



# Sexual Misconduct (Non-Title IX) Policy & Procedures Handbook



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As changes occur, the most up-to-date information can be found online at:

<http://www.palmer.edu/students/resources-offices/handbook-policies/>

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## CHAPTER 1: ABOUT THIS HANDBOOK

### A. Rationale

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.

Sexual misconduct is prohibited under Title VII of the Civil Rights Act of 1964; Title IX (TIX), 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, and/or Illinois Human Rights Act.

### B. Handbook Content

1. Constitutes Palmer College of Chiropractic’s (College) policy and procedures for the resolution of:
  - a. **Sexual misconduct reports that do not fall within the definition of TIX Sexual Harassment** (which is a definition that is set forth in regulations promulgated by the U.S. Department of Education under TIX of the Education Amendments Act of 1972 and which, among other things, limits the scope of Sexual Harassment to conduct that meets that definition).
  - b. **Sexual misconduct reports that would otherwise fall within the definition of TIX Sexual Harassment** (e.g., Quid Pro Quo Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking), **but which must be dismissed because they do not meet the jurisdictional requirements of TIX Sexual Harassment.**
2. Articulates behavioral expectations and defines prohibited sexual misconduct.
3. Identifies the College’s TIX/Other Sexual Misconduct Coordinator (Coordinator), deputy coordinators, and their roles.
4. Describes options for reporting sexual misconduct.
5. Describes how to file a formal sexual misconduct complaint.

6. Provides appropriate remedies in the event sexual misconduct has been proven.
7. Does not replace civil or criminal justice systems. Instead, it provides complainants and respondents with due process protections by following a fair complaint process to resolve Complaints.

### C. Prohibited Conduct Under Both This Handbook and TIX

There may be a circumstance when the allegations forming the basis of a formal complaint as defined in this Handbook if substantiated, would constitute prohibited conduct under both this Handbook and the College's TIX Sexual Misconduct Policies and Procedures Handbook. In that circumstance, the grievance process set forth in the [TIX Sexual Misconduct Policies and Procedures Handbook](#) will be applied in the investigation and adjudication of all of the allegations.

### D. Other Discrimination Not Addressed in This Handbook

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

### E. Differences Between This Handbook and Legal Processes

#### 1. INTERNAL ADMINISTRATIVE PROCESS

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

This Handbook, particularly the Formal Complaint Resolution Process and Informal Complaint Resolution Process, are administrative, not legal. Therefore, rules of law, evidence and criminal/civil procedure do not apply and will not be utilized, with minor exceptions as discussed in this Handbook. The College does not have subpoena power; the ability to collect or process forensic evidence (e.g., sexual assault examination kits, DNA tests); or the ability to issue warrants.

#### 2. WHEN PROCEEDINGS MAY OCCUR

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 supportive measures to protect the Complainant and Respondent.

### **3. COOPERATION WITH LAW ENFORCEMENT**

The 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.

### **4. LEGAL DETERMINATIONS**

Neither law enforcement's determination of whether or not to arrest or prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether 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 Complaint were dismissed, reduced or resolved in favor of or against the Respondent.

### **5. SPECIAL CONSIDERATIONS**

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

### **6. STUDENT TRANSCRIPTS**

If the Respondent is a current student, no notation will be placed on that student's transcript while the Complaint is pending under this Handbook. If the Respondent withdraws or seeks to transfer from the College while a Sexual Misconduct Complaint is pending, that student's transcript will reflect the status of that Complaint. Such a transcript notation is subject to later modification or deletion to reflect the outcome of the Complaint.



## CHAPTER 2: GLOSSARY

Certain terminology in the Handbook is based upon applicable federal, state and/or local law. Hence, these definitions are subject to change due to legislative enactments, further administrative regulations and judicial interpretation.

Throughout this Handbook is the terminology “sexual misconduct” which is an umbrella description of the various types of prohibited sexual misconduct this Handbook.

1. *Academic Day* is defined by the College’s on-line [Academic Calendar](#) for each Campus.
2. *Advisor* means any one person chosen by a party to accompany the party to meetings related to the resolution process, to advise the party on that process.
3. *Anonymous Complaint* is a document filed by a Complainant (meaning a document or electronic submission such as by electronic mail) alleging sexual misconduct against a Respondent that does not contain the Complainant’s physical or digital signature or otherwise indicate the Complainant’s identity.
4. *Appeal Official* is an individual from within the College who hears appeals filed by a Complainant or a Respondent relating to a finding of responsibility. The Appeal Official’s decision is final.
5. *Appeal Process* is the process by which a Party or Parties may challenge a determination of responsibility rendered in the Formal Grievance Process.
6. *Burden of Proof* means the evidence gathered which proves or disproves the allegations in the Complaint under a preponderance of the evidence standard of proof.
7. *Club* or *Organization* means College community members who have complied with the formal requirements for College recognition.
8. *College* means Palmer College Foundation d/b/a Palmer College of Chiropractic and Palmer College Foundation, Inc. d/b/a Palmer College of Chiropractic Florida with campuses respectively located in Iowa-Illinois and Florida.

9. College Premises means places on the campuses or on property owned or controlled by the College and at College-sponsored events.

10. *Complainant* means an individual who is alleged to have been subjected to conduct that could constitute sexual misconduct.

11. *Complaint*

- a. a document filed by a Complainant (meaning a document or electronic submission such as by electronic mail that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the individual filing the complaint) alleging sexual misconduct against a Respondent and indicating how the Complainant wishes the College to proceed (e.g. initiate the Informal Resolution Process, or initiate the Formal Resolution Process, and/or Provide Supportive Measures.)
- b. a document signed by a College official alleging sexual misconduct against a Respondent and requesting the College investigate the allegation of sexual misconduct. Where the College official signs a formal complaint, the College official is the Complainant or otherwise a party.

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

12. *Confidential/Confidentiality* refers to the privilege the law creates between medical and clinical care providers; mental health care providers; counselors and their patients; attorneys and their clients; ordained clergy and their parishioners; and spouses.

13. *Confidential Community Resources* refers to external individuals or organizations required to keep all information disclosed to them confidential within the legal and ethical bounds of their professions. See [Chapter 15](#) for greater detail. Reports of sexual misconduct may be made to these confidential community resources without triggering an investigation or action by the College.

14. *Consent* refers to the standard in the determination of whether consent was given by both parties to sexual activity. See [Chapter 6](#) for greater detail.

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

16. *Employee* is defined by the Employee Handbook as individuals employed by the College who are administrators, staff and faculty with the exception of those faculty members who are governed by separate collective bargaining agreements or faculty handbooks.
17. *Exculpatory evidence* tends to show a Respondent is not responsible for the alleged sexual misconduct.
18. *Evidence* refers to documents, files, electronic communications, photographs, video footage, and any other information related to the allegations of sexual misconduct alleged in the Formal Complaint, whether inculpatory or exculpatory, on which the College will rely in reaching a determination regarding responsibility.
19. *Faculty member* is defined by the collective bargaining agreement or faculty handbook applicable to the individual faculty member employed on one of the three College campuses.
20. *Formal Complaint Resolution Process* refers to a method of formal resolution designated by the College to address alleged sexual misconduct under this Handbook. See [Chapter 18](#) for greater detail.
21. *Good cause* is adequate grounds to take an action, including but not limited to:
- a. the complexity of the case;
  - b. the number of parties or witnesses involved;
  - c. the amount of evidence available to obtain and consider;
  - d. the unavailability of parties, witnesses or advisors due to extenuating circumstances;
  - e. College closure or academic breaks;
  - f. concurrent law enforcement activity;
  - g. the necessity for language assistance or accommodation of disabilities; and
  - h. any other extenuating circumstances articulated by the TIX Coordinator or investigators.
22. *Inculpatory Evidence* tends to show the Respondent is responsible for the alleged sexual misconduct.
23. *Informal Complaint Resolution Process* is a voluntary resolution option that allows the parties to resolve disputes informally in a separate and distinct process from the Formal Complaint Resolution Process. See [Chapter 17](#) for greater detail.

24. *Investigative File* is a compilation of all documents, files, electronic communications, photographs, video footage, and any other evidence related to the allegations of sexual misconduct alleged in the Formal Complaint.
25. *Investigative Process* is that part of the Formal Complaint Resolution Process during which the investigators gather evidence related to the alleged sexual misconduct; compile the investigative file; and write the investigative report.
26. *Investigative Report* is a report drafted by the investigators that fairly summarizes the evidence gathered in response to the allegations raised in a Complaint. See [Chapter 18](#) for greater detail.
27. *Investigator* refers to a trained, neutral, fair and objective individual charged by the College with the responsibility of gathering facts information relating to alleged sexual misconduct, assessing relevance, synthesizing the evidence, and compiling this information into an investigation report.
28. *Member of the College Community* refers to any person who is a student, faculty member, College official, Security Officer, College employee or member of any other organization or club recognized officially by the College. A person's status in a particular situation shall be determined by the Coordinator or his/her designee.
29. *Official with Authority (OWA)* refers to the Sexual Misconduct Coordinator and Deputies who are College employees vested with the responsibility to implement corrective measures for sexual misconduct on behalf of the College under this Handbook.
30. *Party/Parties* means both Complainant or Respondent individually. *Parties* means both Complainant and Respondent collectively
31. *Preponderance of the Evidence* or *More likely than not* means that based on the totality of evidence and reasonable inferences drawn, it is more likely than not that the Respondent either did or did not engage in sexual misconduct.
32. *Presumption of innocence* means the Respondent is not responsible for the alleged sexual misconduct until a determination of responsibility is made at the conclusion of the Formal Complaint Resolution Process.

33. *Remedies* are actions taken at the conclusion of the Formal Complaint Resolution Process by the College to restore or preserve equal access to the College's educational program and activities as appropriate.
34. *Report/Reporting* refers to information brought to the attention of a responsible employee of the College. A Report may or may not lead to a subsequently filed Complaint.
35. *Resolution* refers to the result of an Informal or Formal Complaint Resolution Process.
36. *Respondent* means a member of the College's community who has been alleged to have engaged in sexual misconduct.
37. *Responsible employees* refers to employees of the College who are obligated by this Handbook to share knowledge with the Sexual Misconduct Coordinator of reports or information which may provide the basis for a Complaint.
38. *Retaliation* means an individual who intimidates, threatens, coerces, or discriminates against any other individual for the purpose of interfering with any right or privilege secured by this policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or hearing under this Handbook.
39. *Sanction* means a consequence imposed at the conclusion of the Formal Complaint Resolution Process by the College if a Respondent has been found to be responsible for sexual misconduct.
40. *Sexual Misconduct* refers to a broad range of prohibited conduct of a sexual nature under this Handbook. See [Chapter 6](#) for greater detail.
41. *Sexual Misconduct Coordinator (Coordinator) and Deputies* are employees designated and authorized by the College to coordinate and administer the procedures in this Handbook. References to the Coordinator throughout this Handbook may also include individuals assigned specific tasks by the Coordinator.

Note: The Sexual Misconduct Coordinator and Deputies also serve as the College's Title IX Coordinator and Deputies.

42. *Sexual Misconduct Response Team* refers to the Sexual Misconduct Coordinator, deputy coordinators, coordinator assignees and any other member of the Informal or Formal Complaint Resolution Process.
43. *Standard of Proof* refers to the level of proof needed to prove a specific allegation. The Standard of proof under this Handbook is preponderance of the evidence.
44. *Student* refers to all persons taking courses at the College, either full time or part-time, pursuing undergraduate, graduate or professional studies. Persons who withdraw after allegedly violating the Student Code of Ethics, who are not officially enrolled for a particular term but who have a continuing relationship with the College or who have been notified of their acceptance for admission are considered “students” as are persons who are living in College-owned and/or operated residences, although not enrolled in the institution. Furthermore, individuals who are not currently attending the College remain subject to decisions made under this policy upon re-enrollment for conduct that occurred during any period of attendance.
45. *Supportive Measures* refers to non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter sexual misconduct.
46. *Third Party* refers to a person who is not a College student, student organization, faculty member, or employee. A third party is a person or organization that engages in any College education program or activity, or who otherwise interacts with the College, including but not limited to volunteers, contractors, vendors, patients, visitors and guests.
47. *Witness* is an individual identified by the parties or the investigators who has knowledge of the alleged sexual misconduct who can provide context to the allegations or who have other information that would be of assistance in making a determination of responsibility under a particular Formal Complaint.

## CHAPTER 3: NOTICE OF NONDISCRIMINATION

As pointed out in Chapter 1 and noted in this Handbook's cover page, this Policy and Procedure document is devoted to the **resolution of sexual misconduct reports that that do not fall within the definition of TIX Sexual Harassment.**

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

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

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

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

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

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

### *Reporting or Filing a Complaint of Title IX Sexual Misconduct*

For more information or to file a Title IX complaint contact the College's [Title IX Coordinator or deputies](#) or refer to [Report Sexual Misconduct](#) on the College's website. Information regarding [sexual misconduct awareness, prevention and response](#) may be accessed on the College's website.

## CHAPTER 4: SCOPE AND JURISDICTION

### A. Scope

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

### B. Jurisdiction

This Handbook addresses Sexual Misconduct and related retaliation which encompasses all of the prohibited conduct described in [Chapter 6](#) that occurs on the basis of sex when the conduct **does not meet** the jurisdictional requirements of Title IX Sexual Harassment.

### C. Consolidation of Complaints

Provided the allegations arise out of the same facts or circumstances, after a Complaint has been assessed and meets the jurisdictional requirements of this Handbook, the Sexual Misconduct Coordinator has the discretion to consolidate multiple Complaints alleging Sexual Misconduct:

1. against more than one Respondent; or
2. by more than one Complainant against one or more Respondents; or
3. by one party against the party.

### D. Coordination with Equal Opportunity Policy

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

## CHAPTER 5: SEXUAL MISCONDUCT COORDINATOR AND SEXUAL MISCONDUCT RESPONSE TEAM

### A. Administrative Oversight

The College has appointed the Sexual Misconduct Coordinator (Coordinator) and deputies as the Officials with Authority (OWA) to institute corrective measures on behalf of the College. The Coordinator is responsible for the administration, coordination, dissemination and implementation of



this Handbook including, but not limited to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent Sexual Misconduct and retaliation.

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

## **B. Sexual Misconduct Response Team**

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

## **C. Sexual Misconduct Response Team Training**

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

## **D. Independence and Conflict-of-Interest**

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

Concerns involving bias, conflict of interest or any other concern regarding any Sexual Misconduct Response Team member should be reported to the Coordinator. Concerns regarding the Coordinator should be reported to the Provost.

## E. Sexual Misconduct Coordinator and Deputy Coordinator – Main Campus

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

### MAIN CAMPUS

Earlye Adams Julien, PHR, M.S. Ed.  
Senior Director for Compliance  
Also Serving as Coordinator

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#### LEGEND

1. Harold & Marie Bechtel Center (Welcome Center)
2. Administration Building
3. Alumni Office
4. R. Richard Bittner Athletic & Recreation Center
5. Athletic & Recreation Center Atrium
6. Bittner Center Skywalk
7. B.J. Palmer Hall
8. Campus Center
9. Clinic Gardens
10. D.D. Palmer Memorial Building
11. David D. Palmer Health Sciences Library
12. Heritage Court
13. Mabel H. Palmer Hall
14. North Hall
15. Housing Coordinator
16. Palmer Center for Chiropractic Research
17. Skywalk
18. West Hall
19. West Hall Courtyard
20. Palmer Family Residence
21. Vickie Anne Palmer Hall
22. Friendship Court
23. World of Chiropractic Court

#### Parking

24. Visitor Parking
25. Clinic Patient Parking
26. Employee Parking

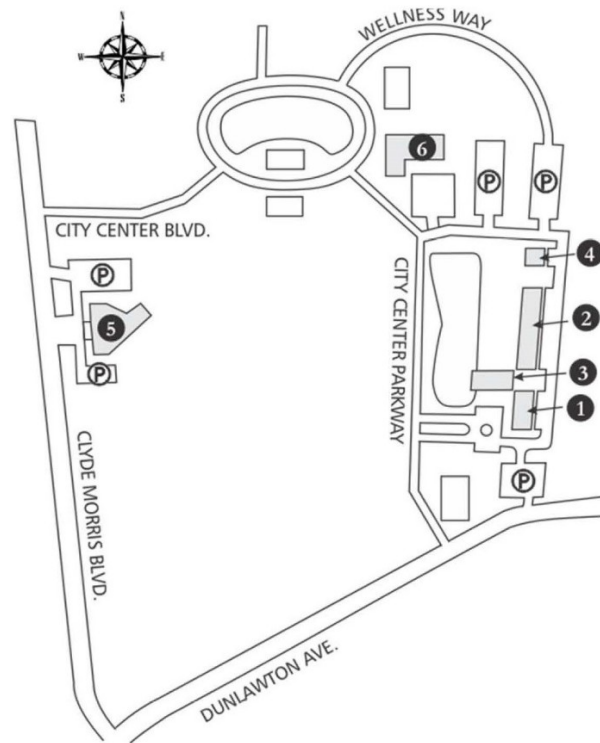


## F. Deputy Coordinator – Florida Campus

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

### FLORIDA CAMPUS

Angela Carter  
Human Resources Manager  
Also Serving as Deputy Coordinator  
Office of Human Resources  
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Port Orange, FL 32129-4153  
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1. Building One
2. Building Two
3. Standard Process Student Center
4. Central Energy Plant
5. Palmer Chiropractic Clinic
6. Port Orange YMCA

## CHAPTER 6: PROHIBITED SEXUAL MISCONDUCT

### A. PROHIBITED SEXUAL MISCONDUCT, PART 1

The College prohibits sexual misconduct by or against any member of the College community. Sexual misconduct consists of a range of unacceptable behaviors that violate this Handbook and could impact the employment or educational environment. Acts of Sexual Misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Prohibited Sexual Misconduct under this Handbook includes but is not limited to:

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

#### 1. HOSTILE ENVIRONMENT SEXUAL HARASSMENT

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature which is directed at an individual based on sex when such behaviors are sufficiently severe or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment.

- a. 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.
- b. 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.
- c. 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.

- d. 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).
- e. It can be committed by an individual or may be a result of the collective actions of an organization or group.
- f. It can be committed against an individual, an organization or a group.
- g. It can be committed by an acquaintance, a stranger, or someone with whom the reporting party has a personal, intimate or sexual relationship.
- h. It can occur by or against an individual of any sex, gender identity, or sexual orientation.
- i. It does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- j. Examples of conduct that can constitute sexual harassment include, but are not limited to:
  - 1) Unwelcome sexual innuendo, propositions, or comments;
  - 2) Sexual slurs, humor or jokes of a sexual nature or about sex, gender identity, or gender expression;
  - 3) Disparaging, derogatory, demeaning, negative, or offensive language or remarks of a sexual nature or about sex, gender identity, or gender expression;
  - 4) Insults or threats based on sex, gender identity, or gender expression;
  - 5) Written materials, graffiti or the display or distribution of drawings, posters, pictures or objects of a sexual nature;
  - 6) Unwelcome written or electronic communications, such as e-mail, text messaging, websites, and Internet use of a sexual nature;
  - 7) Sexually charged name-calling; sexual rumors or ratings of sexual activity/performance;
  - 8) Unwelcome physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body;
  - 9) 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;
  - 10) 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;
  - 11) Abusive, disruptive or harassing behavior, verbal, physical, or electronic 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; and
- 12) Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping or for failing to conform to stereotypical notions of masculinity and femininity.

## **2. NON-CONSENSUAL SEXUAL CONTACT**

Any intentional sexual touching, however slight, with any part of the body or any object, by a person upon another person, that is without consent and/or by force.

- a. Sexual contact is any 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.

## **3. NON-CONSENSUAL SEXUAL INTERCOURSE**

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

Sexual 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.

## **4. 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:

- a. 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;
- b. 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;
- c. Prostituting another individual;
- d. Knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge;

- e. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity;
- f. Exposing one's genitals in non-consensual circumstances;
- g. Inducing another to expose one's genitals.

## **5. 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:

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

## **6. 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.

## **7. OTHER MISCONDUCT WHEN SEX OR GENDER-BASED**

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. Examples include, but are not limited to:

- a. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- b. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities;
- c. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- d. 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

## **8. RETALIATION UNDER THIS HANDBOOK**

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

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

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



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

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

## **B. PROHIBITED SEXUAL MISCONDUCT, PART 2**

The following Sexual Misconduct is addressed under this Handbook **only if the misconduct does not meet the jurisdictional requirements of Title IX Sexual Misconduct** (as described in the College's TIX Sexual Misconduct Policy & Procedures Handbook):

- > Quid Pro Quo Sexual harassment;
- > Sexual assault;
- > Dating violence;
- > Domestic violence; and
- > Stalking and cyber-stalking

### **1. QUID PRO QUO SEXUAL HARASSMENT**

An employee of the College, conditions the provision of an aid, benefit, or service of the College, on an individual's participation in unwelcome sexual conduct.

Examples include, but are not limited to:

- a. Change of academic or employment responsibilities (e.g., increase in difficulty or decrease of responsibility) based on sex, gender identity, or sexual orientation;
- b. Use of a position of power or authority to: 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 promise rewards in return for sexual favors;

### **2. SEXUAL ASSAULT**

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

#### **a. Forcible Rape:**

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

**b. Forcible Sodomy:**

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

**c. Sexual Assault with an Object:**

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

**d. Forcible Fondling:**

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

**e. Sex Offenses, Non-forcible:**

1) Incest

Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by applicable state law.

2) Statutory Rape

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

### **3. DATING VIOLENCE**

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

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

b. For the purposes of this definition dating violence includes, but is not limited to, sexual

or physical abuse or the threat of such abuse.

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

#### **4. DOMESTIC VIOLENCE**

Violence, on the basis of sex, committed:

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

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

#### **5. STALKING**

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

For the purposes of this definition:

- a. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- c. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

#### **6. RETALIATION UNDER THIS HANDBOOK**

No individual may intimidate, threaten, coerce, or discriminate against any other individual for the purpose of interfering with any right or privilege secured by this Handbook or because the

individual has made a report or Formal Complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding or hearing under this Handbook.

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

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

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

## **C. OTHER DEFINITIONS**

### **1. FORCE**

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

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

### **2. COERCION**

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

### **3. AFFIRMATIVE CONSENT**

#### ***Standard in the Determination of Consent***

- 1) Affirmative Consent (Consent) is the standard in the determination by a preponderance of the evidence of whether consent was given by each Party involved in the sexual activity.
- 2) “Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity.
- 3) It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other or others to engage in the sexual activity.
- 4) Lack of protest or resistance does not mean consent, nor does silence mean consent.
- 5) Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.
- 6) 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.

#### ***Invalid Defense Regarding Consent***

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

- a) The Respondent’s belief arose from the Respondent’s own intoxication or recklessness;
- b) The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
- c) The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
  - 1) asleep or unconscious;
  - 2) unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
  - 3) unable to communicate due to a mental or physical condition.

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

## CHAPTER 7: REPORTING SUSPECTED SEXUAL MISCONDUCT

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

#### 1. RESPONSIBLE EMPLOYEES

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

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

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

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

**Simply reporting Sexual Misconduct does not constitute a Complaint. To file a Complaint, refer to [Chapter 8](#) in this Handbook for instructions.**

#### 2. LIMITED EXCEPTIONS FOR CARE OR HEALTHCARE PROVIDERS

Clinic employees and student interns are not required to disclose to the Coordinator or deputies any incident or report of behavior or conduct involving potential sexual misconduct in situations when acting specifically as a care or healthcare provider and must protect patient confidentiality. This exception would apply to College clinic faculty, student interns, and clinic staff, that have a legal obligation or privilege of confidentiality. The employee or student intern must have learned the information when acting in a healthcare provider capacity in the course of confidential communication.

If the information is **not** learned in the course of confidential communication, the employee or student intern will be considered a “responsible employee” with the responsibility to disclose reports of sexual misconduct to the Coordinator.

Care or Healthcare Providers are still required to report the occurrence of campus crimes to Security for statistical purposes and inclusion in the College’s annual security report. To protect the identity of the impacted individual, personally identifiable information is not required. The information to be shared is the date and campus location of the incident.

## **B. How to Report Suspected Sexual Misconduct to the College**

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

1. By contacting the College’s [Sexual Misconduct Coordinator or any deputy Sexual Misconduct Coordinator](#) by telephone, email, or in person during regular office hours at their respective locations, email addresses and/or phone numbers listed in this Handbook. A reporting form may be obtained from the Coordinator and/or deputies.
2. Through the College’s website for [online reporting](#).

Reports should contain sufficient information for the College to be able to adequately respond including, but not limited to, who was involved and when and where the incident(s) occurred.

**Simply reporting Sexual Misconduct does not constitute a Complaint. To file a Complaint, refer to [Chapter 8](#) in this Handbook for instructions.**

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

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

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

All incidents of Sexual Misconduct, including those occurring off campus, should be reported to the College through the Coordinator. For example, Sexual Misconduct is within the College's interest when the behavior:

1. Occurs off College premises or outside the context of a College employment or education program or activity, including online 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
2. Occurs outside of the United States when the conduct is associated with a College-sponsored program or activity, such as travel, research, or internship programs; or
3. Involves the use of the College's computing and network resources from a remote location, including but not limited to accessing email accounts; or
4. Involves conduct directed at a College student or other member of the College community that occurs at a College-sponsored activity, sporting event, educational activity (e.g. preceptorship, internship, service learning experience) or at a student organization-sponsored activity; or
5. Occurs when the Complainant or Respondent were acting in an official capacity for the College.

## **E. Reporting Online Sexual Misconduct**

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

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



## F. Emergency/Immediate Campus Security or Law Enforcement Reporting Options

### 1. Campus Security

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

### 2. 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.

## G. Medical Assistance

1. 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.
2. A medical practitioner can provide emergency and/or follow-up medical or psychological services, discuss any health-care concerns in a confidential setting and may bring peace of mind. A medical exam has two goals: first, to diagnose and treat the full extent of any physical or psychological injury, which may include sexually transmitted infection, pregnancy or depression. Second, such an examination may include properly collecting and preserving evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any course of action. The decision to seek medical attention and gather any evidence will remain confidential and preserve the full

range of options to seek resolution through this Handbook or through the pursuit of criminal action.

**For information about medical assistance contact:**

## **MAIN CAMPUS/QUAD CITIES AREA RESOURCES**

### **A. Genesis Hospital**

Iowa: 563-421-1000

Illinois: 309-792-9363

### **B. Trinity Medical Center**

Iowa: 563-742-5000

Illinois: 309-779-5090

## **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.

## **CHAPTER 8: FILING A COMPLAINT OF SEXUAL MISCONDUCT WITH THE COLLEGE**

### **A. Filing a Complaint of Sexual Misconduct**

1. Simply reporting Sexual Misconduct **does not** constitute filing a Complaint. **To file a Complaint, the Complainant must:**
  - a. **Submit** a physically or electronically signed document or electronic submission (such as by electronic mail or through an online portal) to the Coordinator or Deputy;
  - b. **Allege** Sexual Misconduct as defined in [Chapter 6](#) against a named Respondent; and
  - c. **Request** the College:
    - (i) Initiate the Informal Complaint Resolution Process (see [Chapter 17](#)) **or**
    - (ii) Initiate the Formal Complaint Resolution Process and investigate the allegation(s) (See [Chapter 18](#)).

A Complainant or Respondent may request Supportive Measures whether a Complaint is filed or not. See [Chapter 11](#) for more detailed information about Supportive Measures.

2. A physically or electronically signed document by a College Official alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s) is also considered a Complaint.
3. If the Respondent is unknown or is not a student or employee of the College, the Coordinator will assist the Complainant in identifying appropriate College supportive measures; local resources; and/or when criminal conduct is alleged may assist the Complainant in making a criminal report.

### **B. Filing an Anonymous Complaint of Sexual Misconduct**

Simply reporting Sexual Misconduct **does not** constitute filing an Anonymous Complaint. **To file an Anonymous Complaint, the Complainant must:**

- a. **Submit** a physical document or electronic submission (such as by electronic mail or through an online portal) to the Coordinator or Deputy; or through Lighthouse, the

College's confidential third-party online reporting service at: <https://www.lighthouse-services.com/palmer>.

- b. **Allege** Sexual Misconduct as defined in [Chapter 6](#) against a named Respondent; and
- c. **Request** the College investigate the allegation(s) to the extent possible.

### C. How to File a Complaint of Sexual Misconduct with the College

1. The College urges members of the College community who wish to file a Complaint to submit the Complaint immediately to the Coordinator through the following options:
  - a. By contacting the Coordinator or any deputy by telephone, email, or in person during regular office hours at their respective locations, email addresses and/or phone numbers listed in this Handbook; or
  - b. Online at: [Report a Complaint](#)
  - c. Through Lighthouse, the College's confidential third-party online reporting service at: <https://www.lighthouse-services.com/palmer>.
2. Complaints of Sexual Misconduct should contain sufficient information for the College to be able to adequately respond including, but not limited to, a detailed description in chronological order of the incident(s), who was involved and when and where the incident(s) occurred. A Complaint form may be obtained from the Coordinator and/or Deputies.

### D. Time to File a Complaint of Sexual Misconduct with the College

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

Acting on a Complaint significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When a Complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice or Complaint.

The College may ultimately be unable to adequately investigate a Complaint if too much time has passed or if a Respondent has left the College. Other factors that could negatively impact the College's ability to investigate may include but are not limited to the loss of physical evidence; potential

departure of witnesses; or loss of memory. The College will, however, help the Complainant identify and access external filing options and provide available Supportive Measures. See [Chapter 11](#).

## **E. Criminal Complaint**

A Complainant 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 Complainant in determining whether conduct experienced was criminal in nature and warrants a criminal Complaint. See [Chapter 10](#).

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

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

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

## **F. College Complaint**

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

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

## **G. External Complaint**

Individuals may file a Complaint with the Department of Education’s Office for Civil Rights regarding alleged sexual misconduct by visiting <http://www2.ed.gov/about/offices/list/ocr/Complaintintro.html> or calling 1-800-421-3481.

## **1. OFFICE FOR CIVIL RIGHTS (OCR)**

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

## **2. REGIONAL OFFICE FOR 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

## **3. REGIONAL OFFICE FOR IOWA**

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

# **CHAPTER 9: ANONYMITY, AMNESTY, PRIVACY AND CONFIDENTIALITY**

## **A. Anonymity**

1. Because of the inherent difficulty in investigating and resolving allegations of Sexual Misconduct that are vague or from unidentified persons, the College encourages individuals to provide full information and identify themselves when making reports or Complaints of Sexual Misconduct. However, any generalized or anonymous reports received by the College will be reviewed by the Coordinator and/or Sexual Misconduct Response Team in accordance with this Handbook.
2. Individuals who have made a report or who have initiated or participated in complaint procedures or investigations are advised their identity may be known to others for reasons beyond the control of College Officials or investigators.

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

## **B. Amnesty**

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

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

## **C. Privacy**

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

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

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

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

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

## D. Confidential Reporting

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

Confidentiality exists in two separate contexts:

1. Confidentiality exists in the context of laws that protect communications in certain relationships, including those between medical and clinical care providers; mental health care providers; counselors and their patients; attorneys and their clients; ordained clergy and their parishioners; and spouses.
2. The persons for which specific relationships are protected by law are called Confidential Resources. This means that when a party shares information with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or court order requires or permits disclosure of such information. Confidential information may be disclosed when:
  - a. the individual gives written consent for its disclosure;
  - b. there is a concern the individual likely caused serious physical harm to self or others; or
  - c. the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities.

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

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



## CHAPTER 10: CONFIDENTIAL COMMUNITY AND CAMPUS RESOURCES

### A. CONFIDENTIAL COMMUNITY RESOURCES

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

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

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

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

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

#### 1. LOCAL RESOURCES

##### a. Main Campus

##### 1) 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.

##### 2). [Personal Counseling Brochure](#)

b. Florida Campus

- 1). 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.

- 2). [Personal Counseling Brochure](#)

## **2. 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.

## **3. OTHER RESOURCES**

a. Rape and Sexual Violence

- 1) 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) National Sexual Violence Resource Center  
877-739-3895

b. Domestic Violence

- 1) 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.

- 2) The National Stalking Resource Center  
1-800-394-2255

c. Suicide Prevention

- 1) 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.

- 2) 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.

d. 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.

#### 4. OTHER MENTAL HEALTH AND WELL-BEING RESOURCES

- a. 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.
- b. 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.
- c. Graduate Student Hotline: 800-GRAD-HELP (472-3457). Provides 24/7 support for urgent mental health care needs.
- d. 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.

## B. CONFIDENTIAL CAMPUS RESOURCES ( Care or Healthcare Providers)

College clinic faculty, student interns, and clinic staff have a legal obligation or privilege of confidentiality. The employee or student intern must have learned the information when acting in a healthcare provider capacity in the course of confidential communication.

If the information is **not** learned in the course of confidential communication, the employee or student intern will be considered a “responsible employee” with the responsibility under this Handbook to disclose reports of suspected sexual misconduct to the Sexual Misconduct Coordinator or Deputy. The Coordinator and Deputies are the Officials with Authority (OWA’s) responsible for implementing the procedures in this Handbook. Refer to Chapter 7 regarding “Limited Exceptions for Care or Healthcare Providers.”

Care or Healthcare Providers are required to report the occurrence of campus crimes to Security for statistical purposes and inclusion in the College’s annual security report. To protect the identity of the impacted individual, personally identifiable information is not required. The information to be shared is the date and campus location of the incident.

More information regarding Palmer Clinic locations and hours can be found on the College’s website at: <https://www.palmer.edu/clinics/quad-cities/quad-cities-locations-hours/>

### 1. MAIN CAMPUS

#### **Davenport Clinic, Harold & Marie Bechtel Center**

1002 Perry Street, Davenport, IA 52803

Phone: 563-884-5801

Email: [clinics.qc@palmer.edu](mailto:clinics.qc@palmer.edu)

#### **Moline Clinic**

2001 52nd Ave. , Moline, IL 61265

Phone: 309-764-4901

Email: [clinics.qc@palmer.edu](mailto:clinics.qc@palmer.edu)

#### **Ireland Student Clinic**

1000 Brady Street, Davenport, IA 52803

Phone: 563-884-5750

Email: [clinics.qc@palmer.edu](mailto:clinics.qc@palmer.edu)

### 2. FLORIDA CAMPUS

#### **Palmer Chiropractic Clinics**

**Main Clinic**

4705 S. Clyde Morris Blvd.

Port Orange, FL 32129

Phone: 386-763-2718

Email: [clinics.po@palmer.edu](mailto:clinics.po@palmer.edu)

## **CHAPTER 11: SUPPORTIVE MEASURES FOR COMPLAINANTS AND RESPONDENTS**

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

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

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

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

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

To the extent possible, the College will:

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

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

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

#### A. Limited-Contact Directive

Either or both parties may request, or the College may impose, communication and contact restrictions to prevent potentially harmful 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 limited contact directive.

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

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

#### D. Academic or Employment Modifications

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

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

#### E. Student Housing Modifications

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

## F. Security Assistance

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

## G. Emotional Support

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

## H. Disability Accommodations

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

## I. Failure to Comply with Supportive Measures

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

## **CHAPTER 12: EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE**

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

An emergency situation must arise from the alleged Sexual Misconduct. The determination of an immediate risk situation is not limited solely to the details of the alleged Sexual Misconduct itself, but may also evaluate and be responsive to the Respondent's related post-incident actions or behaviors.

An emergency removal is not a determination of responsibility or a sanction/discipline imposed for the alleged Sexual Misconduct. The presumption of innocence remains until a determination is made at the conclusion of the Formal Complaint Resolution Process.

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

The College has implemented a five-step process for evaluating the necessity and implementation of an emergency removal.

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

The College will conduct an individualized safety and risk analysis focused upon the particular Respondent by examining the specific circumstances arising from the allegations of Sexual Misconduct posing an immediate threat to a person's physical health or safety.

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

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

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

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

As a consequence, if the Respondent presents an immediate non-physical health or safety threat to another individual (e.g. emotional impact), then the College's response focuses upon appropriate



Supportive Measures to allow the individual equal access to education programs and activities, not the Respondent's emergency removal.

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

### C. Step 3: Student/Employee with a Disability

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

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

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

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

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

### E. Step 5: Post Removal Challenge

If the College determines removal is necessary, the Respondent will be provided notice with an opportunity to challenge the decision immediately following the removal to a designated College Official. The Respondent seeking to challenge the decision shall submit a written request with supporting documentation. The Respondent shall be notified by written decision regarding the emergency removal. The decision of the designated College Official shall be final. There is no appeal process for emergency removal decisions.

## F. Administrative Leave

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

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

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

## CHAPTER 13: CAMPUS SECURITY

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

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

**For information or questions regarding Campus Security contact:**

### A. Main Campus

SECURITY: 563-884-5555

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

Brian Sharkey

Senior Director for Campus Safety and Security

563-884-5147

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

### B. Florida Campus

SECURITY: 386-763-2777

Security is provided by United American, 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)

- Operational hours: 386-763-2777 or 32777 from a campus phone

- After hours: 800-227-9805

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

## CHAPTER 14: CAMPUS SUPPORT SERVICES

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

### A. Main Campus

1. Academic Support Services & Resource Referrals for Students

#### **Academic Support Services**

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

563-884-5898

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

2. Employment Support Services & Resource Referrals for Employees and Faculty

#### **Human Resources**

Melissa Mapes

563-884-5119

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

### B. 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**

Angela Carter

386-763-2665

[angela.carter@palmer.edu](mailto:angela.carter@palmer.edu)

## CHAPTER 15: THE COLLEGE'S RESPONSE TO REPORTS OF SEXUAL MISCONDUCT

## A. Actual Knowledge

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

A Complaint filed by the Complainant against the Respondent is **not required** in order for the College to have actual knowledge of sexual misconduct or allegations of sexual misconduct that necessitates the College's response.

Awareness by College employees of suspected Sexual Misconduct or allegations of sexual misconduct may constitute actual knowledge by the College. Therefore, all College employees (including faculty, employees and administrators), coaches, student employees, student leaders, and student organization officers are considered responsible employees **required to immediately disclose to the Coordinator or Deputies** any incident or report of behavior or conduct involving suspected Sexual Misconduct or allegations of Sexual Misconduct.

Under this Handbook, the College's [Officials with Authority](#) (OWA) authorized to institute corrective measures on behalf of the College include the Coordinator and deputies.

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

## B. Examination of Reports of Sexual Misconduct for Jurisdiction

### 1. Examination of Reports

Although a report of Sexual Misconduct may be received through many sources, the College has directed all reports of Sexual Misconduct be brought to the Coordinator. The Coordinator shall respond to all reports and complaints of Sexual Misconduct.

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

### 2. Determination of Scope and Jurisdiction

Reports determined to meet the scope and jurisdiction of Sexual Misconduct will be processed

under this Handbook (See [Chapter 4](#) for greater detail). Reports that do not meet the scope and jurisdiction under this Handbook will be directed to the jurisdiction of another appropriate process recognized by the College.

### C. Risk Assessment

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

### D. Orientation Meeting with the Complainant

The Coordinator will discuss with the Complainant the availability of Supportive Measures that are available whether the Complainant files a Complaint or not, consider the Complainant's wishes with respect to Supportive Measures, share information regarding community resources and law enforcement, explain the process for filing a Complaint, explain the Formal Complaint Resolution Process, and any Informal Complaint Resolution Process options.

### E. Promptness

All allegations are acted upon promptly by the College once it has received actual knowledge/notice of allegations of Sexual Misconduct. The Formal Complaint Resolution Process can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will take reasonable steps to avoid undue delays within its control.

## CHAPTER 16: INFORMAL COMPLAINT RESOLUTION PROCESS

### A. General Guidelines for Informal Complaint Resolution Process

1. After the filing of a Complaint, the Complainant may request to engage in either the Informal Complaint Resolution Process (Informal Process) or the Formal Complaint Resolution Process (Formal Process). The Informal Process is separate and distinct from the Formal Process. For this reason, prior to engaging in the Informal Process, the Coordinator will meet individually with the Complainant and Respondent to explain what the Informal and Formal Processes entail in order for each of them to make an informed decision to voluntarily attempt to reach an informal resolution as an alternative.

2. The purpose of the Informal Process is to determine if the Complaint may be resolved informally on a basis which is satisfactory to both parties and the College.
3. The Informal Process is a voluntary, educational and remedies-based process that is not intended to be disciplinary in nature.
4. The Coordinator has the discretion to initially decide whether or not an informal resolution is an appropriate alternative to the Formal Process.
5. If the Coordinator determines a Complaint is not appropriate for the Informal Process, then the Complainant will be informed that the process is unavailable.
6. The College prohibits the use of an Informal Process if the Complainant is a student and the Respondent is an employee of the College, except in very limited circumstances. Such exceptions will be determined by the Coordinator.

## **B. Course of Informal Process**

1. Subject to the voluntary written consent of both parties with approval of the Coordinator, the College will facilitate the Informal Process. The parties will meet together with the Coordinator or individually with the Coordinator to attempt to reach a resolution which is satisfactory to both parties and the College. Such meetings may take place in person or through a technologically-assisted medium such as Skype, Teams, Zoom, FaceTime, WebEx, or similar technology.
2. Informal proceedings are private. Parties are expected to maintain the privacy of the proceedings in accordance with College policy. While there is an expectation of privacy around what is shared with parties during this process, the parties have discretion to share their own knowledge and evidence with others if they so choose. The College encourages parties to discuss this with their Advisors before doing so.
3. Either or both parties may choose to discontinue the Informal Process prior to its completion.
4. Any agreement reached as part of the Informal Process must be approved by the Coordinator in order to ensure consistency with the College's obligations. If the Coordinator determines at any time prior to the signing of an Informal Process Agreement that the proposed resolution is no longer appropriate, the Coordinator may terminate the process.
5. 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.
6. Once a Sexual Misconduct Complaint is informally resolved, then the matter will be closed.
7. 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.

8. If the Informal Process does not result in a written resolution agreement being signed by the parties and approved by the Coordinator, the College will not draw any adverse inference based on a Respondent's participation. Nor will such participation be considered an admission by the Respondent.
9. If the sexual misconduct report is not resolved informally, then the Complaint will proceed under the Formal Process.
10. Protections against retaliation apply to individuals participating in the Informal Process. Disciplinary action may result from those found responsible for retaliation.

### C. Informal Process Timeline

The timeline for completion of the Informal Process may vary, but the College will seek to complete that process within thirty (30) academic days. Should the timeline be extended for good cause by the Coordinator both parties will be notified.

## CHAPTER 17: FORMAL COMPLAINT RESOLUTION PROCESS

### A. General Guidelines for Formal Complaint Resolution Process

1. The Formal Complaint Resolution Process (Formal Process) will take place when a Sexual Misconduct complaint is brought forward and the Complainant seeks a Formal Process or if an Informal Process was not resolved under [Chapter 16](#).
2. If the Complainant cannot or does not wish to proceed with the Formal Process, the Coordinator may determine that a Formal Process is necessary due to the nature and severity of the sexual misconduct report. The Coordinator will select a College employee to assume the role of the Complainant.
3. The College may consolidate Complaints involving allegations against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party where the allegations of Sexual Misconduct arise out of the same facts or circumstances.

### B. Standard of Proof

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

### C. Notification of Allegations and Intent to Investigate

1. Notification to the Respondent

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

- a. identity of the parties involved (if known);
  - b. specific sexual misconduct alleged;
  - c. conduct constituting the alleged misconduct; and
  - d. date(s) and location(s) of the alleged incident(s) (if known).
2. As more information becomes available during the investigation, additional details about the alleged misconduct will be equally provided to the Respondent and Complainant.
3. If the Respondent 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.

#### D. Orientation Meeting with the Respondent

The Coordinator will discuss with the Respondent the availability of Supportive Measures that are available, share information regarding community resources, explain the Formal Process, and any Informal process options, if applicable.

#### E. Right to an Advisor

1. Both the Complainant and Respondent may choose one advisor at their own expense. The Advisor may be a friend, mentor, family member, union representative, attorney, or other individual to advise, support, and/or consult with that party. The parties must notify the Coordinator of the identity of the advisor.
2. The Advisor may be an attorney. If either or both parties retain an attorney, such party shall notify the Coordinator of the identity of that attorney in order that the other party may have an opportunity to obtain an attorney, if they so choose. The College may also appoint an attorney to represent the College's interests.



## F. Role of an Advisor

1. The role of the Advisor is limited to providing support and assistance in understanding and navigating the Formal Process. Hence, an Advisor may not be a witness. An Advisor may not have institutionally conflicting roles in the Formal Process or with a party, such as an active role in the matter, or a supervisor who must monitor and implement sanctions, if applicable.

The process will not be unreasonably delayed to accommodate the schedule of an Advisor.

2. Both the Complainant and Respondent are responsible for presenting their own information to the investigator(s). An Advisor does not have a speaking role during any part of the Formal Process.
3. An Advisor may not testify in or obstruct an interview, author written submissions, or disrupt the investigation.
4. The Advisor may not ask questions of the party on the record. Any questions posed or factual assertions or argument provided by the Advisor is prohibited and will not be included in the record.
5. An Advisor may request to meet with the Coordinator at the commencement of the Formal Process to clarify and understand their role and the College's policies and procedures. An Advisor should direct all process-related questions to the Coordinator.
6. The Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this Handbook.
7. The Complainant and Respondent also have the right to choose not to have an Advisor.

## G. Sharing Information with Advisors

1. The College expects that the parties may wish to share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.
2. The College's duty is to the Complainant and Respondent not to either of their Advisors. All communications are made directly with the parties unless specifically requested in writing. The party must complete and sign the College's release of information form before the College is able to share records with an Advisor.

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

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

## H. Advisor's Compliance with College Policies

1. All Advisors including union representatives and attorneys are subject to the same College policies and procedures and subject to the same limitations and restrictions.
2. If an Advisor disrupts the Formal Process or otherwise fails to respect the limits of the Advisor role, the Coordinator will determine how to address the Advisor's non-compliance and future role, if any.

## I. Notice of Investigation

The Complainant and Respondent will be notified of the initiation of an investigation.

## J. Appointment of Investigator(s)

1. The 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 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.
2. When a Formal Complaint involves more than one Complainant and/or more than one Respondent, the Coordinator has the discretion to determine whether the investigation should be conducted separately or in one consolidated investigation.

## K. Persons Authorized to Conduct Investigation

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

## L. Investigation Timeline

1. The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. The College strives to complete investigations within sixty (60) academic days.
2. There may be circumstances that require the extension of the timeline for good cause. The timeline may be extended to maintain the integrity and completeness of the investigation; comply with a request by external law enforcement; accommodate the absence of a party, advisor or witness; a request for language assistance; reasonable accommodations for disabilities or health conditions; or for other legitimate reasons including the complexity of the investigation and the severity and extent of the alleged Sexual Misconduct. The College will notify the parties in writing of any extension of the timeline for good cause, and the reason for the extension.
3. Although cooperation with law enforcement may require the College to temporarily suspend an investigation, under such circumstances, the College will promptly resume its investigation as soon as it is notified by the law enforcement agency that the agency has completed its evidence gathering process or for any other reason. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation. If appropriate, the College will take immediate steps to provide Supportive Measures for Complainant or Respondent when law enforcement becomes involved.
4. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether or not Sexual Misconduct took place.

## M. General Principles of an Investigation

### 1. **Fact-Finding Process**

The investigation is a neutral, fact-finding process.

### 2. **Determination of Responsibility**

It is not the investigators' role to determine the responsibility, if any, of Respondent. For more information regarding determination of responsibility see [Chapter 18](#) and [Chapter 19](#).

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

Sexual Misconduct complaints are presumed to have been made in good faith. A determination at the conclusion of the Formal Process that the alleged Sexual Misconduct does not constitute prohibited Sexual Misconduct under this Handbook or that there is insufficient evidence to

establish the alleged Sexual Misconduct occurred as complained does not mean the Complaint was made in bad faith.

#### **4. Presumption of Innocence**

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

#### **5. Equitable Investigation**

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

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

## **N. Investigation Process**

### **1. Gathering Evidence**

It is the College's responsibility and not the parties, to gather evidence.

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

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

**2. Information Protected by Legal Privilege**

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

**3. Notice of Investigation Interviews**

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

**4. Equal Opportunity for Participation**

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

**5. Multiple Interviews**

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

**6. Audio Recordings of Interviews**

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

**7. Witness Participation in College Investigation**

Witnesses (as distinguished from the parties) who are employees or students of the College are expected to fully cooperate with and truthfully participate in the College's investigation and Formal Complaint Resolution Process. Failure of such witnesses to cooperate with and/or

participate in the investigation and/or Formal Complaint Resolution Process may constitute a violation of this Handbook warranting discipline/sanctions.

#### **8. Location**

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

#### **9. Written Statements**

Witnesses may provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the investigators, though not preferred.

#### **10. 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 misconduct alleged, regardless of whether there has been a prior responsibility determination of Sexual Misconduct, this information may be relevant to the determination of Sexual Misconduct responsibility. Instances will be rare. The relevance of such evidence must be based on an assessment of whether or not the previous or subsequent occurrence was substantially similar to the conduct alleged in the Complaint or indicates a pattern of behavior substantially in conformity with that pattern.

#### **11. Prior Sexual Behavior**

Complainant's predisposition or prior sexual behavior are not relevant and will not be used during the investigation and Formal Process, except under limited circumstances. For example, prior sexual behavior may be relevant if offered to prove that someone other than Respondent committed the misconduct alleged by the Complainant, or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to Respondent and are offered to prove consent.

### **O. 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 will not make a finding or recommended finding of responsibility, if any, of the Respondent.
4. At the investigation's conclusion, the Complainant and Respondent 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.
5. Within three academic days of reviewing the information collected, the Complainant and Respondent may in writing to the Coordinator submit for the consideration of the investigator additional facts to clarify information previously shared in the investigation and identify any new evidence.
6. 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.
7. After considering such input, the investigator will then place the report in its final form.

## **CHAPTER 18: DETERMINATION OF RESPONSIBILITY**

The Formal Process as described in [Chapter 17](#) is the same for sexual misconduct reports involving students, employees and faculty. However, once the investigation report is finalized and moved forward to this Formal Resolution stage, there are three separate and distinct procedures to address reports of sexual misconduct brought against students, employees and faculty.

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

### **A. Students/Student Organizations**

1. Following the investigation, the Complainant or a College official may initiate/file charges of misconduct with the Coordinator against the Respondent.
2. In determining whether or not a student, as a Respondent is responsible for sexual misconduct, the 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 this Handbook was violated; explain its rationale; and, if applicable, impose appropriate sanctions. The Hearing Panel's determination may be appealed by the Respondent and Complainant as provided under the Student Code of Ethics.

## B. Employees

The responsibility of an employee (as defined under the employee handbook) who is a Respondent named in a Complaint of sexual misconduct will be determined by a College official ("designated deciding official") with appropriate sexual misconduct training who will be selected by the Coordinator.

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 Complainant, then the same opportunity for a separate meeting will be held with the Respondent.

The designated deciding official will determine whether this Handbook was violated; and if so, impose appropriate discipline.

### 1. Outcome Letter

In consultation with the Coordinator and deputies, the deciding official shall write an outcome letter to be provided to the Complainant and Respondent by the Coordinator and/or deputies. The outcome letter will include the designated deciding official's determination whether this Handbook was violated; an explanation of the rationale; and if applicable, the imposed 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 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 shall be maintained by the Coordinator for record-keeping purposes. A copy of the outcome letter may be provided to the Respondent's supervisor or others with the need to know as determined appropriate by the Coordinator.

### 2. Appeal Rights

A decision by the deciding official may be appealed by either party. To appeal, a party must timely file a written appeal within ten (10) academic days from the date of the outcome letter with the Coordinator. The Coordinator will select a College official ("designated appeals official").



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

The designated appeals official will review the outcome letter, the investigation report, and have access to the Respondent'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 Complaint of sexual misconduct; the evidence presented in the investigation; and in conformance with these procedures.
- b. Determine whether the sanctions/discipline imposed were appropriate for the sexual misconduct found.
- c. 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 Complaint, finding no misconduct occurred; (iii) affirm the discipline/sanctions imposed; (iv) reduce or dismiss the discipline/sanctions; or (v) return the Investigation 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.

## C. Faculty

The responsibility of a faculty member (as defined under the applicable collective bargaining agreement or faculty handbook) who is a Respondent named in a Complaint of sexual misconduct will be determined by a College official ("designated deciding official") with appropriate sexual misconduct training who will be selected by the Coordinator.

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 Respondent, then the same opportunity for a separate meeting will be held with the Complainant.

The designated deciding official will determine whether this Handbook was violated and if applicable, impose appropriate discipline.

#### 1. Outcome Letter

In consultation with the Coordinator and deputies, an outcome letter will be written and provided to the Complainant and Respondent by the Coordinator. The outcome letter will include the designated deciding official's determination whether this Handbook was violated; explain the rationale; and if applicable, 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 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 shall be maintained by the Coordinator for record-keeping purposes. A copy of the outcome letter may be provided to the Respondent's supervisor or others with the need to know as determined appropriate by the Coordinator.

#### 2. Appeal Rights

A decision by the Deciding Official may be appealed by either party. To appeal, a party must timely file a written appeal within ten (10) academic days from the date of the outcome letter with the Coordinator. The Coordinator will select a College official ("designated appeals official").

The designated appeals official will review the outcome letter, the investigation report, and have access to the faculty member'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 Complaint of sexual misconduct; the evidence presented in the investigation; and in conformance with these procedures.

- b. Determine whether the sanctions/discipline imposed were appropriate for the sexual misconduct found.
- c. 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 Complaint, finding no misconduct occurred; (iii) affirm the discipline/sanctions imposed; (iv) reduce or dismiss the discipline/sanctions; or (v) return the Investigation 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 19: RESOLUTION PROCESS AND DETERMINATION OF RESPONSIBILITY FOR THIRD PARTIES**

The resolution processes in [Chapter 16](#), [Chapter 17](#), and [Chapter 18](#) of this Handbook do not apply to third parties. The College will investigate a complaint of sexual misconduct allegations against a third party to the extent possible.

A third party (as defined under [Chapter 2](#) of this Handbook) who is a Respondent named in a report or complaint of sexual misconduct will be determined by a College official (“designated deciding official”) with appropriate sexual misconduct training who will be selected by the Coordinator.

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 this Handbook was violated and if applicable, impose appropriate sanctions.

### **1. Outcome Letter**

In consultation with the Coordinator and deputies, an outcome letter will be written and provided to the Complainant and Respondent by the Coordinator. The outcome letter will include the designated deciding official’s determination whether this Handbook was violated;

explain the rationale; and, if applicable, impose appropriate sanctions. 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 to the Complainant and Respondent by the 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 Coordinator.

## 2. Appeal Rights

There is no appeal process for third parties. The decision of the designated deciding official shall be final under this Handbook.