ultimately be unable to adequately investigate if too much time has passed or if a responding party has left the College. Other factors that could negatively impact the College's ability to investigate include the loss of physical evidence;

potential departure of witnesses; or loss of memory. The College will, however, help the reporting party identify and access external reporting options and provide available support and resources.

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 Title IX 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.

## E. Privacy

The College makes reasonable efforts to maintain the privacy of the information it receives in connection with reports of sexual 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 of sexual misconduct.

To enable the College to respond to all reports in a prompt and appropriate manner, the College encourages all individuals to directly report any incident of sexual misconduct to the Title IX coordinator or deputy.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the Recipient’s FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies.

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

## F. Confidential Reporting

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

The College encourages all members of the College community who have experienced or have been impacted by sexual misconduct to report such incidents to the College. For those individuals who elect not to make a report to the College, there are several confidential support resources available. Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy.

Such individuals seeking to talk to someone about an incident of sexual misconduct in a confidential manner without making a report to the College or triggering an investigation or action by the College may utilize the confidential medical, mental health, and other confidential resources listed in this Handbook. 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 sexual misconduct are encouraged to utilize the resources that are the best suited to their needs.

## G. Emergency/Immediate Reporting Options

### 1. Local Law Enforcement

Individuals who have experienced sexual 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 sexual misconduct, the College encourages all impacted individuals with concerns about potential criminal conduct to seek assistance from law enforcement immediately after an incident of sexual 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 sexual misconduct that has been reported to law enforcement.

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

### 2. 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 Title IX coordinator as appropriate after an incident of sexual misconduct. For information or questions regarding Campus Security, see Chapter 8 in this Handbook: Campus Security.

### 3. Medical Assistance

The College encourages all individuals who have experienced sexual 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.

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

Illinois: 309-779-5090

**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 sexual 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.

## K. Anonymous Reporting

Because of the inherent difficulty in investigating and resolving allegations that are vague or from unidentified persons, the College encourages individuals to provide full information and identify themselves when making reports of sexual misconduct. However, any generalized or anonymous reports received by the College will be reviewed by the Title IX response team in accordance with this chapter.

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

## L. External Reporting

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](mailto: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

## **4. REGIONAL OFFICE FOR IOWA**

Office for Civil Rights  
U.S. Department of Health & Human Services  
601 East 12th Street - Room 248  
Kansas City, MO 64106  
816-426-7278  
816-426-3686 Fax  
[816-426-7065 (TDD)]

## **CHAPTER 10: PENDING CRIMINAL INVESTIGATIONS AND/OR PROCEEDINGS**

Matters reported as sexual misconduct may be subject to not only certain laws but also covered by College policies. However, applicable laws and the College's policies operate independently and do not substitute for each other. The College may pursue enforcement of its own policies 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 College policies have been violated.

Proceedings under this Handbook may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the 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 interim measures to protect an individual or the College community.

However, the Title IX coordinator will cooperate with law enforcement in order that the College's sexual 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 responding party, nor the outcome of any criminal prosecution are determinative of whether sexual 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 sexual misconduct report were dismissed, reduced or resolved in favor of or against the responding party.

### B. Special Considerations

When a responding party 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 sexual misconduct report and how such matters are typically handled under this Handbook.

### C. Transcripts

If the responding party is a current student, no notation will be placed on that student's transcript while the matter is pending under this Handbook. If the responding party withdraws from the College while a sexual misconduct report is pending, that student's transcript will reflect the status of that report. Such a transcript notation is subject to later modification or deletion to reflect the outcome of the report.

## CHAPTER 11: SUPPORTIVE MEASURES

In response to a report of TIX misconduct, either or both the complainant and respondent involved in an alleged TIX sexual misconduct incident, may seek or the College may offer appropriate and reasonable 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 harassment, discrimination, and/or retaliation.

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.

Supportive measures do not mean the College has made a determination of responsibility based upon the sexual misconduct report.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

The measures provided to either or both parties may change over time. The parties are encouraged to communicate with the Title IX coordinator or deputy 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 sexual misconduct report has been resolved.

The range of interim 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 interaction. These communication 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 no-contact directive.

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

In some cases, either or both parties may consider seeking an Abuse Prevention Order or a Harassment Prevention 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.

## H. Failure to Comply with Supportive Measures

Either or both parties are encouraged to report any concerns arising out of a College community member or other person who interferes with or prevents the implementation and functioning of a supportive measure determined to be appropriate by the College. After notice and assessment of any such concerns, the College shall take effective and appropriate action to remedy the concern. Such remedial action may include imposing discipline.

## CHAPTER 12: EMERGENCY REMOVAL

Upon receipt of a report of sexual harassment, 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. The College may remove either or both parties or an organization, as a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Behavioral

Intervention Team in conjunction with the Title IX Coordinator using its standard objective risk threat assessment procedures. Refer to the College's Safety Intervention Policy.

In all cases in which an emergency removal is imposed, the student, employee or two (2) representatives from a student organization will be given notice of the action and the option to request to meet with the appropriate College official and the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified..

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived.

The party being considered for removal and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

A Respondent may be accompanied by an Advisor of their choice when meeting with the appropriate College official and the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Vice Chancellor for Student Affairs regarding students and the Sr. Director for Human Resources regarding employees has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. These actions could include, but are not limited to: removing a student from a residence hall, [temporarily re-assigning an employee], restricting a student's or [employee's] access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

**There is no appeal process for emergency removal decisions.**

## **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

563-884-5147

[brian.sharkey@palmer.edu](mailto:brian.sharkey@palmer.edu)

## 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](mailto: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:

George Oliveira

Director of Campus Safety and Security

386-763-2608

[george.oliveira@palmer.edu](mailto:george.oliveira@palmer.edu)

After providing security assistance or law enforcement information, Security will promptly report any sexual misconduct allegations to the Title IX coordinator and/or deputy for further processing according to the policies outlined in this Handbook.

## CHAPTER 14: CAMPUS SUPPORT SERVICES

Individuals who report sexual misconduct or are accused of such behavior react to such matters in many different ways, including feeling confused, vulnerable, embarrassed, angry and distrustful.

The College will treat reporting and responding parties with fairness and respect. The Office of Compliance, by its Title IX coordinator and deputy coordinators, will assist both parties with understanding not only this Handbook, but also the procedures under applicable institutional policies, collective bargaining agreements, faculty handbook,; employee handbook,; Student Code of Ethics or other College processes and procedures.

Being involved in a sexual misconduct matter can be stressful, and either party may find it helpful to have the support and advice of someone they trust during the process. Either or both parties may have one advisor present to support and assist them throughout the process. An advisor is someone who can provide emotional, logistical or other support to a party. Employees who are union members may designate a union representative as an advisor. An advisor is expected to maintain confidentiality consistent with this Handbook.

An advisor's role in the Formal Resolution Process and any investigation is limited and explained in Chapter 15 of this Handbook.

The College encourages College community members to seek the support services listed below as needed.

### A. Main Campus

1. Academic Support Services & Resource Referrals for Students

#### **Academic Support Services**

Alex Margrave, D.C.

563-884-5257

[margrave\\_a@palmer.edu](mailto:margrave_a@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](mailto: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](mailto: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](mailto: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](mailto:victor.hidalgo@palmer.edu)
2. Employment Support Services & Resource Referrals for Employees and Faculty  
**Human Resources**  
Cheryl Shaw, PHR, M.B.A.  
386-763-2665  
[cheryl.shaw@palmer.edu](mailto:cheryl.shaw@palmer.edu)

### D. Campus Guidance Documents

1. [Annual Security and Fire Safety Report](#)
2. [Title IX – Addressing Sexual Harassment and Sexual Violence](#)
3. [Sexual Assault, Dating Violence, Domestic Violence& Stalking on Campus](#)
4. [Culture of Consent](#)

## CHAPTER 15: COMMUNITY RESOURCES & CONFIDENTIAL REPORTING CONTACTS

The College encourages members of the College community to seek the support of community resources as needed. Individuals impacted by an alleged sexual misconduct incident are encouraged to seek appropriate help through available community resources, regardless of whether or not the incident was reported to the College.

## 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/>. 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](http://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](http://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](http://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.GLBTHelpCenter.org](http://www.GLBTHelpCenter.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](http://www.apa.org)). The APA is a professional psychological association which provides information on a wide variety of topics.
3. Graduate Student Hotline: 800-GRAD-HELP (472-3457). Provides 24/7 support for urgent mental health care needs.
4. The Learn Psychology Guide to College Student Mental Health (<https://www.learnpsychology.org/mental-health/>) Gives tips and strategies for addressing stress, sleep issues and other mental health needs and concerns.

## CHAPTER 16: THE COLLEGE'S RESPONSE TO REPORTS OF SEXUAL MISCONDUCT

### A. Actual Knowledge

The College will respond to allegations of sexual misconduct under this policy when the College has actual knowledge of sexual misconduct allegations that occurred within the scope and jurisdiction of this Handbook. [See Chapter 4: Scope and Jurisdiction](#) 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 Title IX Coordinator and deputies.

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 Sexual Misconduct for TIX Jurisdiction

### 1. Examination of Reports

Although a report of sexual misconduct may be received through many sources, the College has directed all reports of sexual misconduct be brought to the [Title IX coordinator or deputies](#). The Title IX coordinator and deputies shall respond to all reports of sexual misconduct whether formal or informal. On a case-by-case basis, others may be added to this response team as appropriate.

Sexual misconduct resolution 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/student, 3<sup>rd</sup> party) as well as their association with the College and the level of due process required to resolve a complaint. Accordingly, reports of sexual misconduct are reviewed by the TIX coordinator or deputies 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: Scope and Jurisdiction](#)] 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. See [Chapter 12: Emergency Removal](#) for greater detail.

## D. Orientation Meeting with the Complainant

The Title IX 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 resolution process](#), and any [informal resolution](#) options.

## E. Promptness

All allegations are acted upon promptly by the College once it has received actual knowledge/notice of allegations of a sexual 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 RESOLUTION PROCESS

### A. General Guidelines for Informal Resolution

1. Informal resolution is an alternative resolution process to the Formal Resolution Process described in Chapter [?]. It can be attempted before or in lieu of the Formal Resolution Process.
2. Informal resolution must be facilitated by the TIX Coordinator or Deputy.
3. Use of informal resolution is not a prerequisite to initiating the Formal Resolution Process described in this Handbook.
4. The determination of whether to permit an informal resolution is entirely at the discretion of the TIX Coordinator (TIXC).
5. Informal resolution is voluntary.
6. TIX complaints involving dangerous patterns or significant ongoing threat to the community will not be resolved with informal resolution.
7. TIX complaints involving an employee and a student will not be resolved informally.

### B. Informal Resolution: Supportive Measures

1. A TIX complaint may be resolved when the complainant voluntarily seeks only supportive measures provided by the College to remedy the situation. For more information about [supportive measures](#) see Chapter 11 of this Handbook.

2. The complainant will be informed of the option for informal resolution through written mutual agreement with the respondent described in part C below. The complainant will also be informed of the option for the Formal Resolution Process described in this Handbook before proceeding.
3. The TIX Coordinator will obtain voluntary, written confirmation that the complainant wishes to resolve the TIX complaint through the implementation of supportive measures provided by the College.
4. The supportive measures provided to remedy the situation will be documented and maintained by the TIX Coordinator.

### C. Informal Resolution: Written Mutual Agreement

1. A TIX complaint may be resolved when the complainant seeks an informal resolution through a voluntary, written mutual agreement that is satisfactory to both parties and the College.
2. The TIX coordinator will meet individually with the complainant and respondent to determine if the matter can be resolved informally on a basis which is satisfactory to both parties and the College.
3. The responding party will receive full disclosure of the TIX misconduct allegations.
4. Both parties will be informed of the option for the Formal Resolution Process described in this Handbook.
5. The TIX Coordinator will obtain voluntary, written confirmation that all parties wish to resolve the matter through this Informal Resolution Process before proceeding.
6. The informal resolution process is voluntary. Both parties must agree to participate. The parties may meet together in person with the TIX Coordinator, through a technologically assisted medium such as Skype, Teams, Zoom, FaceTime, WebEx, or similar technologies, or the parties may meet individually with the TIX Coordinator to reach a satisfactory resolution. The TIX Coordinator will facilitate the meeting(s).
7. Either or both parties may choose to discontinue the informal resolution process prior to its completion and begin or resume the formal process described in this Handbook.
8. Informal resolution agreements are not appealable.
9. If the TIX complaint is not resolved informally, then the complaint will be investigated and proceed under the formal process described in this Handbook.

10. Any agreed informal resolution 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.
11. Any failure by either or both parties to comply with the agreed informal resolution may result in the re-opening of the original TIX misconduct report and/or referral to be addressed under applicable institutional policies, collective bargaining agreements, faculty handbooks, employee handbooks, Student Code of Ethics or other College processes and procedures.

## **CHAPTER 18: FORMAL GRIEVANCE RESOLUTION PROCESS**

### **A. General Guidelines**

1. This formal grievance resolution process (formal process) is the same for TIX sexual 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 sexual misconduct complaint is brought forward that is not informally resolved under Chapter [?]; and the reporting party seeks a formal resolution.
4. The College may consolidate formal TIX 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.
5. Resolution proceedings are private. All persons present at any time during the formal resolution 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 policy 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 policy.

### **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 grievance resolution 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 resolution](#) options, if applicable.

## **D. Dismissal of a Formal TIX Complaint**

1. The College may dismiss a formal TIX 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 TIX 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 TIX complaint, the parties will be notified simultaneously in writing of the dismissal and the reasons for the dismissal.

## CHAPTER 19: ADVISORS

### A. Right to an Advisor

1. The Complainant and Respondent may each have one Advisor of their choice present with them for any meetings and interviews within the formal resolution process, if they so choose and at their own expense.
2. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

### B. Who Can Serve as an Advisor

1. The parties may select whoever they wish to serve as their Advisor as long as the advisor is eligible and available. The Advisor may be a friend, mentor, family member, union representative, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process.
2. Available means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability that would unreasonably delay the process. The College generally expects an advisor to adjust their schedule to allow them to attend the College's meetings. The process will not be unreasonably delayed to accommodate the schedule of an advisor.
3. The College may make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.
4. The parties shall notify the Title IX 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.
5. The Advisor may be an attorney. If either or both parties retain an attorney, such party shall notify the Title IX coordinator of the identity of that attorney at least three academic days in advance of the intent by that attorney to attend any meetings, interviews or other proceedings so that the other party may have an opportunity to obtain an attorney, if they choose. The College may also appoint its own attorney to be present at such times.
6. The Title IX Coordinator will offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the College, the Advisor will be trained by the College and be familiar with the College's resolution process.
7. If the parties choose an Advisor from outside the pool of those identified by the College, the Advisor may not have been trained by the College and may not be familiar with the College's policies and procedures.



8. The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.
9. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time.
10. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. A party must have an advisor present for a hearing.
11. The Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions, if applicable.
12. 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 Decision-maker(s).

### 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 Title IX 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 Title IX Coordinator or Deputy 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 Title IX Coordinator at the commencement of the resolution 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

## E. Advisor's Role

### 1. Advisor's Role in this Formal Resolution Process

An advisor may accompany the party to meetings related to this formal resolution 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 resolution 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 resolution 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 resolution 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.
- c. 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. An advisor may not testify in or obstruct the Hearing Panel, author written submissions, or disrupt
- d. 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.
- e. 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.
- f. 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 Title IX 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 Title IX Coordinator will determine how to address the Advisor's non-compliance and future role, if any.

## CHAPTER 20: INVESTIGATIONS

### A. Appointment of Investigator(s)

The Title IX coordinator will select an investigator or investigators who are impartial; free of actual or reasonably perceived conflicts of interest and biases for or against any party; and who have specific training and experience investigating reports of TIX misconduct. The TIX

coordinator has the discretion to determine whether the investigator will be internal (a College employee) or external (an individual outside of the College community), or a combination of both internal and external investigators.

When a TIX misconduct complaint involves more than one complainant and/or more than one respondent, the TIX coordinator has the discretion to determine whether the investigation should be conducted separately or in one consolidated investigation.

## **B. Persons Authorized to Conduct Investigation**

No one other than the investigator(s) appointed by the Title IX coordinator will be allowed to conduct an investigation on behalf of the College.

## **C. Investigation Timeline**

### **1. Time to Complete Investigations**

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. While the College strives to complete investigations within sixty (60) business days, some investigations may take longer, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

### **2. Delays in the Investigation Process and Interactions with Law Enforcement**

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

The College's action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

## **D. 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 investigator's role to determine the responsibility, if any, of the responding party. For more information regarding determination of responsibility see Chapter [?].

## **3. Presumption of Good Faith**

TIX misconduct complaints are presumed to have been made in good faith unless proven otherwise.

## **4. Presumption of Innocence**

The respondent is presumed not responsible until a determination is made at the conclusion of the grievance process.

## **5. Equitable Investigation**

The investigator(s) will conduct an equitable investigation that is thorough, impartial, and fair including:

- a. analyzing and documenting the available evidence to provide a basis for reliable decisions;
- b. objectively evaluating the credibility of the parties and witnesses;
- c. taking into account the unique and complex circumstances pertaining to the alleged sexual misconduct; and
- d. synthesizing all available evidence which may include not only inculpatory but also exculpatory evidence.
  - inculpatory evidence shows or tends to show the responding party may have engaged in sexual misconduct as alleged.
  - exculpatory evidence shows or tends to show the responding party may not have engaged in sexual misconduct as alleged.

# **E. Investigation Process**

## **1. Burden of Gathering Evidence**

It is the College's responsibility not the parties to gather information and interview witnesses to reach a fair, impartial determination as to whether or not TIX misconduct has occurred and, if so, whether a hostile environment has been created that must be addressed. The investigator(s) will undertake a thorough search for relevant facts and evidence pertaining to the formal complaint. The investigator 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. During the course of the investigation, the investigator may independently identify and interview witnesses and obtain evidence other than presented by the parties. The investigator will identify and request relevant information from any available source.

**2. Information Protected by Legal Privilege**

The investigator 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 investigator or decisionmakers unless the privilege is voluntarily waived.

**3. Notice of Investigation Interviews**

The investigator will meet separately with the complainant and respondent. The 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**

The Complainant and Respondent may have an advisor present during the interview(s) with the investigator(s). The role of the advisor within the investigation is limited. Complainants and Respondents are expected to respond to questions from the investigator on their own behalf. The advisor may consult with their advisee quietly or in writing, or during breaks, but may not speak on behalf of the advisee to the investigator. The advisor may not ask questions of their advisee on the record. The advisor may ask the investigator 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**

The Complainant and Respondent have an equal opportunity to discuss the allegations under investigation, suggest questions, suggest witnesses for the investigator to interview, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The investigator may decline to interview witnesses the investigator deems unlikely to yield relevant information, such as character witnesses who have no relevant factual information about the incident.

**6. Multiple Interviews**

The investigator(s) may request to interview the Complainant, Respondent or any witness more than once during the investigatory process. The investigator's request to interview one party more times than the other bears no correlation with the potential outcome of the matter, nor is it indicative of investigator bias or unfairness.

**7. Audio Recordings of Interviews**

Interviews conducted by the investigator(s) will 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 investigator(s) will be allowed to audio record investigation interviews.

**8. Witness Participation in College Investigations**

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 resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

**9. Location**

While in-person interviews for parties and all potential witnesses are ideal, 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 Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure 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 Investigator(s), 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 sexual 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 sexual misconduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a sexual misconduct policy violation, this information may be relevant to the determination of a policy violation. Instances will be rare and 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 report or indicates a pattern of behavior substantially in conformity with that pattern.

**12. Prior Sexual History of the Parties**

Either or both parties' character reputation with respect to other sexual activity is not relevant and will not be considered as evidence. Similarly, either or both parties' prior or subsequent sexual activity, is not relevant and will only be considered as evidence under the following limited circumstances:

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove:

- a. that someone other than the Respondent committed the conduct alleged by the Complainant; or
- b. if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent are offered to prove consent.

For example, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised by either or both parties. The investigator will inform both parties if evidence of prior sexual history is deemed relevant. Either or both parties may submit additional facts to the investigator to place in context or explain the reasons why sexual history may or may not be relevant.

### **13. Prior Sexual History Between the Parties**

Even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. When the parties have a prior sexual relationship, and the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties in the context of their relationship. This may have a bearing on whether consent was sought and given during the incident in question. However, this does not assume prior sexual history was consensual. Thus, this should be a factor in considering relevance.

## **F. Investigation Report**

### **1. Case 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 case file. The case file will include all collected evidence that is directly 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 case file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigators will provide the case file, redacted of personally identifiable information in accordance with privacy regulations, to each party and their adviser in electronic form or hard copy. In all cases, any information relied on in adjudicating the matter will be provided to the parties and their advisers. The investigators will also provide an updated Notice of the Allegations, as appropriate.

### **2. Written Responses**



Within ten (10) academic days of receiving the case file, each party may respond in writing, which may include a request that the investigators collect additional evidence. 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 advisers 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 or hard copy.

### **3. Conclusion of Evidence-gathering**

The investigator has 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 Case File, unless additional evidence is provided within the responses. The parties' written responses to the Case File will be appended to the Investigative File.

### **4. Investigation Report**

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

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

The parties may choose to provide a written response to the investigative 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 investigative report, if any, in electronic format.

### **5. Determination of TIX Jurisdiction**

The TIX Coordinator will review the Investigative Report and the parties' written responses. TIX Coordinator will then determine whether the investigation reveals facts requiring or permitting dismissal of the formal complaint. If dismissal is warranted, the TIX Coordinator will inform the parties, in writing, of the dismissal decision, the reason for the dismissal, and an opportunity to appeal the dismissal.

### **6. Referral for Hearing**

Provided dismissal does not occur and the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX 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 Coordinator who administers the Code and its processes shall determine who hears and decides allegations of TIX sexual misconduct. A Hearing panel (typically three individuals), selected by the TIX Coordinator, will hear every case. 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 case file, investigative report, and any responses to the investigative report. All members of the Hearing Panel shall review the case 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) business 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.
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 Title IX 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 Coordinator.

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

## 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 Title IX 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, the Respondent and the 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 Title IX 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 Title IX 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 Title IX 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 advisers 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 adviser of the other party and relevant witnesses.

The parties' advisers 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 adviser 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 adviser, the Presiding Hearing Panelist must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

## **CHAPTER 21: 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 the respondent has violated the policy.
3. The Presiding Hearing Panelist shall write the written determination letter, which will contain: (1) the allegations potentially constituting Title IX sexual harassment; (2) a description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, and the hearing); (3) findings of fact supporting the determination; (4) conclusions regarding the application of this policy to the facts; (5) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred), any disciplinary sanctions imposed, if applicable, and whether any remedies designed to restore or preserve equal access to the College's education program or activity or working environment will be implemented; and (6) relevant appeal information for the parties.
4. The parties will simultaneously be provided with the written determination via electronic format.
5. Employees or students found to have conducted themselves in a manner prohibited by this Handbook may be subject to sanctions up to and including termination of employment and/or dismissal as a student.
6. The possible sanctions 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.

## B. Outcome Letter

The outcome letter will be provided simultaneously to both parties by the Title IX coordinator or deputy. The content of each letter may differ based upon consideration such as FERPA requirements and confidentiality interests. A copy of the outcome letter may be provided to the responding party's supervisor or others with the need to know as determined appropriate by the Title IX coordinator.

## CHAPTER 22: APPEAL

1. A designated Appeal Deciding official will hear all appeals. A decision by the Hearing Panel may be appealed by either party to the designated College Appeal Deciding official.
2. Appeals may be submitted on the following bases: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made which could affect the outcome of the matter; (3) the Title IX Coordinator, investigator(s) or any member 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 matter; and/or (4) the sanctions are not commensurate with the violation.
3. To appeal, a party must electronically submit a written appeal statement to the Title IX Coordinator within five (5) academic days of receipt of the written determination. The Appeal Deciding Official may deem a late submission reasonable only under extenuating circumstances and may decide in their sole discretion what constitutes valid extenuating circumstances.
4. The appeal shall consist of a written statement, outlining the basis for appeal and the relevant information to substantiate the appeal.
5. 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 Title IX Coordinator within five (5) academic days of receipt of the appealing party's written statement. The non-appealing party's statement will be provided to the appealing party. No further appeal submissions from the parties shall be permitted.
6. 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.
7. In deciding an appeal, the Appeal Deciding Official may consider the investigator case file and any responses, investigative report and any responses, the hearing record, the written determination, and any written appeal(s) or statements by the parties. The Deciding Appeal Official also may consider any other materials the College deems relevant and that have been shared with the parties.

8. The parties will simultaneously be provided (via electronic format) with the written decision describing the result of the appeal and the rationale for the result.
  - a. If the Appeal Deciding Official finds that the earlier decision should stand, the parties will be so informed and the Title IX process is concluded.
  - b. If the Appeal Deciding Official finds that there was procedural irregularity that affected the outcome of the matter, the matter will be remanded to the Presiding Hearing Panelist to determine appropriate further action.
  - c. If the Appeal Deciding Official finds that new evidence is available which was not reasonably available at the time of the determination regarding responsibility or dismissal, and such evidence could alter the outcome of the matter, the matter will be remanded to the Presiding Hearing Panelist for appropriate further action.
  - d. If the Appeal Deciding Official finds that the Title IX Coordinator, investigator(s), or member 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 matter, the Appeal Deciding Official will take appropriate measures to address and remediate the impact of the bias or conflict consistent with the general procedures of this policy.
  - e. If the Appeal Deciding Official finds that the sanctions are not commensurate with the violation, the Appeal Deciding Official may amend the sanctions.
9. The Appeal Deciding Official will seek to complete the appeal review within twenty (20) business days of receipt of the appealing party's written statement.
10. The decision of the Appeal Deciding Official is final.