



**PALMER**  
College of Chiropractic

# Policy & Procedures Handbook for the Resolution of Reports of Sexual Misconduct

SEX DISCRIMINATION

SEXUAL HARASSMENT

SEXUAL VIOLENCE



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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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# PART I: POLICY

## CHAPTER 1: INTRODUCTION

This handbook contains the College's policy and procedures for the resolution of sexual misconduct reports. Sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force. Sexual misconduct includes a range of behaviors as defined in Chapter 4 of this Handbook. An act of sexual misconduct represents a fundamental failure to respect the intrinsic worth and dignity of another individual that will not be tolerated.

All members of the Palmer College community should be free from sexual misconduct impacting the educational or workplace environment. The College seeks to foster a climate free from sexual misconduct through a coordinated education and prevention program, clear and effective policies, as well as investigative and complaint procedures that are prompt, equitable and accessible to all.

In response to any reported sexual misconduct, the College will take appropriate steps to assess and investigate such report in accordance with the provisions of this Handbook. The College procedures are designed to protect the rights of not only the individual reporting sexual misconduct, but also the individual responding to such a report of misconduct. Where prohibited conduct is found to have occurred, the College will take appropriate actions to eliminate any misconduct, prevent its recurrence and remedy its effects.

This handbook:

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

## CHAPTER 2: NOTICE OF NONDISCRIMINATION

The College is committed to establishing and maintaining an environment free of any form of legally prohibited discrimination or harassment for all College community members, as well as those associated with or conducting business with the College. The College prohibits discrimination on the basis of age, ancestry, citizenship status, color, creed, disability, national origin, race, religion, sex, sexual orientation, gender identity, veteran status or other legally protected status.

Sexual misconduct, as defined in this Handbook, violates College policy and may be a form of sex discrimination that violates applicable law. It includes 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.

## A. Scope and Jurisdiction

1. This policy applies to all members of the College community, including students and employees. It is a violation of this policy for any employee, faculty, student or third party to engage in sexual misconduct impacting an employee, faculty, student or any other individual associated or conducting business with the College.
2. A Reporting Party is either an individual or group who makes a Report or on whose behalf a Report is made, that is, a third party reporter.
3. A Responding Party may be either an individual or a group of individuals who have been accused of violating this Policy.
4. 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.
5. 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.
6. 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.
7. 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.
  8. 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.
  9. 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.
  10. 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:
    - a. referral to local law enforcement;
    - b. the restriction from access to campus or College activities; and/or
    - c. following the informal and formal resolution procedures in this Handbook.
  11. 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.
  12. 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.

13. Members of the College community are required to comply with College policies and local, state and federal law related to sexual misconduct.
14. 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:
  - a. The conduct occurs on or off College premises including online activities;
  - b. 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;
  - c. 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
  - d. The conduct indicates the responding party may present a danger or threat to the health or safety of the College community.
15. Sexual misconduct, including sexual harassment, can occur:
  - a. Between peers (e.g., student to student, employee to employee, faculty to faculty).
  - b. 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 3: PROGRAM RESPONSIBILITY

### A. Title IX Coordinator and Deputy Coordinators – Davenport Campus

The Title IX coordinator and deputies with administrative oversight are responsible for the administration, coordination, dissemination and implementation of the policy and procedures set forth in this Handbook.

#### **DAVENPORT CAMPUS**

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

Senior Director for Compliance

Also Serving as Title IX Coordinator

Office of Compliance

1000 Brady Street

Davenport, IA 52803

563-884-5476

[earlye.julien@palmer.edu](mailto:earlye.julien@palmer.edu)

Lori Larsen, B.A.

Compliance Specialist

Also Serving as Deputy Title IX Coordinator

Office of Compliance

1000 Brady Street

Davenport, IA 52803

563-884-5246

[lori.larsen@palmer.edu](mailto:lori.larsen@palmer.edu)

Kevin Cunningham, D.C., Ph.D.

Vice Chancellor for Student Affairs

Also Serving as Deputy Title IX Coordinator

for Athletics and Scholarships

Office of Student Affairs

1000 Brady Street

Davenport, IA 52803

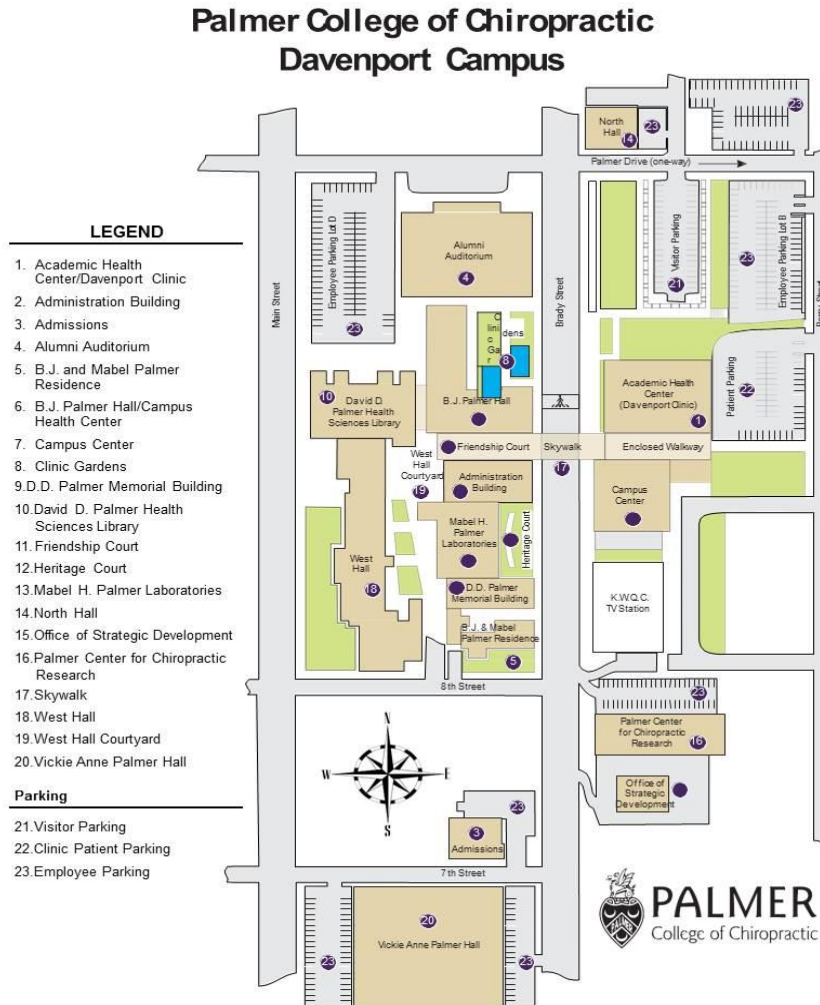
563-884-5898

[kevin.cunningham@palmer.edu](mailto:kevin.cunningham@palmer.edu)

## B. Location of Title IX Coordinator and Deputies – Davenport Campus

The Title IX coordinator is located in the Campus Center, 4th floor. The deputy Title IX coordinator is located in the Campus Center, 3rd floor. The deputy Title IX coordinator for Athletics and Scholarships is located in the Campus Center, 3rd floor.

Office Hours are Monday-Friday 8 a.m. to 4:30 p.m. CST.



## C. Title IX Coordinator and Deputy Coordinators – West Campus

### WEST CAMPUS

Michael Crump, M.Ed.

Director of Student Services

Also Serving as Deputy Title IX Coordinator

Office of Student Services

90 E. Tasman Drive

San Jose, CA 95134

408-944-6122

[michael.crump@palmer.edu](mailto:michael.crump@palmer.edu)

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

Senior Director for Compliance

Also Serving as Title IX Coordinator

Office of Compliance

1000 Brady Street

Davenport, IA 52803

563--884-5476

[earlye.julien@palmer.edu](mailto:earlye.julien@palmer.edu)

Kevin Cunningham, D.C., Ph.D.

Vice Chancellor for Student Affairs

Also Serving as Deputy Title IX Coordinator

for Athletics and Scholarships

Office of Student Affairs

1000 Brady Street

Davenport, IA 52803

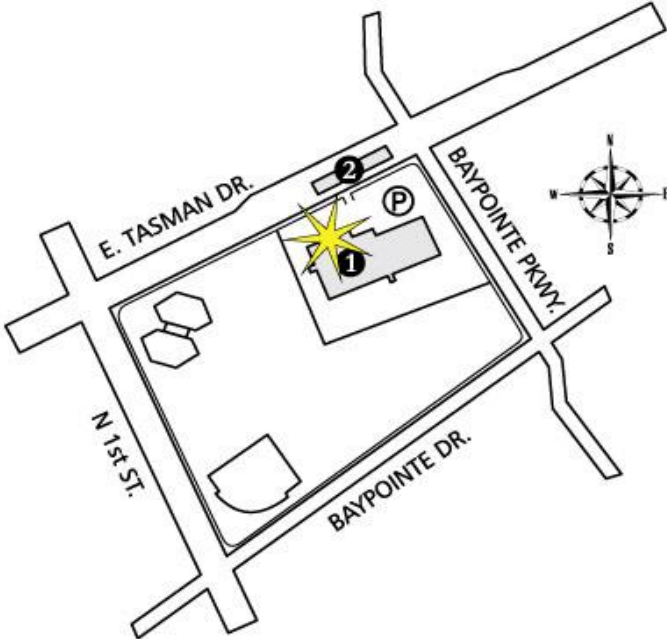
563-884-5898

[kevin.cunningham@palmer.edu](mailto:kevin.cunningham@palmer.edu)

**D. Location of Deputy Title IX 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.



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

## E. Title IX Coordinator and Deputy Coordinators – Florida Campus

### 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  
Port Orange, FL 32129-4153  
386-763-2665  
[cheryl.shaw@palmer.edu](mailto:cheryl.shaw@palmer.edu)

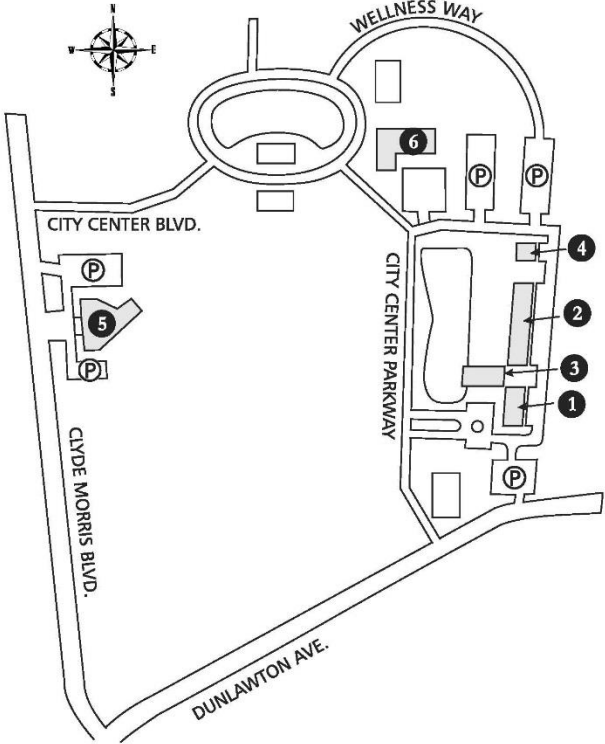
Earlye Adams Julien, PHR, M.S. Ed.  
Senior Director for Compliance  
Also Serving as Title IX Coordinator  
Office of Compliance  
1000 Brady Street  
Davenport, IA 52803  
563-884-5476  
[earlye.julien@palmer.edu](mailto:earlye.julien@palmer.edu)

Kevin Cunningham, D.C., Ph.D.  
Vice Chancellor for Student Affairs  
Also Serving as Deputy Title IX Coordinator  
for Athletics and Scholarships  
Office of Student Affairs  
1000 Brady Street  
Davenport, IA 52803  
563-884-5898  
[kevin.cunningham@palmer.edu](mailto:kevin.cunningham@palmer.edu)

## F. Location of the Deputy Title IX 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.



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



## CHAPTER 4: PROHIBITED SEXUAL MISCONDUCT & DEFINITIONS

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

Sexual misconduct is a broad term that includes but is not limited to:

- > Sexual harassment;
- > Non-consensual sexual contact;
- > Non-consensual sexual intercourse;
- > Sexual violence;
- > Sexual exploitation;
- > Stalking and cyber-stalking;
- > Bullying and cyber-bullying;
- > Other misconduct behaviors that are sex or gender based;
- > Aiding or facilitating sexual misconduct; and
- > Retaliation.

Consistent with the values of an educational and employment environment free from discrimination based on sex, the College also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility, based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

### A. Sexual Harassment

#### 1. DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when:

- a. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, education or participation in social or extracurricular activities;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting the individual; or
- c. Such conduct creates a "hostile environment" if it is sufficiently severe, persistent or pervasive that it unreasonably (i) interferes with, (ii) limits, or (iii) deprives an individual from participating in or benefiting from the College's educational or employment programs, activities or living environment. In evaluating whether a

hostile environment exists, the totality of known circumstances including the nature, frequency, intensity, location, context, and duration of the conduct will be considered from the perspective of both the reporting party and a reasonable person in the position of a responding party.

- d. A single or isolated incident of prohibited behavior may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the fewer number of incidents are necessary to establish a hostile environment, particularly if the harassment is physical.

## **2. FORMS OF PROHIBITED SEXUAL HARASSMENT**

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

- a. Sexual harassment can take many forms:
  - (i) It can occur between peers (e.g., student to student, employee to employee, faculty to faculty) or between persons of unequal power status (e.g. supervisor to subordinate, faculty to student, coach to student-athlete, student leader to student). Although sexual harassment often occurs between individuals with unequal power, a person who appears to have less power in a relationship can also commit sexual harassment (e.g., student harassing faculty member).
  - (ii) It can be committed by an individual or may be a result of the collective actions of an organization or group.
  - (iii) It can be committed against an individual, an organization or a group.
  - (iv) It can be committed by an acquaintance, a stranger, or someone with whom the reporting party has a personal, intimate or sexual relationship.
  - (v) It can occur by or against an individual of any sex, gender identity, or sexual orientation.
- b. It does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents. Examples of behavior that would constitute misconduct include, but are not limited to:
  - (i) Unwelcome sexual innuendo, propositions, sexual attention or suggestive comments and gestures; humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality or gender; insults and threats based on sex or gender; and other oral, written or electronic communications of a sexual nature that is unwelcome;

- (ii) Written graffiti or the display or distribution of sexually explicit drawings, pictures, written materials or objects; sexually charged name-calling; sexual rumors or ratings of sexual activity/performance; the circulation, display, or creation of emails or websites of a sexual nature;
- (iii) Display or circulation of written materials or pictures degrading to an individual or gender group;
- (iv) Unwelcome physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body;
- (v) Undue and unwanted attention, such as repeated inappropriate flirting, inappropriate or repetitive compliments about clothing, accessories or physical attributes, staring, or making sexually oriented gestures;
- (vi) Physical coercion or pressure placed upon an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- (vii) Change of academic or employment responsibilities (e.g., increase in difficulty or decrease of responsibility) based on sex, gender identity, or sexual orientation;
- (viii) Use of a position of power or authority to: (a) threaten or punish, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment; or (b) promise rewards in return for sexual favors;
- (ix) Abusive, disruptive or harassing behavior, verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on sex, gender and/or in the context of intimate partner violence;
- (x) Demeaning verbal or other expressive behavior of a sexual or gender-based nature in instructional settings; and
- (xi) Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived sexual orientation or gender identity of the harasser or target.

## B. Non-Consensual Sexual Contact

1. Non-Consensual Sexual Contact is:
  - a. any intentional sexual touching,

- b. however slight,
- c. with any part of the body or any object,
- d. by a person upon another person,
- e. that is without consent and/or by force.

2. Sexual Contact includes:

- a. intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- b. any other intentional bodily contact in a sexual manner.

### C. Non-Consensual Sexual Intercourse

1. Non-Consensual Sexual Intercourse is:

- a. any sexual intercourse,
- b. however slight,
- c. with any part of the body or any object,
- d. by a person upon another person,
- e. that is without consent and/or by force.

2. Intercourse includes:

vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

### D. Sexual Violence

Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. This includes rape, sexual assault, battery and sexual coercion.

**Sexual violence** may involve individuals who are known to one another or have an intimate and/or sexual relationship (e.g. domestic violence, dating violence) or may involve individuals not known to one another. Examples include, but are not limited to:

- 1. Having or attempting to have sexual intercourse as defined above with another individual.
- 2. Having or attempting to have sexual contact as defined above with another individual.

### E. Sexual Exploitation

Sexual exploitation refers to an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited

even though the behavior does not constitute one of the other sexual misconduct offenses. Sexual exploitation may involve individuals who are known to one another, have an intimate or sexual relationship, and/or may involve individuals not known to one another. Examples include, but are not limited to:

1. Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
2. Non-consensual streaming or transmitting of images; photographing; video or audio recording of sexual activity; nudity; or distribution of such without the knowledge and consent of all parties involved;
3. Prostituting another individual;
4. Knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge;
5. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity;
6. Exposing one's genitals in non-consensual circumstances; and
7. Inducing another to expose one's genitals.

## F. Stalking and Cyber-Stalking

The term “stalking” refers to extreme or repeated conduct involving unwanted attention, harassment, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to alarm or place that individual in fear of harm or injury, including physical, emotional or psychological harm. Stalking is not only a form of sexual misconduct but also a type of harassment, which may be based upon other legally protected classes.

Stalking includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact are used to pursue, harass or make unwelcome contact with another person.

This can be done through email, instant messaging, text messages, web pages, chat rooms, or even interactive game sites.

Stalking and cyber-stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

## G. Bullying and Cyber-Bullying

The term “bullying” refers to extreme or repeated verbal, physical, social or psychological behavior that is harmful and involves the misuse of power by an individual or group towards one or more persons.

Bullying is unwanted attention, harassment, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to alarm or place that individual in fear of harm or injury, including physical, emotional, or psychological harm.

Bullying can include, but is not limited to, humiliation, intimidation and belittlement. Bullying is not only a form of sexual misconduct but also a type of harassment, which may be based upon other legally protected classes.

Bullying includes cyber-bullying, a particular form of bullying in which electronic media such as the internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact are used to pursue, harass or make unwelcome contact with another person or persons. This can be done through email, instant messaging, text messages, web pages, chat rooms, or even interactive game sites.

Cyber-bullying includes but is not limited to:

1. Sending mean, threatening or harassing messages to another person or persons as described in the preceding paragraph;
2. Spreading lies and rumors about others as described in the preceding paragraph;
3. Posting pictures without the consent of the individual;
4. Tricking someone into revealing their personal information and sending it to others;
5. Creating websites, polls, or blogs about others that embarrass or hurt those persons; and
6. Recording conversations or videos without the individual's consent and then posting them online.

## H. Other Misconduct When Sex or Gender-based

Other misconduct behaviors will fall under Title IX when sex or gender-based. Examples include, but are not limited to:

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy); and
5. Violence between those in an intimate relationship to each other.

## I. Aiding or Facilitating

Sexual misconduct includes aiding, facilitating, promoting or encouraging the behaviors prohibited by this Handbook. Aiding or facilitating may also include failing to take action to prevent an imminent act when it is reasonably prudent and safe to do so.

## CHAPTER 5: CONSENT

### A. Consent, Coercion, Force, Incapacitation and Use of Alcohol and Other Drugs

1. Consent is affirmative, conscious and voluntary. Consent means affirmative, conscious and voluntary agreement by the parties to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity.
2. Silence is not consent. Lack of protest or resistance does not constitute consent, nor does silence constitute consent. Consent consists of an outward demonstration indicating that an individual has agreed to engage in sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. A person who does not physically resist or verbally refuse sexual activity is not giving consent. In the absence of an outward demonstration, consent does not exist. If at any time it is reasonably apparent that either party is hesitant, confused or uncertain, both parties should stop and obtain mutual verbal consent before continuing sexual activity.
3. Affirmative consent must be ongoing throughout a sexual activity. Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity, and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to other forms of sexual contact. For example, an individual may agree to kiss but choose not to engage in fondling or sexual intercourse. An individual should obtain consent before moving from one act to another.
4. Consent can be revoked by either party at any time. Once withdrawal of consent has been expressed, sexual activity must cease.
5. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs.

6. Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact. Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, severe and/or pervasive emotional intimidation, which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity.
7. There is no requirement that an individual resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual.
8. An individual who is incapacitated is not able to make rational, informed judgments and therefore is incapable of giving consent. Incapacitation is the inability, temporarily or permanently, to give knowing consent, because the individual is mentally and/or physically impaired due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep or otherwise unable to understand or is unaware of what is occurring. In addition, an individual is incapacitated if he/she is unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason. An individual may experience a blackout state in which he/she appears to be giving consent, but does not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. The relevant standard that will be applied is whether the responding party knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.
9. Providing alcohol and other drugs to another person. Alcohol and other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. Providing alcohol or other substances to another person, without their knowledge or for the purpose of incapacitation and sexual activity, is a violation of this policy.
10. An individual is never at fault for being sexually assaulted. The personal use of alcohol and other drugs never makes someone at fault for being sexually assaulted.

## B. Guidance regarding sexual consent

1. Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing,



alcohol consumption, or dancing) are unwarranted, and may not be considered as an indication of consent.

2. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent. As such, individuals are urged to seek consent in verbal form. Talking with sexual partners about desires and limits may seem awkward, but serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

### C. Invalid excuses to a lack of affirmative consent

1. It shall not be a valid excuse to an alleged lack of affirmative consent that the responding party believed that the reporting party consented to the sexual activity under either of the following circumstances:
  - a. Responding party's belief in affirmative consent arose from the intoxication or recklessness of the reporting party.
  - b. Responding party failed to take reasonable steps, in the circumstances known to the responding party at the time, to ascertain whether the reporting party affirmatively consented.
2. It shall also not be a valid excuse that the responding party believed the reporting party affirmatively consented to the sexual activity if the responding party knew or should have known the reporting party was unable to consent to the sexual activity under any of the following circumstances:
  - a. Reporting party was asleep or unconscious.
  - b. Reporting party was incapacitated due to the influence of drugs, alcohol, or medication, so that the reporting party could not understand the fact, nature, or extent of the sexual activity.
  - c. Reporting party was unable to communicate due to a mental or physical condition.

## CHAPTER 6: RETALIATION

The College strictly prohibits retaliation of any kind against an individual who reports alleged sexual misconduct or who participates in any process under this policy. Retaliation refers to an adverse action taken against a person for making a report of sexual misconduct or participating in any process under this policy. Retaliation includes threatening, intimidating, harassing, coercive, or any other conduct that could discourage a reasonable person from engaging in activity protected under this policy.

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.

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

The College will investigate and take appropriate remedial action, which may include disciplinary action, in response to any report of retaliation.

## CHAPTER 7: REPORTING SEXUAL MISCONDUCT

### A. Initiating/Filing a Report

The College takes all incidents of sexual misconduct very seriously. A reporting party may pursue the following options:

#### 1. Sexual Misconduct Policy Report

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 become aware of an incident of sexual misconduct 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 Chapter 4 of this Handbook; or
- b. 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. 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.

#### 2. Criminal Complaint

A reporting party may make a criminal complaint about sexual misconduct to the appropriate law enforcement authorities. Not all sexual misconduct is criminal behavior. Law enforcement authorities can assist a reporter in determining whether conduct experienced was criminal in nature and warrants a criminal complaint.

#### 3. The College

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

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.

## B. Responsibility to Report

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 potential sexual misconduct.

Individuals described above who fail to report an incident or report of potential 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.

However, the College 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.

### C. The College's Responsibility to Respond

Title IX response team

1. Although a report 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. On a case-by-case basis, others may be added to this response team as appropriate.

If a report alleges conduct that appears to violate this Policy, the Title IX response team will examine not only the nature of the allegations, but also the totality of information available at the time the report is made. 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.

If the team determines an investigation is inappropriate, the Title IX coordinator or designated campus deputy coordinator will meet with the reporting party to explain the reasoning and discuss options for addressing his/her concerns. As an example, the reported conduct may be addressed under another more appropriate policy and procedure recognized by the College.

2. Response

The College will appropriately review and/or investigate all reports to determine what occurred and take appropriate steps to eliminate any misconduct, prevent its recurrence and remedy its effects.

### D. Reporting Off-Campus Sexual Misconduct

All incidents of sexual misconduct, including those occurring off campus, should be reported to the College. Off-Campus violations include online behavior that affect a clear and distinct interest of 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;
2. occurs at a College-sponsored activity, sporting event, educational activity (e.g. preceptorship, internship, service learning experience) or at a student organization-sponsored activity;
3. occurs when the reporting party or responding party were acting in an official capacity for the College;
4. constitutes a violation of federal, state or local law or ordinance;

5. violates College policies; or
6. demonstrates a threat to Campus safety and security.

## E. Limited Confidential Reporting

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.

The College makes reasonable efforts to maintain the confidentiality of the information it receives in connection with reports of sexual misconduct. However, information is appropriately shared 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.

### **Report Sexual Misconduct to:**

#### **DAVENPORT CAMPUS**

Earlye Adams Julien, PHR, M.S. Ed.  
Senior Director for Compliance  
Also Serving as Title IX Coordinator  
1000 Brady Street  
Davenport, IA 52803  
563-884-5476  
[earlye.julien@palmer.edu](mailto:earlye.julien@palmer.edu)

Lori Larsen, B.A.  
Compliance Specialist  
Also Serving as Deputy Title IX Coordinator  
Office of Compliance  
1000 Brady Street  
Davenport, IA 52803

563-884-5246 or 800-722-2586

[lori.larsen@palmer.edu](mailto:lori.larsen@palmer.edu)

## **WEST CAMPUS**

Michael Crump, M.Ed.

Director of Student Services

Also Serving as Deputy Title IX Coordinator

Office of Student Academic Affairs

90 E. Tasman Drive

San Jose, CA 95134

408-944-6122

[michael.crump@palmer.edu](mailto:michael.crump@palmer.edu)

## **FLORIDA CAMPUS.**

Cheryl Shaw, PHR, M.B.A.

Human Resources Manager

Also Serving as Deputy Title IX Coordinator

4777 City Center Parkway

Port Orange, FL 32129-4153

386-763-2665

[cheryl.shaw@palmer.edu](mailto:cheryl.shaw@palmer.edu)

## **Report sexual misconduct regarding athletics or scholarships to:**

Kevin Cunningham, D.C., Ph.D.

Vice Chancellor for Student Affairs

Also Serving as Deputy Title IX Coordinator

for Athletics and Scholarships

Office of Student Affairs

1000 Brady Street

Davenport, IA 52803

563-884-5898

[kevin.cunningham@palmer.edu](mailto:kevin.cunningham@palmer.edu)

## **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.

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 Chapter 10: Community Resources & Confidential Reporting Contacts. 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:**

**DAVENPORT 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. Criminal Action

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

However, a reporting party 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 reporting party is not willing to do so.

The definitions and burden of proof in this Handbook differ from criminal law. A reporting party 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 responding party, 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.***

## L. 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>.

## CHAPTER 8: 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. Davenport 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 9: 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. Davenport 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 10: 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. Davenport 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.GLBTFNationalHelpCenter.org](http://www.GLBTFNationalHelpCenter.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.

# PART II: PROCEDURES



## CHAPTER 11: INTERIM MEASURES

Upon receipt of a report of sexual misconduct, 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.

In response to a report of sexual misconduct, either or both the reporting and responding parties involved in an alleged sexual misconduct incident, may seek or the College may offer appropriate interim measures. Such interim measures are individualized services intended to provide a safe educational and work environment.

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

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

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. No-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 interim 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 Chapter 9 of 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 Chapter 10 of this Handbook.

## H. Interim Separation

The College may place either or both parties or an organization, as a responding party, on interim suspension or impose administrative leave. Pending resolution of the report, either or both parties or an organization, as responding party, may be denied access to campus.

## I. Failure to Comply with Interim 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 an interim 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: 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 13: VOLUNTARY INFORMAL PROCESS: REMEDIES-BASED RESOLUTION

1. This resolution is a voluntary, educational and remedies-based process that is not intended to be disciplinary in nature.
2. In recognition of the wide spectrum of behaviors which may constitute sexual misconduct, the Title IX response team has the discretion to initially decide whether or not an informal resolution is an appropriate alternative to the formal resolution process of commencing an investigation; determining responsibility; and imposing discipline, if warranted.
3. The Title IX response team may offer individual and/or community-based remedies designed to maintain the reporting and responding parties' access to the educational, extra-curricular and employment activities at the College, and to eliminate a potential hostile environment.
4. Generally, an informal resolution may be pursued only when the reporting party and the responding party have:
  - a. received a full disclosure of the presently existing sexual misconduct allegations; and
  - b. understand the option of the formal resolution process described in this Handbook.
5. The informal resolution process is voluntary. Both parties must agree to participate. Either or both parties may choose to discontinue the informal resolution process prior to its completion.
6. The Title IX coordinator and/or her designee(s) from the Title IX response team will assist the parties in seeking a voluntary resolution which is satisfactory to not only both parties but also the College.
7. If the sexual misconduct report is not resolved informally, then the report will be investigated and proceed under the formal resolution process.
8. Any agreed informal resolution will be documented and maintained by the Office of Compliance. Informal resolutions involving employees may also be placed in their personnel files.
9. Once a sexual misconduct report is informally resolved, then the matter will be closed.

10. Any failure by either or both parties to comply with the agreed informal resolution may result in the re-opening of the original sexual misconduct report and/or referred 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 14: FORMAL RESOLUTION PROCESS

The formal resolution process will take place when a sexual misconduct report is brought forward under Chapter 7; not informally resolved under Chapter 13; and the reporting party seeks a formal resolution.

If the reporting party cannot or does not wish to proceed with the formal process, the Title IX response team may determine that a formal resolution is necessary due to the nature and severity of the sexual misconduct report. The Title IX coordinator will select a College employee to assume the role of the reporting party.

### A. Notification to the Responding Party, Reporting Party and/or Third-Party Reporter

When the College receives a report of sexual misconduct that it intends to investigate, the responding party, reporting party and/or third-party reporter will be notified of such intent in writing. The initial notification may be somewhat limited by the factual details provided to the College by the reporting party. However, the College will make its best efforts to include in such initial notification and/or any subsequent notifications sufficient detail concerning the following:

1. identity of the parties involved;
2. specific sexual misconduct alleged;
3. conduct constituting the alleged misconduct; and
4. date(s) and location(s) of the alleged incident(s).

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

Each party shall receive written notice in advance of his/her interview(s).

If the responding party is an employee or faculty, Human Resources will also be provided a copy of this notice in order to coordinate or initiate additional actions that may be required in accordance with applicable institutional policies; collective bargaining agreements; faculty handbooks; employee handbooks; Student Code of Ethics or other College processes and procedures.

## B. 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 sexual misconduct. The Title IX 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 sexual misconduct report involves more than one reporting party and/or more than one responding party, the Title IX coordinator has the discretion to determine whether the investigation should be conducted separately or in one consolidated investigation.

## C. 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.

## D. Advisor's Investigation Role

Chapter 9 provides the reporting party and responding party may choose one advisor to support and assist them throughout the process at their own expense. The advisor may be an attorney. If either or both parties retain an attorney, such party shall notify the Title IX coordinator in advance of any participation by that attorney in the investigation as limited below. The College may appoint its own attorney to be present at such times.

The role of the advisor is to provide support and assistance in understanding and navigating the investigation process. Hence, an advisor may not be a witness. An advisor may not have any conflicting role in the process or with a party.

The College's duty is to the reporting party and responding party not to either of their advisors. All communications are made directly with the parties. The process will not be unreasonably delayed to accommodate the schedule of an advisor. An advisor must be familiar with this handbook.

An advisor may not testify in or obstruct an interview, author written submissions, or disrupt the investigation. 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.

Both the reporting and responding parties are responsible for presenting their own information to the investigator. An advisor does not have a speaking role during an investigation or any other proceedings.

## E. General Principles of an Investigation

1. The investigation is a neutral, fact-finding process.
2. Sexual misconduct reports are presumed to have been made in good faith. The responding party is presumed not responsible. These presumptions may be rebutted based upon the facts revealed in the investigation.
3. An equitable investigation involves:
  - 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.
4. 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 sexual misconduct has occurred and, if so, whether a hostile environment has been created that must be addressed.
5. It is not the investigator's role to determine the responsibility, if any, of the responding party.
6. The investigator will meet separately with the reporting party and responding party. The investigator will ask both parties for all information related to the alleged sexual 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.
7. During the course of the investigation, the investigator may identify and interview additional witnesses, including gathering supplemental evidence.
8. Students, employees and faculty have the responsibility to participate fully and truthfully in College investigations.

#### 9. 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.

#### 10. 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 typically not relevant and will only be considered as evidence under limited circumstances. 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.

#### 11. 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. The investigator will produce a written report that contains the relevant information and facts revealed during the investigation.
2. That report may include direct observations, reasonable inferences drawn from the facts and any consistencies or inconsistencies between the various sources of information.



3. The investigation report may include credibility assessments based upon the evidence provided by the reporting party, responding party and witnesses.
4. The investigation report will not make a finding or recommended finding of responsibility, if any, of the responding party.
5. At the investigation's conclusion, the reporting party and responding party will be provided an individual and separate opportunity to review the information collected. The parties are not permitted to make copies or allowed to take photographs. The parties may take notes.
6. If the Responding Party is a student/student organization, Chapter 16 Sections A and B of this Handbook and the Student Code of Ethics shall apply from this point forward.
7. If the responding party is an employee, faculty member or third party, then the final step pertaining to the investigation report shall be:
  - a. Within three academic days of reviewing the information collected, the reporting party and responding party may in writing to the Title IX coordinator submit for the consideration of the investigator additional facts to clarify information previously shared in the investigation and identify any new evidence.
  - b. New evidence must be relevant to the conduct at issue and tend to make a fact or inference more or less likely. Reactionary, emotional or argumentative commentary will not be considered to be new evidence.
  - c. After considering such input, the investigator will then place the report in its final form.

## CHAPTER 15: FORMAL RESOLUTION

The formal resolution process as described in Chapter 14 is the same for sexual misconduct reports involving students, employees, faculty and third parties. However, once the investigation report is finalized and moved forward to this Formal Resolution stage, there are four separate and distinct procedures to address reports of sexual misconduct brought against students, employees; faculty and third parties such as visitors, guests and contractors.

The different nature of these procedures reflects the unique legal relationship each group has to the College. In all four procedures, the College strives to resolve the report fairly and promptly.

## CHAPTER 16: DETERMINATION OF RESPONSIBILITY

### A. Standard of Proof

As noted in Chapter 14, the investigation is a neutral, fact-finding process. At the beginning of the investigation, the responding party is presumed not responsible.

This presumption may be overcome if a preponderance of the evidence establishes the responding party is responsible for engaging in sexual misconduct. Preponderance of the evidence means that based on the totality of evidence and reasonable inferences drawn therefrom it is more likely than not that the responding party violated the College's Sexual Misconduct Policy.

### B. Students/Student Organizations

1. Following the investigation an administrator may initiate/file charges of misconduct with the coordinator against the responding party.
2. In determining whether or not a student, as a responding party<sup>1</sup>, is responsible for sexual misconduct, the Title IX coordinator or deputy shall proceed in accordance with the [Student Code of Ethics](#) as published in the Student Handbook. If a hearing is held, the Hearing Panel will review the investigation report. After deliberations, the Hearing Panel will issue a written determination whether the College's policy on sexual and/or ethical misconduct was violated; explain its rationale; and, if so, impose appropriate sanctions. The Hearing Panel's determination may be appealed by the responding party as provided under the Student Code of Ethics.

### C. Employees

The responsibility of an employee (as defined under the employee handbook) who is a responding party named in a report of sexual misconduct will be determined by an administrator ("designated deciding official") with appropriate Title IX training who will be selected by the Title IX coordinator. The designated deciding official shall be impartial; free of actual or reasonably perceived conflicts of interest and biases for or against any party.

The designated deciding official will review the investigation report and have access to the employee's personnel file. If the designated deciding official chooses in his/her discretion to meet with the reporting party, then the same opportunity for a separate meeting will be held with the responding party.

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<sup>1</sup>A responding party may include a student organization.

The designated deciding official will determine whether the College's policy on sexual misconduct was violated; explain the rationale; and if so, impose appropriate discipline. The designated deciding official will document the findings and discipline in writing. This determination will be submitted to the Title IX coordinator for review and institutional record-keeping purposes.

#### 1. Outcome Letter

In consultation with the Title IX coordinator and deputies, an outcome letter will be written and provided to the reporting and responding parties. The outcome letter will include the designated deciding official's determination whether the College's policy on sexual misconduct was violated; explain the rationale; and if so, impose appropriate discipline. In addition, that letter may include not only appropriate remedial actions, but also other measures for the safety and well-being of the parties and the College community as a whole.

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.

#### 2. Appeal Rights

A responding party employee who is found to be responsible for violating the College's policy on sexual misconduct may timely file a written appeal within ten (10) academic days from the date of the outcome letter with the Title IX coordinator. The Title IX coordinator will select an administrator ("designated appeals official"). The designated appeals official shall be impartial; free of actual or reasonably perceived conflicts of interest and biases for or against any party.

The designated appeals official will review the outcome letter, the investigation report, and have access to the employee's personnel file.

Except as required to explain the basis of new evidence, an appeal shall be limited to review of the record made before the designated deciding official and supporting documents for one or more of the following purposes:

- a. Determine whether the handbook process was conducted fairly in light of the report of sexual misconduct; the evidence presented in the investigation; and in conformance with these procedures.
- b. Determine whether the outcome letter was based on substantial evidence, that is, whether the facts were sufficient to establish sexual misconduct.

- c. Determine whether the sanctions/discipline imposed were appropriate for the sexual misconduct found.
- d. Consider new evidence sufficient to alter the outcome letter or other relevant facts not brought out before the investigator, because such evidence/facts were not known to the responding party during the investigation.

After review of the above grounds for an appeal, the designed appeals official, in writing, may decide to: (i) affirm the finding of sexual misconduct; (ii) dismiss the sexual misconduct report, finding no misconduct occurred; (iii) affirm the discipline/sanctions imposed; (iv) reduce or dismiss the discipline/sanctions; or (v) return the sexual misconduct report to the investigator to investigate the new evidence and present the new evidence to the designated deciding official for reconsideration

Except for the investigation of new evidence, the decision of the designated deciding appeals official shall be final under this Handbook.

## D. Faculty

The responsibility of a faculty member (as defined under the applicable collective bargaining agreement or faculty handbook) who is a responding party named in a report of sexual misconduct will be determined by an administrator (“designated deciding official”) with appropriate Title IX training who will be selected by the Title IX coordinator. The designated deciding official shall be impartial; free of actual or reasonably perceived conflicts of interest and biases for or against any party.

The designated deciding official will review the investigation report and have access to the faculty member’s personnel file. If the designated deciding official chooses in his/her discretion to meet with the reporting party, then the same opportunity for a separate meeting will be held with the responding party.

The designated deciding official will determine whether the College’s policy on sexual misconduct was violated; explain the rationale; and if so, impose appropriate discipline. The designated deciding official will document the findings and discipline in writing. This determination will be submitted to the Title IX coordinator for review and institutional record-keeping purposes.

### 1. Outcome Letter

In consultation with the Title IX coordinator and deputies, an outcome letter will be written and provided to the reporting and responding parties. The outcome letter will include the designated deciding official’s determination whether the College’s policy on sexual misconduct was violated; explain the rationale; and if so, impose appropriate discipline. In addition, that letter

may include not only appropriate remedial actions, but also other measures for the safety and well-being of the parties and the College community as a whole.

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.

## 2. Appeal Rights

A responding party faculty member's right of appeal is specified in the grievance procedures in the collective bargaining agreement or faculty handbook applicable to the campus at which the faculty member is employed.

## E. Third Party

The responsibility of a third party (as defined under Chapter 2 of this Handbook) who is a responding party named in a report of sexual misconduct will be determined by an administrator ("designated deciding official") with appropriate Title IX training who will be selected by the Title IX coordinator. The designated deciding official shall be impartial; free of actual or reasonably perceived conflicts of interest and biases for or against any party.

The designated deciding official will review the investigation report and have access to any documentation which is part of the third party's legal and business relationship with the College.

The designated deciding official will determine whether the College's policy on sexual misconduct was violated; explain the rationale; and if so, impose appropriate sanctions/discipline. The designated deciding official will document the findings and discipline in writing. This determination will be submitted to the Title IX coordinator for review and institutional record-keeping purposes.

### 1. Outcome Letter

In consultation with the Title IX coordinator and deputies, an outcome letter will be written and provided to the reporting and responding parties. The outcome letter will include the designated deciding official's determination whether the College's policy on sexual misconduct was violated; explain the rationale; and, if so, impose appropriate discipline. In addition, that letter may include not only appropriate remedial actions, but also other measures for the safety and well-being of the parties and the College community as a whole.

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 College officials or others with the need to know as determined appropriate by the Title IX coordinator.

## 2. Appeal Rights

A responding party third party who is found to be responsible for violating the College's policy on sexual misconduct may timely file a written appeal within ten (10) academic days from the date of the outcome letter with the Title IX coordinator. The Title IX coordinator will select an administrator ("designated appeals official"). The designated appeals official shall be impartial; free of actual or reasonably perceived conflicts of interest and biases for or against any party.

The designated appeals official will review the outcome letter, the investigation report, and have access to the documentation reviewed by the designated deciding official.

Except as required to explain the basis of new evidence, an appeal shall be limited to review of the record made before the designated deciding official and supporting documents for one or more of the following purposes:

- a. Determine whether the handbook process was conducted fairly in light of the report of sexual misconduct; the evidence presented in the investigation; and in conformance with these procedures.
- b. Determine whether the outcome letter was based on substantial evidence, that is, whether the facts were sufficient to establish sexual misconduct.
- c. Determine whether the sanctions/discipline imposed were appropriate for the sexual misconduct found.
- d. Consider new evidence sufficient to alter the outcome letter or other relevant facts not brought out before the investigator, because such evidence/facts were not known to the responding party during the investigation.

After review of the above grounds for an appeal, the designed appeals official, in writing, may decide to: (i) affirm the finding of sexual misconduct; (ii) dismiss the sexual misconduct report, finding no misconduct occurred; (iii) affirm the discipline/sanctions imposed; (iv) reduce or dismiss the discipline/sanctions; or (v) return the sexual misconduct report to the investigator to investigate the new evidence and present the new evidence to the designated deciding official for reconsideration

Except for the investigation of new evidence, the decision of the designated deciding appeals official shall be final under this Handbook.

## CHAPTER 17: 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.

### A. 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)]

### B. 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

### C. 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)]