PALMER College of Chiropractic

TIX SEXUAL MISCONDUCT
Policy & Procedures Handbook

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

A publication of the Office of Compliance
2022-2023

As changes occur, the most up-to-date information can be found online at:
http://www.palmer.edu/students/resources-offices/handbook-policies/

TABLE OF CONTENTS

CHAPTER 1: ABOUT THIS HANDBOOK 9

A. Rationale 9

B. Amendments to This Handbook 10

C. Handbook Content 10

D. Other Discrimination Not Addressed in This Handbook 10

E. Differences Between This Handbook and Legal Processes 10

CHAPTER 2: GLOSSARY 12

CHAPTER 3: NONDISCRIMINATION ON THE BASIS OF ALL PROTECTED CLASSES 19

A. About This Notice 19

B. Notice of Nondiscrimination 20

C. Reporting or Filing a Complaint of Discrimination or Harassment 20

D. Reporting or Filing a Complaint of Sexual Misconduct not Addressed in This Handbook 20

CHAPTER 4: SCOPE AND JURISDICTION 21

A. Scope 21

B. Jurisdiction 21

C. Consolidation of Formal Complaints 24

D. Coordination with Equal Opportunity Policy 24

E. Sexual Harassment and Discrimination Not Addressed in this Handbook 24

CHAPTER 5: TIX COORDINATOR, DEPUTIES AND TITLE IX RESPONSE TEAM 25

A. Authority and Duties of the TIX Coordinator and Deputies 25

B. TIX Coordinator and Deputies 25

1. TIX Coordinator and Deputy Coordinator – Main Campus 25

2. TIX Coordinator and Deputy Coordinator – West Campus 26

3. Deputy Coordinator – Florida Campus 26

C. TIX Response Team 27

D. TIX Response Team Training 27

E. Independence and Conflict-of-Interest 27
CHAPTER 6: PROHIBITED TIX MISCONDUCT 28
A. TIX Sexual Misconduct List 28
B. TIX Sexual Misconduct Definitions 28
C. Other Definitions 32
CHAPTER 7: INFORMATIONAL AND ORIENTATION MEETINGS 34
A. Informational Meetings with Members of the College Community 34
B. Orientation Meeting with the Complainant 34
C. Orientation Meeting with the Respondent 35
D. Informational Meeting with the Advisor 36
E. Pre-Hearing Conference 36
CHAPTER 8: REPORTING SUSPECTED TIX MISCONDUCT 36
A. Responsibility by a Member of the College Community to Report Suspected TIX or Other Sexual Misconduct 36
B. How to Report Suspected TIX Misconduct to the College 39
C. Time Limit to Report Suspected TIX Misconduct 40
D. Reporting Off-College Premises Suspected TIX Misconduct 40
E. Reporting Online TIX Misconduct 41
F. Medical Assistance 41
G. Emergency/Immediate Campus Security or Law Enforcement Reporting Options 42
H. Clery Act Crime Reporting Obligations 43
I. Clery Act Timely Warning Reporting Obligations 43
J. Notification by the College to Law Enforcement Agencies 43
CHAPTER 9: FILING A FORMAL COMPLAINT OF TIX MISCONDUCT WITH THE COLLEGE 44
A. Required Elements of a Formal Complaint of TIX Misconduct 44
B. How to File a Formal Complaint of TIX Misconduct with the College 45
C. Time to File a Formal Complaint of TIX Misconduct with the College 45
D. Criminal Complaint 46

E. College Formal Complaint 46
F. External Complaint 46
CHAPTER 10: ANONYMITY AND AMNESTY 48
A. Anonymity 48
B. Student Amnesty 48
CHAPTER 11: PRIVACY AND CONFIDENTIALITY 48
A. Privacy 48
B. Confidentiality 49
CHAPTER 12: SUPPORTIVE MEASURES FOR COMPLAINANTS AND RESPONDENTS 52
CHAPTER 13: EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE 55
1. STEP 1: PROMPT INDIVIDUALIZED SAFETY AND RISK ANALYSIS 56
2. STEP 2: REQUIRED FINDINGS OF IMMEDIATE THREAT TO THE PHYSICAL HEALTH OR SAFETY OF ANOTHER 56
3. STEP 3: STUDENT/EMPLOYEE WITH A DISABILITY 57
4. STEP 4: APPROPRIATENESS OF SUPPORTIVE MEASURES RATHER THAN AN EMERGENCY REMOVAL 57
5. STEP 5: POST REMOVAL CHALLENGE 58
6. ADMINISTRATIVE LEAVE 58
CHAPTER 14: CAMPUS SECURITY 58
A. Campus Security Assistance 58
B. Campus Security's Responsibility to Refer for Processing 59
C. Campus Security Contact Information 59
CHAPTER 15: CAMPUS SUPPORT SERVICES 60
A. Main Campus 60
B. West Campus 60
C. Florida Campus 61
CHAPTER 16: THE COLLEGE'S RESPONSE TO REPORTS OF TIX MISCONDUCT 61
A. Actual Knowledge 61

B. Examination of Reports of TIX Misconduct for TIX Jurisdiction 61

1. EXAMINATION OF REPORTS FOR JURISDICTION ASSESSMENT 62

C. Risk Assessment 62

D. Promptness 62

E. Notification of Allegations, Intent to Investigate and Additional Details 63

CHAPTER 17: ADVISORS 64

A. Right to an Advisor 64

B. Who Can Serve as an Advisor 64

C. Sharing Information with Advisors 66

D. Informational Meeting 67

E. Advisor's Role 67

CHAPTER 18: INFORMAL GRIEVANCE PROCESS 70

A. General Guidelines for Informal Grievance Process 70

B. Voluntary Written Consent from Complainant and Respondent 71

C. Course of Informal Grievance Process 72

D. Informal Grievance Process Time Frame 73

CHAPTER 19: FORMAL GRIEVANCE PROCESS 73

A. General Guidelines 73

B. Standard of Proof 74

C. Dismissal of a Formal Complaint 74

CHAPTER 20: INVESTIGATIONS 74

A. Decision to Conduct an Investigation 74

B. Investigators 75

C. General Principles of an Investigation 76

D. Investigation Process 79

G. Evidence File 84

H. Parties' Written Responses to the Evidence File 84

I. Investigation Report 85

J. Parties' Written Responses to the Investigation Report 85
K. Conclusion of Evidence-Gathering 86
CHAPTER 21: HEARING 86
A. Hearing Referral 86
B. Notice of Live Hearing 86
C. Live Hearing 87
D. Hearing Panel 87
E. Hearing Participation 88
F. Hearing Format Including Questions and Cross-Examination 89
G. Hearing Record 91
CHAPTER 22: DELIBERATION, DETERMINATION OF RESPONSIBILITY LETTER, AND FINAL OUTCOME LETTER 92
A. Deliberation 92
B. Determination of Responsibility 92
C. Final Outcome Letter 93
CHAPTER 23: POSSIBLE SANCTIONS/DISCIPLINE AND/OR REMEDIES 94
A. Sanctions/Discipline 94
B. Remedies 95
CHAPTER 24: APPEAL OF OUTCOME DETERMINATION 96
A. Basis for Appeal Submissions 96
B. Submitting an Appeal 96
C. Written Response by the Other Party 96
D. Appeal Decision 97
E. Effective Date of the Decision 98
CHAPTER 25: RECORDKEEPING 98
A. Records Retention 98
B. Records Custodian 98
C. Additional Documentation 99

CHAPTER 26: RESOLUTION PROCESS AND DETERMINATION OF RESPONSIBILITY FOR THIRD PARTIES 99

CHAPTER 1: ABOUT THIS HANDBOOK

A. Rationale

1. Title IX prohibits discrimination in the United States on the basis of sex in education programs and activities that receive federal financial assistance:

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

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

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

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

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

B. Amendments to This Handbook

1. The College may amend this Handbook at any time. Nothing in this Handbook shall affect the College's authority to amend, alter, change or modify this Handbook as it deems appropriate to further its educational mission and to protect the safety and security of the College community. This Handbook is designed to be educational. It is not contractual in nature.

2. If any portion of the Department of Education's ("DOE") final Title IX regulations are stayed or held invalid by a Court of Law or the DOE, in whole or in part, withdraws or modifies certain regulations which are incorporated into this Handbook which are no longer required, those provisions may be amended, altered, changed, modified or deleted from this Handbook at the College's sole discretion.

C. Handbook Content

1. Articulates behavioral expectations and defines prohibited TIX Misconduct;
2. Identifies the College's TIX Coordinator, Deputy Coordinators, and their roles;
3. Describes options for reporting TIX Misconduct;
4. Describes how to file and process a Formal Complaint;
5. Provides supportive measures; and
6. Provides due process grievance procedures.

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

a. 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 progress. However, the College may gather information from third party sources (such as law enforcement agencies and the courts) to determine whether or not TIX Misconduct is established.

b. This Handbook, particularly the Formal Grievance Process and Informal Grievance Process, are administrative, not legal. Therefore, rules of law, evidence and criminal/civil

procedure do not apply and will not be utilized with minor exceptions as discussed in this Handbook. The College does not have subpoena power or the ability to collect or process forensic evidence (e.g., sexual assault examination kits, DNA tests).

2. WHEN PROCEEDINGS MAY OCCUR

a. Proceedings under this Handbook may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the TIX Coordinator.

b. The College will not generally wait for the conclusion of any criminal investigation or proceeding to commence its own investigation. If appropriate, the College will take immediate steps to provide supportive measures for the Complainant and Respondent when law enforcement temporarily delays or impacts the College's investigation.

3. COOPERATION WITH LAW ENFORCEMENT

a. The TIX Coordinator will cooperate with law enforcement in order that this Handbook does not interfere with the integrity or timing of a criminal investigation.

b. At the request of law enforcement, the College may temporarily pause its 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 as determined by the College.

4. LEGAL DETERMINATIONS

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

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

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 TIX 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 TIX Misconduct Complaint is pending, that student's transcript will reflect the status of that Complaint. Such a transcript notation is subject to later modification or deletion to reflect the outcome of the Complaint.

CHAPTER 2: GLOSSARY

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

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

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

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

4. ***Affirmative Consent*** (**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. For a complete definition see Chapter 6.

5. ***Appeal Official*** is an individual from within the College who hears appeals filed by a Complainant or a Respondent relating to a dismissal decision of a Formal Complaint; a finding of responsibility; and if imposed, any sanctions/discipline. The Appeal Official's decision is final.

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

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

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

9. ***Club* or *Organization*** means College community members who have complied with the formal requirements for College recognition.

10. ***College*** means Main campus (Palmer College Foundation, d/b/a Palmer College of Chiropractic), West campus (Palmer College of Chiropractic West) and Florida campus (Palmer College Foundation, Inc., d/b/a Palmer College of Chiropractic Florida) with campuses respectively located in Iowa-Illinois; California; and Florida.

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

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

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

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

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

16. ***Education program or activity*** includes:

    a. locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the alleged TIX Misconduct occurs; or

    b. any building owned or controlled by a student organization that is officially recognized by the College.

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

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

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

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

20. ***Evidence File*** is a compilation of all evidence collected by the Investigators, whether inculpatory or exculpatory, related to the allegations in the Formal Complaint.

21. ***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.

22. ***Formal Complaint (Complaint)***:

    a. is a document filed by a Complainant (meaning a document or electronic submission such as by electronic mail that contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the individual filing the Formal Complaint)

alleging TIX Misconduct against a Respondent and requesting the College investigate the allegation of TIX Misconduct; or

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

c. may be amended during the Formal Grievance Process.

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

23. ***Formal Grievance Process*** refers to a method of formal resolution designated by the College to address alleged TIX Misconduct under this Handbook. See Chapter 19 for greater detail.

24. ***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 absence/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 reasonable accommodation of disabilities;
h. the necessity for the College to troubleshoot technology to conduct a virtual proceeding; and
i. any other extenuating circumstances outside of the College's control as decided by the TIX Coordinator or Investigators.

25. ***Hearing*** is a live proceeding overseen and managed by the Presiding Hearing Panelist during which the Hearing Panel questions the Parties and witnesses, and the Parties' Advisors question the opposing Parties and witnesses to determine whether a Respondent is responsible or not responsible for TIX Misconduct.

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

27. ***Inculpatory Evidence*** tends to show the Respondent is responsible for the alleged TIX Misconduct.

28. ***Informal Grievance Process*** is a voluntary resolution option that allows the Parties to resolve disputes informally in a separate and distinct process from the Formal Grievance Process. See Chapter 18 for greater detail.

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

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

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

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

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

34. ***Notice*** (**see Actual Knowledge**).

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

36. ***Party/Parties*** means both Complainant or Respondent individually. Parties means both Complainant and Respondent collectively.

37. ***Preponderance of the Evidence*** means that based on the totality of evidence and reasonable inferences, it is more likely than not that the Respondent either did or did not engage in TIX Misconduct.

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

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

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

41. ***Relevant evidence*** refers to evidence, whether inculpatory or exculpatory, on which the College will rely in reaching a determination regarding responsibility. Evidence is relevant if:

    a. It has a tendency to make a fact more or less probable than it would be without the evidence; and

    b. The fact is of consequence in proving or disproving the Formal Complaint allegations.

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

43. ***Report/Reporting*** refers to facts and information brought to the attention of the TIX Coordinator and Deputies who are authorized by the College to implement supportive and

corrective measures on its behalf. A report of suspected TIX Misconduct may or may not lead to a subsequently filed Formal Complaint.

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

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

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

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

48. ***Sanctions/discipline*** means a consequence imposed at the conclusion of either the Informal or Formal Grievance Process.

49. ***Standard of Proof*** 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 engaged in TIX Misconduct.

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

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

52. ***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.

53. TIX Complaint (see Formal Complaint)

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

55. ***Title IX Team*** **(TIX Team)** refers to the TIX Coordinator, Deputy Coordinators, Coordinator assignees and any other member of the Informal or Formal Grievance Process.

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

CHAPTER 3: NONDISCRIMINATION ON THE BASIS OF ALL PROTECTED CLASSES

A. About This Notice

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

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

B. Notice of Nondiscrimination

1. 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.

2. 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.

3. 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, sanctions/discipline and all other terms and conditions of admissions, enrollment, and educational practices.

C. Reporting or Filing a Complaint of Discrimination or Harassment

1. For more information to report or 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/.

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

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

For more information or to report or file a Complaint, contact the College's TIX Coordinator or Deputies also serving as Equal Opportunity Compliance Coordinators or refer to Report Sexual

Misconduct on the College's website. Information regarding sexual misconduct awareness, prevention and response may be accessed on the College's website.

CHAPTER 4: SCOPE AND JURISDICTION

A. Scope

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

B. Jurisdiction

1. JURISDICTION REQUIREMENTS

This Handbook defines TIX Misconduct which encompasses all of the prohibited conduct described in Chapter 6 that occurs on the basis of sex and meets all of the following requirements:

a. The alleged conduct occurred within the United States;

b. The alleged conduct occurred as a part of the College's education program or activity:
   1) within locations, events or circumstances over which the College exercises substantial control over both the Respondent and the context in which the TIX Misconduct allegedly occurs;

   2) or any building owned or controlled by a student organization that is officially recognized by the College;

c. At the time of filing a Formal Complaint, a Complainant is participating in or attempting to participate in the educational program or activity at the College; and

d. The alleged misconduct includes sexual harassment as defined in Chapter 6.

2. JURISDICTION ASSESSMENT

a. The TIX Coordinator will conduct an initial assessment for the purpose of determining whether the alleged misconduct, if substantiated, would constitute TIX Misconduct under

this Handbook.

b. In assessing whether the Formal Complaint meets the Jurisdiction requirements, the College will consider the totality of the facts and circumstances involved in the incident, behavior or conduct, including the nature of the alleged incident, behavior or conduct and the context in which it occurred. Any of the TIX Misconduct defined in this Handbook can be committed between strangers or acquaintances as well as people involved in intimate or sexual relationships.

c. Following this initial assessment, the TIX Coordinator may take any of the following courses of action:

    1) If the allegations forming the basis of the Formal Complaint would, if substantiated, constitute TIX Misconduct, the TIX Coordinator shall implement appropriate supportive measures. In addition, the TIX Coordinator shall initiate an investigation of the allegations in the Formal Complaint as described in Chapter 20. However, if the TIX Coordinator deems the Formal Complaint appropriate for the Informal Grievance Process, upon consent of both Parties, the TIX Coordinator may instead refer the matter to the Informal Grievance Process as described in Chapter 18.

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

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

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

    2) The Respondent is no longer enrolled or employed by the College; or

    3) Specific circumstances prevent the College from gathering sufficient evidence to reach a determination of responsibility for the TIX Misconduct alleged in the Formal Complaint.

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

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

g. If neither Party appeals this jurisdictional assessment decision within five (5) academic days of that notification, then that decision is final.

3. APPEAL OF JURISDICTION ASSESSMENT

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

1) procedural irregularity that **affected the outcome**;

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

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

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

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

d. The non-appealing Party will be provided with a copy of the appealing Party's written statement and may submit a written response to the TIX Coordinator within five (5) academic days of the electronic notice from the College notifying the non-appealing Party

of the appeal. The non-appealing Party's statement will be provided to the appealing Party. No further appeal submissions from either Party shall be permitted.

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

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

C. Consolidation of Formal Complaints

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

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 Formal TIX Complaint can sometimes occur in conjunction with allegations of discrimination and/or harassment 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 or other legally protected status by applicable law. Under these circumstances, the College will coordinate the review, investigation and resolution efforts to collectively address all allegations.

E. Sexual Harassment and Discrimination Not Addressed in this Handbook

Allegations of sexual harassment and discrimination that do not meet the jurisdictional requirements of this Handbook because the allegations do not constitute TIX Misconduct as defined in Chapter 6 may constitute violations of the College's Sexual Misconduct (Non-Title IX) Policy and Procedures Handbook. Under those circumstances, the College will coordinate the review, investigation and resolution efforts to address such complaints under that Handbook.

CHAPTER 5: TIX COORDINATOR, DEPUTIES AND TITLE IX RESPONSE TEAM

A. Authority and Duties of the TIX Coordinator and Deputies

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

B. TIX Coordinator and Deputies

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

1. TIX Coordinator and Deputy Coordinator – Main Campus

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

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

Location:
Campus Center, 4th floor

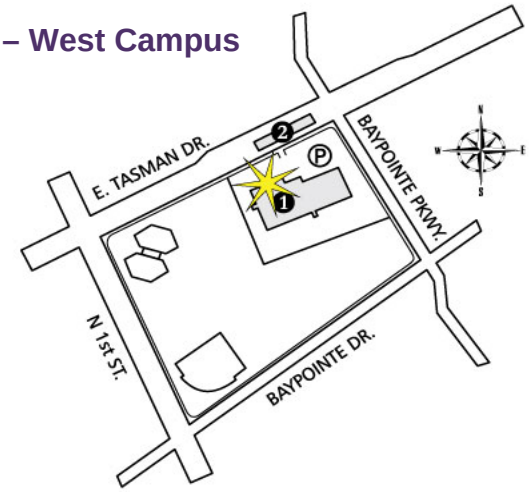
Office Hours:
Monday-Friday
8 a.m. to 4:30 p.m. CST.

2. TIX Coordinator and Deputy Coordinator – West Campus

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

Location:
Office of Student Academic Affairs

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



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

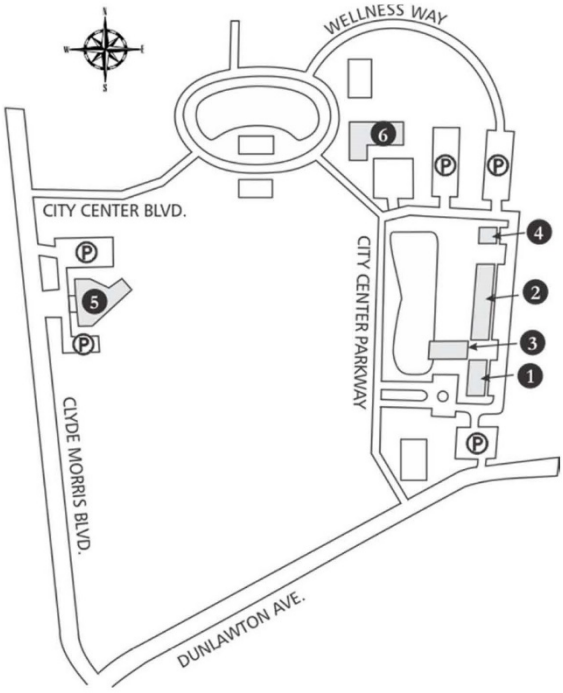
3. Deputy Coordinator – Florida Campus

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

b. Human Resources Manager
Also Serving as Deputy Coordinator
Office of Human Resources
4777 City Center Parkway
Port Orange, FL 32129-4153
386-763-2665

Location:
Building 2
Human Resources Department

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



1. Building One
2. Building Two
3. Standard Process Student Center
4. Central Energy Plant
5. Palmer Chiropractic Clinic
6. Port Orange YMCA

C. TIX Response Team

Response to Formal Complaints or reports of TIX Misconduct requires a team effort. The TIX Response Team (TIX Team) includes the TIX Coordinator, Deputy Coordinators, the Investigators and any College official assigned a specific role in responding to or resolving Complaints under this Handbook. On a case-by-case basis, others may be added to this TIX Team as appropriate.

D. TIX Response Team Training

The TIX Coordinator and Deputies, Investigators, Hearing Panel members, Appeal Officials and any other individual who has an assigned role by the College in responding to and resolving TIX Misconduct receive relevant and appropriate training for the roles to which they are assigned. Such training does not rely on sex stereotypes but instead promotes impartial investigations and resolutions of Formal Complaints. Training topics include, but are not limited to:

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

E. Independence and Conflict-of-Interest

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

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

CHAPTER 6: PROHIBITED TIX MISCONDUCT

A. TIX Sexual Misconduct List

1. The College prohibits TIX Misconduct by or against any member of the College community. TIX Misconduct consists of a specific list of incidents, behaviors or conduct that could impact the employment or educational environment. The following identifies behaviors that violate this Handbook. TIX Misconduct is an umbrella term that includes the following as defined below:
   a. Sexual harassment;
   b. Sexual assault;
   c. Dating violence;
   d. Domestic violence;
   e. Stalking and cyber-stalking; and
   f. Retaliation.

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

B. TIX Sexual Misconduct Definitions

1. SEXUAL HARASSMENT

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

a. Quid Pro Quo Sexual Harassment

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

b. Title IX Sexual Harassment

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

2. SEXUAL ASSAULT

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

a. Forcible Rape:

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

b. Forcible Sodomy:

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

c. Sexual Assault with an Object:

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

d. Forcible Fondling:

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

e. Sex Offenses, Non-forcible:

1) Incest

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

2) Statutory Rape

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

3. DATING VIOLENCE

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

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

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

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

4. DOMESTIC VIOLENCE

a. Violence, on the basis of sex, committed:

1) 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
2) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; or
3) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the relevant state; or
4) 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.

b. To categorize incidents, behaviors or conduct 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

a. 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.

b. For the purposes of this definition:

1) 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.

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

3) 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

a. 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 or appeal under this Handbook.

b. 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.

c. 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, hearing or appeal. A determination whether or not the Respondent has engaged in TIX Misconduct is not sufficient alone to conclude the alleged retaliator made a materially false statement in bad faith.

d. Retaliation constitutes an independent violation of this Handbook and may occur even when there is a finding that TIX Misconduct took place.

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

C. Other Definitions

1. FORCE

a. 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”).

b. 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

a. 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 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 sexual activity to ensure that the person has the affirmative consent of the other or others to engage in sexual activity.

4) Lack of protest or resistance does not mean consent, nor does silence mean consent.

5) Affirmative consent must be ongoing throughout 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.

b. Invalid Excuses Regarding Consent

1) In the evaluation of Formal Complaints under this Handbook, it shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to sexual activity under either of the following circumstances:

(a) The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent.

(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.

2) In the evaluation of Formal Complaints under this Handbook, it shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to sexual activity under any of the following circumstances:

(a) The Complainant was asleep or unconscious.

(b) The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of sexual activity.

(c) The Complainant was unable to communicate due to a mental or physical condition.

c. Consent Under the Department of Education's Preamble

The Department of Education's Preamble to its final regulations effective August 14, 2020 provides the following context for the definition of consent:

1) The burden of proof and the burden of collecting evidence to reach a determination regarding responsibility rests upon the College.

   (a) "The final regulations do not permit" the College "to shift that burden to a Respondent to prove consent, and do not permit the [College] to shift that burden to a Complainant to prove absence of consent".

   (b) This Handbook definition of consent must be applied consistently "between men and women"; and "between the Complainant and Respondent because to do otherwise would indicate bias for or against Complainants or Respondents generally, or for or against an individual Complainant or Respondent".

CHAPTER 7: INFORMATIONAL AND ORIENTATION MEETINGS

A. Informational Meetings with Members of the College Community

With or without making a report of suspected TIX Misconduct, a Formal Complaint or alleging other sexual misconduct, any member of the College Community may request an informational meeting with the TIX Coordinator or Deputy to ask questions about this Handbook.

B. Orientation Meeting with the Complainant

1. Upon receiving actual notice of a report of suspected TIX Misconduct or a Formal Complaint, the designated Deputy (on behalf of the TIX Coordinator) will contact the Complainant, if not already initiated by the Complainant, in order to hold an orientation meeting.

2. Such orientation meeting or meetings will be handled on a case-by-case basis since each Complainant and any alleged incidents, behaviors or conduct are unique.

3. The initial purpose is to introduce Complainant to this Handbook while addressing any immediate or long-term questions and concerns a Complainant may have about the Handbook steps available by which the College will address the allegations along with any impact those allegations may have or will have upon the Complainant's participation in the education

programs and activities of the College. As also may be appropriate, the College will address any workplace questions and concerns raised by Complainant.

4. During the orientation meeting(s), the designated Deputy will explain and answer any questions regarding:
   a. supportive measures;
   b. confidential community resources;
   c. law enforcement;
   d. preserving any relevant evidence and documentation;
   e. investigation Process;
   f. formal Grievance Process;
   g. informal Grievance Process, if applicable;
   h. prohibition of retaliation;
   i. the right to be accompanied during meetings by an advisor of choice whose participation will be limited as specified in this Handbook; and
   j. other aspects of this Handbook.

5. By obtaining from Complainant the factual information regarding the alleged incidents, behaviors or conduct, the orientation will then address the procedures by which such allegations will be addressed.

6. Title IX and its regulations which govern this Handbook place legal requirements and restrictions upon the manner in which these allegations will be addressed by the College. Hence, the legal aspects will also be fully explained to the Complainant in order to provide the Complainant with a pathway by which the TIX Misconduct allegations will be addressed.

C. Orientation Meeting with the Respondent

1. Upon receiving a Formal Complaint, the designated Deputy (on behalf of the TIX Coordinator) will contact the Respondent to initiate an orientation meeting.

2. Such orientation meeting or meetings will be handled on a case-by-case basis since each Respondent and the responses to any alleged incidents, behaviors or conduct are unique.

3. The initial purpose is to introduce Respondent to this Handbook while addressing any immediate or long-term questions and concerns a Respondent may have about the Handbook steps available by which the College will address the allegations along with any impact those allegations may have or will have upon the Respondent's participation in the education programs and activities of the College. As also may be appropriate, the College will address any workplace questions and concerns raised by Respondent.

4. During the orientation meeting(s), the designated Deputy will explain and answer any questions regarding:
    a. supportive measures;
    b. community resources;
    c. law enforcement;
    d. Investigation Process;
    e. Formal Grievance Process;
    f. Informal Grievance Process, if applicable and
    g. other aspects of this Handbook.

5. By obtaining from the Respondent the factual information responding to the alleged incidents, behaviors or conduct, the orientation will then address the procedures by which the responses to the allegations will be addressed.

6. Title IX and its regulations which govern this Handbook place legal requirements and restrictions upon the manner in which these allegations and the responses will be addressed by the College. Hence, the legal aspects will also be fully explained to the Respondent in order to point out the pathway by which the TIX Misconduct allegations and responses will be addressed.

D. Informational Meeting with the Advisor

Upon selection of an Advisor by a Party, the designated Deputy (on behalf of the TIX Coordinator) will offer to that Advisor an informational meeting prior to participation under this Handbook.

E. Pre-Hearing Conference

In the sole discretion of the TIX Coordinator the designated Deputy (on behalf of the TIX Coordinator) may schedule individual pre-hearing conferences with the Parties and their Advisors.

CHAPTER 8: REPORTING SUSPECTED TIX MISCONDUCT

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

1. RESPONSIBLE EMPLOYEES

a. Under this Handbook, all College employees including faculty, staff employees and administrators are considered responsible employees **required to immediately report to**

the TIX Coordinator or Deputies any incidents, behavior or conduct involving suspected TIX or other Sexual Misconduct or allegations of TIX or other Sexual Misconduct for processing, with limited exceptions for Care or Healthcare Providers as specified in this Chapter, Section A,3.

b. The College recognizes that any member of the College community who is impacted by or witnessed suspected TIX or other Sexual Misconduct may choose to report such incidents, behavior or 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 incidents, behavior or conduct to the TIX Coordinator or Deputies. Similarly, an employee may choose to confide in a supervisor or fellow employee who are also considered "responsible employees."

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

d. The TIX Coordinator and Deputies are College employees vested with the authority and responsibility to implement supportive and corrective measures for TIX Misconduct on behalf of the College under this Handbook.

e. Responsible Employees who fail to report incidents, behavior or conduct involving suspected TIX or other Sexual Misconduct or allegations of TIX or other Sexual Misconduct of which they become aware may be subject to disciplinary action up to and including termination of employment.

f. Simply reporting TIX Misconduct does not constitute a Formal Complaint. To file a Formal Complaint, refer to Chapter 9 in this Handbook for instructions.

2. RESPONSIBLE STUDENT EMPLOYEES AND STUDENT LEADERS

a. Under this Handbook, **any student employee or student leader** including, but not limited to student coaches, Student Council, Business Ambassadors, Campus Guides, Palmer Mentors, Palmer Student Alumni Foundation, class officers, student club and organization officers, student workers, student interns (with limited exceptions as specified in Chapter 8,

Section A, 3) and any other student employees or student leaders are considered "**Responsible Student Employees and Student Leaders**" who are **required to immediately report** to the **Coordinator or Deputies** any incident, behavior or conduct involving suspected TIX Misconduct with limited exceptions for Care or Healthcare Providers as specified in this Handbook (Chapter 8, Section A, 3).

b. The College recognizes that a student who is impacted by or witnessed suspected TIX Misconduct may choose to report such incident, behavior or conduct to a student employee or student leader. For example, a student may choose to confide in a student council member, class representative or a student coach, all of whom are considered "**responsible student employees and student leaders**" who must immediately report the incident to the Coordinator or Deputies.

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

d. The Coordinator and Deputies are College employees vested with the authority and responsibility to implement supportive and corrective measures for TIX Misconduct on behalf of the College under this Handbook.

e. Student employees and student leaders who fail to report incidents, behavior, or conduct involving suspected TIX Misconduct or allegations of TIX Misconduct of which they become aware may be subject to disciplinary action up to and including dismissal as a student.

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

g. Simply reporting TIX Misconduct does not constitute a Complaint. To file a Complaint, refer to Chapter 9 in this Handbook for instructions.

3. LIMITED EXCEPTIONS FOR COLLEGE HEALTHCARE PROVIDERS

a. Clinic employees and student interns are not required to report to the Title IX Coordinator or Deputies any incident, behavior or conduct involving suspected TIX Misconduct in

situations **when acting specifically as a healthcare provider** in order to protect patient confidentiality. This exception applies only to College clinic faculty, student interns, and clinic staff only when they have a legal obligation 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.

b. If the information is **not** disclosed in the course of confidential communication, the employee will be considered a "responsible employee" and the student intern will be considered a "responsible student employee or student leader" with the responsibility to disclose reports of TIX Misconduct to the Coordinator or Deputies.

c. College 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. See Sections H and I of this Chapter.

d. College Healthcare Providers are encouraged to provide information about the following:

1) Information about Confidential Community Resources may be accessed online at: https://www.palmer.edu/about-us/office-of-compliance/get-help/#campus-resources; and

2) Information regarding sexual misconduct awareness, prevention and response which may be accessed online; at https://www.palmer.edu/about-us/office-of-compliance/sexual-misconduct-prevention-and-response/.

B. How to Report Suspected TIX Misconduct to the College

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

a. By contacting the College's TIX Coordinator or any Deputy TIX Coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses

and/or phone numbers listed in this Handbook. A reporting form may be obtained from the TIX Coordinator and/or Deputies.

b. Through the College's website for online reporting.

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

2. 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, behavior or conduct occurred.

3. **Simply reporting TIX Misconduct does not constitute a Formal Complaint. To file a Formal Complaint, refer to Chapter 9 in this Handbook for instructions.**

C. Time Limit to Report Suspected TIX Misconduct

There is no time limit for making a report of suspected TIX Misconduct to the College. However, a reporting Party is strongly encouraged to bring forward such incident, behavior or conduct as soon as possible after the incident, behavior or conduct occurred.

D. Reporting Off-College Premises Suspected TIX Misconduct

All incidents, behavior or conduct of suspected TIX Misconduct, including those occurring off College premises, should be reported to the College to the TIX Coordinator. For example, when the incident, behavior or conduct:

1. is directed toward a College student or other member of the College community that occurs during an education program or activity (e.g. sporting event, recognized student club activity, preceptorship, internship, other service learning experience);
2. occurs when the Complainant or Respondent were acting in an official capacity for the College;
3. constitutes a violation of federal, state or local law or ordinance;
4. violates College policies; or
5. demonstrates a threat to College safety and security.

E. Reporting Online TIX Misconduct

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

2. 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. Medical Assistance

1. The College encourages all individuals who have experienced suspected TIX Misconduct involving an assault to immediately seek appropriate assistance from a medical provider. This is the best option to obtain any necessary care while ensuring preservation of evidence needed for an effective investigation and remedial response.

2. A medical practitioner can provide emergency and/or follow-up medical or psychological services in a confidential setting which 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 this 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 preserve any available options.

3. For information about medical assistance contact:

   a. Main Campus/Quad Cities Area Resources

   1) Genesis Hospital
      Iowa: 563-421-1000

Illinois: 309-792-9363

2) Trinity Medical Center
Iowa: 563-742-5000
Illinois: 309-779-5090

b. West Campus/Bay Area Resources

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

c. Florida campus/Port orange Area Resources

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

G. Emergency/Immediate Campus Security or Law Enforcement Reporting Options

1. CAMPUS SECURITY

a. The College encourages all members of the College community to contact Campus Security *at any time* to seek security assistance.

b. After providing security assistance or law enforcement information, Security will **promptly report** any incident, behavior or conduct involving suspected TIX or other Sexual Misconduct to the TIX Coordinator for processing under this Handbook.

c. For information or questions regarding Campus Security, see Chapter 14.

2. LOCAL LAW ENFORCEMENT

a. Individuals who have experienced suspected TIX Misconduct have the right to notify or decline to notify law enforcement. In keeping with its commitment to take appropriate steps to prevent, eliminate, and remedy such TIX Misconduct, the College encourages all impacted individuals with concerns about potential criminal conduct to seek assistance from law enforcement immediately.

b. Local law enforcement agencies do not typically notify the College of reports of criminal activity, so the College will not have notice of such an incident, behavior or conduct unless

a report is made to the TIX Coordinator. Accordingly, the College encourages impacted individuals to notify the TIX Coordinator.

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

H. Clery Act Crime Reporting Obligations

1. Under the Clery Act, crimes occurring on College premises must be reported to College Security. Such reports may remain anonymous.

2. The College is obligated to report crime statistics in its annual security report and provide those statistics to the United States Department of Education. In such cases, all personally identifiable information is kept confidential.

3. This report provides the community with a clear picture of the extent and nature of crime on College premises and in the vicinity.

4. The information reported is defined by the Clery Act and includes the location and date. This statutory reporting protects the identity of the impacted individual.

I. Clery Act Timely Warning Reporting Obligations

Individuals impacted by suspected TIX Misconduct should be aware that College officials must promptly issue warnings for incidents, behavior or conduct reported that is confirmed to pose a substantial threat of bodily harm or danger to members of the College community. The College will make reasonable efforts not to disclose an impacted individual's name and other identifying information 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 incidents, behavior or conduct of a sexual nature including suspected TIX Misconduct.

CHAPTER 9: FILING A FORMAL COMPLAINT OF TIX MISCONDUCT WITH THE COLLEGE

A. Required Elements of a Formal Complaint of TIX Misconduct

1. Simply reporting TIX Misconduct does not constitute filing a Formal Complaint.
2. The following elements are **required to file a Formal Complaint**:

    a. **The Complainant must submit** a physically or electronically signed document or electronic submission (such as by electronic mail or through an online portal) to the TIX Coordinator;

    b. **The Complainant must allege** TIX Misconduct as defined in Chapter 6 against a named Respondent;

    c. **The Formal Complaint must be filed by the individual** who experienced the alleged TIX Misconduct;

    d. **The Complainant must allege** as the person who experienced the misconduct that he/she was participating or attempting to participate in a College Education Program or Activity in the United States at the time of the TIX Misconduct; and

    e. **The Complainant must request** the College investigate the allegation(s).

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

3. Even if the Respondent is unknown or is not a student or employee of the College, the TIX Coordinator will assist the Complainant in identifying appropriate College supportive measures; local resources; and/or when criminal conduct is alleged may assist the Complainant in reporting to law enforcement.

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

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

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

    b. Online at: Report a Complaint

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

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

1. There is no time limit for filing a Formal Complaint with the TIX Coordinator. However, a Complainant is strongly encouraged to file a Formal Complaint as soon as possible.

2. Acting on a Formal Complaint significantly impacted by the passage of time (including, but not limited to, any amendment to this Handbook) is at the discretion of the TIX Coordinator, who may document allegations for future reference, offer supportive measures, corrective measures, and/or engage in informal or formal action as appropriate.

3. At the discretion of the TIX Coordinator, when a Formal Complaint is impacted by a significant delay, the TIX Coordinator will typically apply the Handbook in place at the time of the alleged TIX Misconduct.

4. The College may ultimately be unable to adequately investigate a Formal 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; identify confidential community and campus resources and also provide available supportive measures (See Chapter 12).

D. Criminal Complaint

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

2. The College encourages a Complainant to pursue criminal action for incidents of TIX Misconduct that may also be crimes. Upon request, the College will also assist the Complainant in making a criminal report (See Chapter 14). The College will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process.

3. 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.

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

E. College Formal Complaint

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

2. Requests from an individual who does not file a Formal Complaint or a reporting Party to "just record my concerns" or "not take any action at this time" may not be honored depending on the circumstances involved. If at any time the College believes an investigation is justified, an investigation may proceed.

F. External Complaint

Individuals may file a Complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting http://www2.ed.gov/about/offices/list/ocr/Complaintintro.html or calling 1-800-421-3481.

1. OFFICE FOR CIVIL RIGHTS (OCR)

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

2. REGIONAL OFFICE FOR CALIFORNIA

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

3. REGIONAL OFFICE FOR FLORIDA

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

4. REGIONAL OFFICE FOR IOWA

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

CHAPTER 10: ANONYMITY AND AMNESTY

A. Anonymity

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

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

3. **Anonymous reports do <u>not</u> constitute a Formal Complaint**. A formal complaint requires the name, signature and contact information of the Complainant.

B. Student Amnesty

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

2. 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.

CHAPTER 11: PRIVACY AND CONFIDENTIALITY

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.

A. Privacy

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

2. The College makes reasonable efforts to maintain the privacy of the information it receives in connection with reports and Formal Complaints of TIX Misconduct. However, information is appropriately shared with a limited number of College employees who have a legitimate educational "need to know" when disclosure is required by law, policy, or is necessary to facilitate established College processes, including but not limited to an equitable investigation and resolution of Formal Complaints under this Handbook.

3. All employees who are involved in implementing this Handbook receive 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.

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

B. Confidentiality

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. **PRIVATE PRACTITIONERS**

    a. 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. These individuals are referred to as Private Practitioners.

    b. This means when a Party shares information with a Private Practitioner, that Practitioner 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:

        1) the individual gives written consent for its disclosure;

2) there is a concern the individual has caused or is likely to cause serious physical harm to self or others; or

3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities.

c. The College recognizes the decision whether or not to report or file a Formal Complaint of TIX Misconduct is personal. Individuals are not required to pursue a specific course of action. Not every individual will choose to report or file a Formal Complaint of TIX Misconduct to the College or to law enforcement. Alternatively, some may choose to seek assistance from a Private Practitioner.

d. There are Private Practitioners who provide or refer individuals to other confidential community resources to discuss an incident of TIX or other sexual misconduct in a confidential manner without:

1) making a report to the College;

2) filing a Formal Complaint with the TIX Coordinator;

3) triggering an investigation; or

4) other action by the College.

e. Certain Private Practitioners may; however, share non-identifiable information for statistical tracking purposes or as required by the Clery Act.

f. Individuals impacted by suspected TIX Misconduct are encouraged to seek at their own initiative the support of available confidential community resources of their choice, regardless of whether or not the incidents, behaviors or conduct were reported to the TIX Coordinator.

g. Confidential community resources can provide crisis intervention services, counseling, medical attention and also assistance in interfacing with the criminal justice system.

h. All individuals who have experienced or have been impacted by suspected TIX Misconduct are encouraged to utilize the resources that are the best suited to their needs.

i. Information about **confidential community resources** is updated periodically and is located on the College's website at: **Get Help**.

2. COLLEGE HEALTHCARE PROVIDERS

a. In addition to Private Practitioners, College clinic faculty, student interns, and clinic staff, have the same legal obligation of confidentiality. This obligation applies when an employee or student intern learned the information **when acting in a healthcare provider capacity in the course of confidential communication**.

b. If the information is ***not*** disclosed in the course of confidential communications, when acting in a healthcare provider capacity, the employee or student intern will be considered a "**responsible employee**" who is required under this Handbook to disclose reports of suspected TIX Misconduct to the TIX Coordinator or Deputy. The Coordinator and Deputies are the Officials with Authority (OWA's) responsible for implementing the procedures in this Handbook. See Chapter 8.

c. College clinic faculty, student interns, and clinic staff receive specific training and guidance about safeguarding confidential patient information in accordance with applicable state and federal laws.

d. Under the Clery Act, College 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.

e. College Healthcare Providers are encouraged to provide to all individuals impacted by suspected TIX Misconduct the College's information regarding Sexual Misconduct Prevention and Response located on the College's website at: https://www.palmer.edu/about-us/office-of-compliance/sexual-misconduct-prevention-and-response/.

f. 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/

3. NON-ATTORNEY ADVISORS

a. TIX Regulations have established that Complainants and Respondents are entitled to Advisors who serve in a supportive role under this Handbook.

b. In order to effectively perform the Advisory role, this Handbook provides limited confidentiality between a Non-Attorney Advisor and Advisee.

c. This means when a Complainant or Respondent shares information with their Advisor, the Advisor cannot disclose the information to any third party except when:

1) the Advisee gives written consent for its disclosure;

2) the information is likely sufficient to alter relevant facts gathered during an investigation, responsibility determination or, if applicable, sanctions/discipline;

3) there is a concern the Advisee likely caused or will likely cause serious physical harm to self or others;

4) the Advisee asked the Advisor to engage in unethical conduct such as misleading or concealing evidence;

5) the Advisor knows the Advisee is knowingly providing false or misleading information;

6) the information is likely sufficient to show a threat of disruption of or interference with the normal operations of the College.

d. For general information about the Advisors role refer to Chapter 17.

CHAPTER 12: SUPPORTIVE MEASURES FOR COMPLAINANTS AND RESPONDENTS

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

B. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to restore or preserve

access to the College's education program or activity, including measures designed to protect the safety of all Parties or the College's educational environment, and/or deter TIX Misconduct and/or retaliation.

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

D. Upon receiving a report of suspected TIX Misconduct, the TIX Coordinator will promptly contact the Complainant to discuss the appropriate and reasonably available supportive measures taking into considerations the Complainant's wishes. In addition, the TIX Coordinator will inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint. The TIX Coordinator will explain to the Complainant the process for filing a Formal Complaint and available options for resolution.

E. Finally, the TIX Coordinator will also consider supportive measures as appropriate and reasonably available for the Respondent.

F. 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.

G. To the extent possible, the College will:

1. Maintain the privacy of supportive measures, provided that privacy does not materially impair the College's ability to provide the supportive measures.
2. Act in a manner to minimize any academic impact on the Parties as reasonably possible.
3. Implement measures in a way that does not unreasonably burden either Party.

H. The supportive measures provided to either or both Parties may change over time. The Parties are encouraged to communicate with the TIX Coordinator throughout the process so that such measures are effective and appropriate based upon the Parties evolving needs. Such measures as then appropriate may be kept in place after a report of suspected TIX Misconduct and/or any Formal Complaint has been resolved.

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

1. LIMITED-CONTACT DIRECTIVE

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

2. RESTRICTED ACCESS

The College may limit either or both Parties' access to certain College facilities, education programs or activities as part of a limited contact directive.

3. FACILITATION OF COMPLIANCE WITH A COURT ORDER ON COLLEGE PREMISES

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 compliance with an order that pertains to College premises.

4. 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:

a. 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;
b. Employment modifications such as but not limited to work assignments; scheduling; work locations; or leaves of absence.

5. STUDENT HOUSING MODIFICATIONS

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

6. 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 College premises for movement between classes and activities.

7. EMOTIONAL SUPPORT

The College may assist in identifying and referring either or both Parties to community services for counseling, emotional support and other helpful community resources listed on the College's website.

8. DISABILITY ACCOMMODATIONS

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

b. If and in the event a request for reasonable accommodation may require an extension of a timeframe for good cause, the TIX Coordinator will notify both parties of any such extension.

9. FAILURE TO COMPLY WITH SUPPORTIVE MEASURES

Either or both Parties are encouraged to report concerns to the TIX Coordinator 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 sanctions/discipline.

CHAPTER 13: EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE

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

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

C. An emergency removal is not a determination of responsibility or sanctions/discipline imposed for the alleged TIX Misconduct. The presumption of innocence remains until a determination is made at the conclusion of the Formal Grievance Process.

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

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

1. STEP 1: PROMPT INDIVIDUALIZED SAFETY AND RISK ANALYSIS

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

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

2. STEP 2: REQUIRED FINDINGS OF IMMEDIATE THREAT TO THE PHYSICAL HEALTH OR SAFETY OF ANOTHER

a. 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.

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

c. 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.

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

3. 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.

4. STEP 4: APPROPRIATENESS OF SUPPORTIVE MEASURES RATHER THAN AN EMERGENCY REMOVAL

a. The emergency removal analysis requires a careful balancing of concurrent factors such as to:
   1) provide equal access to education programs and activities;
   2) consider the adverse impact of separating the Respondent from educational opportunities and benefits; and
   3) satisfy the College’s obligation to protect the health and safety of its community.

b. In assessing an emergency removal, the College will also consider the anticipated timing to complete an investigation and the grievance process since removal will vary

in its length and impact based upon the duration of the process. The College may conduct interim assessments of whether the immediate threat to physical health or safety of a student, employee or another individual remains unchanged or has sufficiently dissipated to support the Respondent's return to the education programs and activities, in whole or in part.

5. STEP 5: POST REMOVAL CHALLENGE

a. 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.

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

6. ADMINISTRATIVE LEAVE

a. Consistent with applicable collective bargaining agreements, faculty handbooks, Employee Handbooks, and other College policies and procedures, the College has the authority to place an employee or faculty Respondent on administrative leave during the TIX Misconduct process.

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

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

CHAPTER 14: CAMPUS SECURITY

A. Campus Security Assistance

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

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

B. Campus Security's Responsibility to Refer for Processing

After providing security assistance or law enforcement information, Security will **promptly report** any incident, behavior or conduct involving suspected TIX Misconduct or other Sexual Misconduct or allegations of TIX or other Sexual Misconduct to the TIX Coordinator.

C. Campus Security Contact Information

For information or questions regarding Campus Security contact:

1. 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

2. WEST CAMPUS

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

Security is provided by First Security Services, a third party contractor. For additional information contact:

Brian Sharkey
Senior Director for Campus Safety and Security
563-884-5147
brian.sharkey@palmer.edu

3. 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.eduOperational hours: 386-763-2777 or 32777 from a campus phone

After hours: 800-227-9805

CHAPTER 15: CAMPUS SUPPORT SERVICES

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

A. Main Campus

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

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

B. West Campus

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

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

C. Florida Campus

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

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

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

A. Actual Knowledge

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

2. The College's officials with Authority (OWA) to institute corrective measures under this Handbook on behalf of the College include the TIX Coordinator and Deputies. Therefore, all College employees (including faculty, employees and administrators), coaches, student employees, student leaders, and student organization officers are considered responsible employees **required to immediately report to the Coordinator or Deputies** any incident, behavior or conduct involving suspected TIX Misconduct or other Sexual Misconduct with limited exceptions for College Healthcare Providers. See Chapter 8.

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

B. Examination of Reports of TIX Misconduct for TIX Jurisdiction

1. **EXAMINATION OF REPORTS FOR JURISDICTION ASSESSMENT**

   a. Although a report of suspected TIX Misconduct or other non-TIX Sexual Misconduct may be received through many sources, the College has directed all such reports be brought to the TIX Coordinator. The TIX Coordinator shall respond to all reports and Formal Complaints of TIX Misconduct.

      TIX Misconduct grievance processes are designed to address:

      1) the unique nature of the allegations;
      2) the location where the misconduct took place;
      3) the person making the allegation
      4) the person against whom the allegation is directed (i.e. employee, faculty, student, 3rd party); and
      5) each person's association with the College.

   b. Accordingly, reports of suspected TIX Misconduct are reviewed by the TIX Coordinator in order that such reports are referred to the jurisdiction of the appropriate internal College process.

2. **SCOPE AND JURISDICTION**

   Reports found to meet the scope and jurisdiction of Title IX will be processed under this Handbook. See Chapter 4 for greater detail. Reports of non-TIX Sexual Misconduct will be formally dismissed under this Handbook and referred to the jurisdiction of another appropriate internal College process.

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. Promptness

1. All allegations are acted upon as promptly and efficiently as possible by the College once the TIX Coordinator has actual knowledge of a report of suspected TIX Misconduct or a Formal Complaint.

2. The resolution of reports of suspected TIX Misconduct and/or Formal Complaints typically may take 60-90 academic days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

3. Many complaints may require extensive review and time frames will vary depending on the complexity, severity, extent and other important factors regarding the alleged TIX Misconduct.

4. General time frames in this Handbook may be extended for good cause including, but is 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 absence/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 reasonable accommodation of disabilities;
    h. the necessity for the College to troubleshoot technology to conduct a virtual proceeding; and
    i. any other extenuating circumstances outside of the College's control as decided by the TIX Coordinator or Investigators.

5. Any time the general time frames for resolution outlined in this Handbook may be extended for good cause, the TIX Coordinator will provide written notice to the Parties of the extension and cause of the extension.

E. Notification of Allegations, Intent to Investigate and Additional Details

1. NOTIFICATION TO THE RESPONDENT

a. When the College receives a Formal Complaint alleging TIX Misconduct that it intends to investigate, the Respondent will be notified of such intent in writing including sufficient information known at the time (i.e. time and location) upon commencement of the Formal Process.

b. 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:

    1) identity of the Parties involved (if known);
    2) specific TIX Misconduct alleged;
    3) conduct constituting the alleged misconduct; and

4) date(s) and location(s) of the alleged incident(s), behavior(s) or conduct (if known).

2. NOTIFICATION TO THE COMPLAINANT

The Complainant will also be notified upon commencement of the Formal Process.

3. NOTIFICATION TO THE COMPLAINANT AND RESPONDENT OF ADDITIONAL INFORMATION

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

CHAPTER 17: ADVISORS

A. Right to an Advisor

1. Complainants or Respondents have the right to select an Advisor of choice to assist them during the Investigation, the Informal and Formal Process.

2. The Parties may select an Advisor as early as possible.

3. The Parties also have the right to choose not to have an Advisor at any point. Except, an Advisor is **required** for the purpose of conducting cross-examinations at a live hearing.

4. If a Party fails to choose an Advisor for the live hearing, then the TIX Coordinator will assign an Advisor from the pool of trained non-Attorney Advisors identified by the College.

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

6. Witnesses are not entitled to Advisors.

B. Who Can Serve as an Advisor

1. The Advisor may be a friend, mentor, family member, union representative, or other individual to advise, support, and/or consult with that Party.

2. Either Party may select an attorney as Advisor, at their own expense.

3. Alternatively, either Party may select an Advisor from the College's pool of trained Advisors who are familiar with this Handbook. The pool does not include attorneys. If a Party so

chooses, the TIX Coordinator will offer to assign a trained Advisor to that Party at any time under this Handbook.

4. The Parties shall notify the TIX Coordinator of the identity of an Advisor and submit a signed College form release **at least three academic days prior to participating** under this Handbook.

5. If either Party chooses an Advisor from outside the pool of those identified by the College, that Advisor may not be trained and familiar with this Handbook.

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

7. The College at its expense may also appoint an attorney to represent the College's interests under this Handbook.

8. In selecting an Advisor, the Party Advisee (Advisee) must understand the TIX Coordinator must be satisfied that the chosen Advisor has the availability, time and inclination to fully participate to avoid any unreasonable scheduling delays. Accordingly, not only the Advisor but also the Advisee must adjust their schedules to comply with the reasonably prompt time frames set by the College.

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

10. An Advisor may be disallowed if that individual is identified as a witness to be interviewed during the investigation or to testify at the live hearing. The reason being that an Advisor may not cross-examine ones-self.

11. The Advisor cannot have institutionally conflicting roles, such as being a TIX Coordinator or Deputy who has an active role in the matter, or a supervisor who must monitor and implement sanctions/discipline, if applicable. An Advisor must be free from conflicts of interest (whether actual, potential or perceived) with the interest of the Party being advised.

12. A Party may elect to change Advisors. In other words, the Parties are not obligated to use the same Advisor throughout these proceedings. The Parties will provide timely notice to the TIX Coordinator if either Party intends to change Advisors at any time.

C. Sharing Information with Advisors

1. If a Party selects an Advisor, then the Advisor must have access to documentation and evidence gathered under this Handbook.

2. A student Party who engages an Advisor must complete a Family Education Rights and Privacy Act (FERPA) College release form prior to the Advisor participating under this Handbook. The student Party must complete, sign and submit this form to the TIX Coordinator demonstrating consent to release of education information gathered under this Handbook and any other education records to the Advisor before the College will share such records with the Advisor.

3. A non-student Party employee who engages an Advisor must complete, sign and submit a College form release of employment information prior to the Advisor participating under this Handbook. This form must be submitted to the TIX Coordinator demonstrating consent to release of employment information gathered under this Handbook and any other employment records before the College will share such records with the Advisor.

4. The College's duty is to the Complainant and Respondent not to either of their Advisors. All communications made directly with the Parties may be shared with Advisors, if specifically requested in writing and signed by the Advisee.

5. Advisors are expected to maintain the privacy of the records shared with them. Records shared with Advisors for the purposes under this Handbook may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College.

6. The College may remove any Advisor who fails to abide by the College's privacy expectations under this Handbook.

7. If a Party changes Advisors, consent to share information with the previous Advisor is terminated. A College release for the new Advisor must be signed by the Party and submitted to the TIX Coordinator.

D. Informational Meeting

Upon selection of an Advisor by a Party, that Advisor is encouraged to accept the offer to participate in an informational meeting with the designated Deputy (on behalf of the TIX Coordinator) prior to participation in any part of the process to understand their role as limited and defined by this Handbook.

E. Advisor's Role

1. ADVISOR'S ROLE IN THE INFORMAL GRIEVANCE PROCESS

a. The role of the Advisor within the Informal Grievance Process is limited.

b. The Advisor may be present in any meeting during one of the chosen formats:

1) If the Parties choose to **meet together** with the TIX Coordinator in person or through a technologically-assisted medium such as Skype, Teams, Zoom, FaceTime, WebEx, or similar technology, the Advisor may be present during the Advisee's meeting(s) with the TIX Coordinator and the other Party.

2) If the Parties choose to **meet individually** with the TIX Coordinator in person or through a technologically-assisted medium such as Skype, Teams, Zoom, FaceTime, WebEx, or similar technology, the Advisor may be present during the Advisee's meeting(s) with the TIX Coordinator.

c. Complainants and Respondents are expected to directly respond to questions from the TIX Coordinator or the other Party on their own behalf throughout the meeting(s).

d. When a question is pending to be answered an Advisor may not consult with the Advisee.

e. The Advisor may not speak on behalf of the Advisee to the TIX Coordinator or the other Party.

f. During the meeting(s) the Advisor may not make a presentation on behalf of the Advisee.

g. The Advisor may not testify in or obstruct or disrupt meeting(s).

h. The Advisor may not offer facts or submit argument on behalf of the Advisee.

i. The Advisor may not author written submissions on behalf of the Advisee.

j. The Advisor may not ask questions of the Advisee. Any questions posed or factual assertions or argument provided by the Advisor during an Advisee's meeting(s) is prohibited.

k. The TIX Coordinator(s) has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this Handbook.

2. ADVISOR'S ROLE IN THE FORMAL GRIEVANCE PROCESS

a. The role of the Advisor within the Formal Process is limited.

b. The Advisor may accompany their Advisee during the Formal Process.

c. Advisors are expected to be civil and not engage in behavior that violates collegial standards such as talking over someone, yelling, interrupting, taking an aggressive stance towards someone or any other behavior that is deemed disruptive.

d. Advisors are not to disrupt any meeting or proceeding by making opening or closing statements or by advising their Advisee to refuse from answering questions.

e. Advisors are not permitted to interrupt or interject while the Advisee or someone else is testifying or being interviewed, or otherwise delay or obstruct a proceeding.

f. All Advisors including union representatives and attorneys are subject to this Handbook.

3. ADVISOR'S ROLE DURING THE INVESTIGATION

a. The role of the Advisor within the investigation is limited.

b. The Advisor may be present during the Advisee's interview(s) with the investigator(s).

c. Complainants and Respondents are expected to directly respond to questions from the Investigator(s) on their own behalf throughout the investigation.

d. When a question is pending to be answered an Advisor may not consult with the Advisee.

e. The Advisor may not speak on behalf of the Advisee to the Investigator(s).

f. During an interview the Advisor may not make a presentation on behalf of the Advisee.

g. The Advisor may not testify in or obstruct or disrupt an interview.

h. The Advisor may not offer facts or submit argument on behalf of the Advisee.

i. The Advisor may not author written submissions on behalf of the Advisee.

j. The Advisor may not ask questions of the Advisee. Any questions posed or factual assertions or argument provided by the Advisor during an Advisee's interview is prohibited.

k. The Investigator(s) has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this Handbook.

4. ADVISOR'S ROLE DURING THE HEARING

a. The role of an Advisor in the hearing is limited. During the appointed time after the Hearing Panel has fully completed their initial questioning then, an Advisor will conduct cross-examination of the other Party, Investigators and witnesses.

b. An Advisor may not question their own Advisee.

c. Other than during cross-examination, the Advisor may not ask questions of the Parties, Investigators or witnesses. Any questions posed or factual assertions or argument provided by the Advisor during the hearing is prohibited.

d. Complainants and Respondents are expected to directly respond to questions from the Hearing Panel and Advisors on their own behalf throughout the hearing.

e. When a question is pending to be answered an Advisor may not consult with the Advisee. The Advisor may not speak on behalf of the Advisee to the questioner.

f. During the hearing, the Advisor may not make a presentation on behalf of the Advisee.

g. The Advisor may not testify in or obstruct or disrupt the hearing.

h. The Advisor may not offer facts or submit argument on behalf of the Advisee.

i. The Advisor may not author written submissions on behalf of the Advisee.

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

CHAPTER 18: INFORMAL GRIEVANCE PROCESS

A. General Guidelines for Informal Grievance Process

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

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

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

4. The Department of Education's regulations permit the use of an Informal Process if the Formal Complaint involves:

   a. a student Complainant and a student Respondent;
   b. an employee Complainant and an employee Respondent; or
   c. an employee Complainant and a student Respondent.

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

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

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

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

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

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

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

B. Voluntary Written Consent from Complainant and Respondent

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

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

    a. the TIX Misconduct Complaint allegations;

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

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

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

C. Course of Informal Grievance Process

1. Once voluntary written consent has been obtained, the Parties may choose to meet in any of the following formats:

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

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

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

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

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

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

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

D. Informal Grievance Process Time Frame

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

CHAPTER 19: FORMAL GRIEVANCE PROCESS

A. General Guidelines

1. This Formal Process is the same for Formal Complaints whether the Parties are students, employees, faculty or other individuals participating in one of the College's education programs or activities.

2. This Formal Process will take place when a Formal Complaint is brought forward that is not informally resolved under Chapter 18 and either Party seeks a formal resolution.

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

4. The Formal Process is private. All persons present at any time during the Formal Process are expected to maintain the privacy of the proceedings in accordance with this Handbook. 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. Before doing so, the College encourages Parties to discuss this with their Advisors.

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 engaged in TIX Misconduct.

C. Dismissal of a Formal Complaint

1. The College may dismiss a Formal Complaint, in whole or in part, if:

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

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

    c. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination of responsibility.

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

CHAPTER 20: INVESTIGATIONS

A. Decision to Conduct an Investigation

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

1. The complaint has not been informally resolved under Chapter 18;
2. Either Party seeks a formal resolution; or
3. The College deems a formal resolution is appropriate.

B. Investigators

1. PERSONS AUTHORIZED TO CONDUCT AN INVESTIGATION

No one other than the Investigators selected by the TIX Coordinator will be authorized to investigate on behalf of the College.

2. APPOINTMENT OF INVESTIGATORS

a. The TIX Coordinator will select Investigators who are impartial; free of conflicts of interest and biases for or against Complainants or Respondents generally; or the individual Complainant or Respondent.

b. Typically, two individuals will be selected to serve as Investigators. The TIX Coordinator has the discretion to determine whether the Investigators will be internal (a College employee) or external (an individual outside of the College community), or a combination of both internal and external Investigators.

3. INVESTIGATOR TRAINING

Investigators have received appropriate training in applying this Handbook.

4. PARTIES' REVIEW OF POTENTIAL INVESTIGATORS

a. The Parties will have been provided with a list of potential investigators during their individual orientation meetings. See Chapter 7.

b. The Parties may request an Investigator(s) be excused from consideration because of a conflict of interest or bias.

c. Such request must be made in writing to the TIX Coordinator within five (5) academic days after the orientation.

d. The TIX Coordinator will determine if such conflict or bias is present by examining the particular facts of the situation; objectively deciding whether a reasonable person would believe a conflict is present; and taking appropriate remedial action, if any.

e. The TIX Coordinator's decision is final.

C. General Principles of an Investigation

1. FACT-FINDING PROCESS

The investigation is a neutral, fact-finding process.

2. INVESTIGATION TIME FRAME

a. 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 typically not to exceed sixty (60) academic days. The time frame is not binding and creates no rights for the Parties.

b. There may be circumstances that require the extension of the time frame for good cause. The TIX Coordinator will notify the Parties in writing of any extension of the time frame for good cause, and the reason for the extension. The Parties will also be notified, in writing, when the investigation will resume, if there was a temporary pause.

c. Although cooperation with law enforcement may require the College to temporarily pause 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 as determined by the College.

d. The College will not generally wait for the conclusion of any criminal investigation or proceeding to commence its own investigation. If appropriate, the College will take immediate steps to provide supportive measures for the Complainant and Respondent when law enforcement temporarily delays or impacts the College's investigation.

3. COLLEGE'S BURDENS OF PROOF AND GATHERING EVIDENCE

a. The burdens of proof and gathering evidence do not rest with either Party. The College, **not** the Parties, has the burden of proof and also the burden of gathering evidence.

b. The Investigators will gather facts and evidence.

c. The Parties and witnesses are expected to provide all available relevant evidence to the Investigators.

d. Either Party's decision to not participate at all or partially participate does not shift the burden of proof away from the College.

4. NO DETERMINATION OF RESPONSIBILITY BY INVESTIGATORS

a. It is **not** the Investigators' role to determine the responsibility, if any, of the Respondent. For more information regarding determination of responsibility. See Chapter 22.

b. Following the hearing and after deliberation, the Hearing Panel shall make a determination (see Chapter 22), by a preponderance of the evidence, whether or not the Respondent has been shown to be responsible for prohibited TIX Misconduct as defined in Chapter 6.

5. PRESUMPTION OF GOOD FAITH

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

6. PRESUMPTION OF INNOCENCE

The Respondent is presumed not responsible until a determination is made at the conclusion of the live hearing after deliberation by the Hearing Panel, subject to the right of appeal.

7. INFORMATION PROTECTED BY LEGAL PRIVILEGE

a. The Investigators will seek, but not require, a voluntary waiver by the Party if the information is protected under a legally recognized privilege.

b. Information protected by legal privilege may not be relied upon by the Investigators, Hearing Panel, or an Appeal Official unless the privilege is voluntarily waived.

8. EVIDENCE

a. Relevant Evidence

1) For the purposes of the investigation, the Investigators will decide whether the evidence gathered is relevant.

2) Evidence is relevant if:
   (a) It has a tendency to make a fact more or less probable than it would be without the evidence; and

(b) The fact is of consequence in proving or disproving the Formal Complaint allegations.

b. Pattern Evidence

1) Information of TIX Misconduct that is so distinctly similar and closely resembling the TIX Misconduct alleged in the Formal Complaint may be considered as evidence.

2) The Investigators may consider this as pattern evidence regardless of whether there has been a prior finding of responsibility against either Party.

3) Pattern evidence may occur before or after the alleged TIX Misconduct under investigation.

c. Other Disciplinary Cases

Information about prior, concurrent or pending College disciplinary or Criminal Court charges involving the Complainant or Respondent is typically viewed as irrelevant unless decided by the Investigators to be so distinctly similar and closely resembling the misconduct alleged in the Formal Complaint such that the other conduct may be related to that which would be considered pattern evidence.

d. Character Evidence

1) Information that does not directly relate to the facts at issue but instead reflects upon the reputation, personality, qualities, or habits of an individual is character evidence.

2) If relevant, such evidence will be given lesser weight than information that directly relates to the facts under investigation that directly relate to the facts at issue.

e. Prior Sexual Behavior

1) An individual's character or reputation with respect to sexual activity is not typically relevant and is not ordinarily considered as evidence.

2) However, an individual's prior or subsequent sexual activity will be considered as relevant evidence when offered to prove:

   (a) that someone other than the Respondent engaged in the alleged TIX misconduct; or

   (b) consent based upon evidence concerning specific sexual incidents, behavior or conduct between Complainant and Respondent.

   For example, prior sexual history may be relevant to explain the presence of a physical injury or to assist in addressing other questions raised by the investigation.

3) The Investigators will determine the relevance of such information.

D. Investigation Process

1. NOTICE TO THE PARTIES OF AN INVESTIGATION

a. When the College receives a Formal Complaint that it intends to investigate, the Complainant and Respondent will be notified in writing of such intent. The initial notification may be somewhat limited by the factual details provided to the TIX Coordinator by the Complainant. However, the TIX Coordinator will notify the Complainant and Respondent, in writing, of the following information, **if known**:

1) a copy or link to this Handbook;
2) the identity of the Complainant(s) and Respondent(s);
3) the nature of the facts and circumstances of the reported TIX Misconduct;
4) the applicable type of TIX Misconduct as defined in Chapter 6;
5) the approximate date and location of the alleged TIX Misconduct;
6) the names of the assigned Investigators;
7) information about the Parties' right to have an Advisor of their choice at their own expense who may be but is not required to be an attorney;
8) information about the right to review evidence at the appropriate stages;

9) the presumption that the Respondent is not responsible for the alleged TIX Misconduct until a responsibility determination is made only after the live hearing before a Hearing Panel with rights of appeal;
10) the College's prohibition against knowingly making false statements and submitting false information during the Formal Grievance Process; and
11) the College's prohibition against retaliation.

b. As more information becomes available during the investigation, then, additional details about the Formal Complaint will be equally provided to the Complainant and Respondent.

c. If, during the investigation additional facts come to light, then the TIX Coordinator may provide supplemental notices to the Parties:

1) Amending the Formal Complaint to include those additional facts; or
2) Refer the additional facts to another College process and procedure.

d. The Parties will be provided sufficient time to review those additional facts with an opportunity to timely submit responses in writing.

2. 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 Formal Complaint; and
c. synthesizing all available evidence which may include not only inculpatory but also exculpatory evidence.
    1) inculpatory evidence shows or tends to show Respondent may have engaged in TIX Misconduct as alleged.
    2) exculpatory evidence shows or tends to show Respondent may not have engaged in TIX Misconduct as alleged.

3. EQUAL OPPORTUNITY FOR PARTIES' PARTICIPATION

a. The Investigators will offer an equal opportunity to the Parties to discuss the Formal Complaint and present all information related to the Formal Complaint including, but not limited to, identify the names of witnesses for the Investigators to interview including fact

and expert witnesses; suggest questions to be posed to the other Party or witnesses; present emails, texts, social media posts, photographs, video footage, and any other inculpatory and exculpatory evidence.

b. Even though Parties are not restricted from presenting evidence attesting to the Parties' character, such evidence generally is not considered relevant.

c. The Investigators may decline to interview witnesses the Investigators deem unlikely to yield relevant information.

d. During the course of the investigation, the Investigators may independently identify and interview witnesses and obtain evidence other than presented by the Parties. The Investigators will identify and request relevant information from any available source.

4. PARTIES NON-PARTICIPATION IN THE INVESTIGATION PROCESS

a. Either Party may decide not to share their account of what occurred or may decide not to participate at all in an investigation and/or any step of the Formal Grievance Process and any subsequent appeal. In that event:

1) Declining to fully participate may impact the timing and gathering of evidence during the investigation.

2) Declining to fully participate in the investigation may preclude a Complainant or Respondent from fully participating in the Formal Grievance Process.

3) In the absence of good cause, information that was discoverable and could or should have been presented to the Investigators during the evidence gathering step of the Investigation will generally neither be presented to or considered by the Hearing Panel or Appeal Official.

b. The College will not draw any adverse inference from a Complainant's or Respondent's decision not to participate.

5. WITNESS PARTICIPATION IN COLLEGE TIX INVESTIGATIONS

a. Generally, a witness is a person who has observed some or all of the alleged TIX Misconduct or has other information directly related to those allegations.

b. Witnesses are encouraged to fully cooperate with and truthfully participate fully in the College's investigation and Formal Grievance Process.

6. WITNESS NON-PARTICIPATION IN COLLEGE TIX INVESTIGATIONS

a. A witness may choose not to share their account of what was witnessed or not to participate at all in an investigation and/or any step of the Formal Grievance Process. In that event:

   1) Declining to fully participate in the investigation may preclude a witness from participating in the Formal Grievance Process.

   2) In the absence of good cause, information that was discoverable and could or should have been presented to the Investigators during the evidence gathering step of the Investigation will generally neither be presented to or considered by the Hearing Panel or Appeal Official.

   3) The College will not draw any adverse inference regarding a witness, Complainant or Respondent should a witness identified by a Complainant or Respondent decide not to participate.

b. The College recognizes witnesses may be reluctant to participate. Witnesses may have reasonable concerns that their participation may influence or impact their academic, workplace or future professional endeavors.

c. Individuals who have such reasonable concerns are strongly encouraged to contact the TIX Coordinator to discuss possible ways by which the College may prevent acts of retaliation; respond to retaliation that may occur; and work with a witness to provide alternatives to minimize such concerns.

d. The TIX Coordinator or Investigators will inform all participants they are prohibited from retaliating against the Complainant, Respondent, witnesses or others involved in the Formal Grievance Process.

e. Retaliation may take many forms such as sharing information in a manner intended to pressure or shame the Parties and witnesses in connection with the investigation and Formal Grievance Process, or to discourage Parties and witnesses from assisting with this Process.

f. It is strongly encouraged that anyone experiencing retaliation contact the TIX Coordinator immediately in order that the matter may be addressed appropriately.

g. In order to protect the integrity of the investigation, witnesses are to keep information learned during the investigation as private by not sharing such information with others.

7. NOTICE TO THE PARTIES OF INVESTIGATION INTERVIEWS

a. The Investigators will meet and interview separately the Complainant and Respondent.

b. The Complainant and Respondent will receive written notice of their individual investigation interviews including the date, time, location, participants, and purpose of all investigation interviews with sufficient time for the Party to prepare and participate in their individual interview.

8. MULTIPLE INTERVIEWS

a. The Investigators may request to interview the Complainant, Respondent or any witness more than once during the investigatory process.

b. The Investigators' request to interview one Party more times than the other or one witness more times than others is not reflective of bias or unfairness.

9. AUDIO RECORDINGS OF INTERVIEWS

a. Interviews conducted by the Investigators may be audio recorded for note taking purposes.

b. The Parties and witnesses may request to listen to their own audio recorded interview but may not access the recorded interviews of others.

c. No one other than the Investigators will be allowed to audio record investigation interviews. To do so may result in sanctions/discipline.

10. LOCATION

a. 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.

b. Skype, Teams, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigators determine that timeliness, efficiency or other circumstances

dictate a need for remote interviewing.

c. The College will take appropriate steps to reasonably protect the security/privacy of remote interviews.

G. Evidence File

1. After the Investigators have completed their interviews and gathering of evidence, an Evidence File will be assembled.

2. The Evidence File will include directly and indirectly related evidence related to the Formal Complaint, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility along with any inculpatory or exculpatory evidence obtained.

3. The Evidence File may include, as applicable, summaries of the Parties' and witnesses' interviews and other collected documents and evidence.

4. Initially, the Evidence File, including any updated supplemental Notice of Allegations, will be provided by the Investigators to the TIX Coordinator.

5. The TIX Coordinator will provide the Evidence File to each Party and their Advisors in an electronic format of the College's choosing, such as a secure file-sharing platform.

6. The Parties and their Advisors are not permitted to download, copy, photograph, print screen, or take other measures designed to retain, forward or disseminate copies of the Evidence File. The Evidence File is confidential. Accordingly, the Complainant, Respondent and Advisors are expected to maintain its confidentiality.

H. Parties' Written Responses to the Evidence File

1. The Complainant and Respondent will have **ten (10) academic days** from the date the Evidence File was sent by the TIX Coordinator to submit a written response to the TIX Coordinator. The timely written response may offer corrections, provide context, clarify information, challenge assertions, suggest additional witnesses, identify relevant evidence that may be missing, and/or note any other relevant information.

2. The Complainant's and Respondent's timely written responses shall be provided to the TIX Coordinator in the electronic format chosen by the College.

3. The TIX Coordinator shall provide to each Party a copy of a timely written response received if any, to the other Party.

4. Once all Parties have submitted timely written responses, or the ten (10) academic days have elapsed, the Investigators will review and consider the written responses. The Investigators, if warranted, may conduct any further investigation.

5. The Parties recognize gathering additional information by a further investigation may cause the timelines for the completion of the investigation and the Formal Grievance Process to be extended.

I. Investigation Report

1. The Investigators will draft the Investigation Report.

2. The Investigation report will incorporate any appropriate revisions, newly investigated information, and evidence into the Investigation Report, which includes the Parties' timely written responses to the Evidence File for consideration during the live hearing and any appeal.

3. The Investigators will send the Investigation Report to the TIX Coordinator.

4. The TIX Coordinator will provide the Investigation Report to each Party and their Advisors in the College's chosen electronic format, such as a secure file-sharing platform.

5. The Parties and their Advisors are not permitted to download, copy, photograph, print screen or take other measures designed to retain, forward or disseminate copies of the Investigation Report. The Report is confidential. Accordingly, Complainant, Respondent and Advisors are expected to maintain its confidentiality.

J. Parties' Written Responses to the Investigation Report

1. The Complainant and Respondent will have **ten (10) academic days** from the date the Investigation Report was sent to submit a written response. The written response may offer corrections, provide context, clarify information, challenge assertions, suggest additional

witnesses, identify relevant evidence that may be missing, and/or note any other relevant information.

2. The Complainant's and Respondent's timely written responses shall be sent to the TIX Coordinator in the electronic format chosen by the College.

3. The TIX Coordinator shall provide to each Party a copy of a timely written response to the Investigation Report, if any, to the other Party.

4. Once all Parties have submitted timely written responses, or the ten (10) academic days have elapsed, the Investigators will review and consider the written responses. The Investigators, if warranted, may conduct any further investigation.

5. The Parties recognize gathering additional information by a further investigation may cause the timelines for the completion of the investigation and the Formal Grievance Process to be extended.

6. Finally, the Investigators will then incorporate any appropriate revisions, newly investigated information and evidence into the Investigation Report and include the Parties' written responses into the Investigation Report for consideration during the live hearing and any appeal.

K. Conclusion of Evidence-Gathering

The Investigators have sole discretion to decide when to close the evidence-gathering phase of the investigation. The Parties will be so notified by the TIX Coordinator.

CHAPTER 21: HEARING

A. Hearing Referral

The TIX Coordinator will schedule a live hearing provided:

1. dismissal does not occur;
2. the Formal Complaint is not transferred to the College's Sexual Misconduct (Non-Title IX) Policy and Procedures Handbook; or
3. resolved under this Handbook's Informal Grievance Process.

B. Notice of Live Hearing

1. The TIX Coordinator will provide written notice of the live hearing to the Parties and their

Advisors. This notice of hearing will be sent to the Parties at least ten (10) academic days before the scheduled hearing.

2. The notice of hearing will include the following information if available:

    a. The date, time and location of the live hearing which may be rescheduled by the TIX Coordinator for good cause;
    b. The names of the Hearing Panel members;
    c. The Formal Complaint and potential sanctions/discipline ranges;
    d. A copy or link to this Handbook describing this hearing process;
    e. A description of any supportive or interim measures that are in effect pending the hearing;
    f. Information concerning the Parties' right to be accompanied by an Advisor; and
    g. A reminder of the College's Anti-retaliation Policy.

C. Live Hearing

1. A live private hearing will be conducted to determine responsibility or non-responsibility for the Formal Complaint.

2. Generally, live hearings are conducted with all Parties, Investigator(s), witnesses, Advisors and other participants physically present in the same geographic location specified by the College.

3. At the request of either Party or in the College's discretion, the College will conduct the live hearing to occur with the Parties and their Advisors located in separate rooms with technology enabling the Hearing Panel, the Parties and their Advisors to simultaneously see and hear the Parties, Investigator(s) and witnesses answering questions.

4. Admission of any person to the hearing, with the exception of the Parties and their Advisors, shall be at the discretion of the Presiding Hearing Panelist.

5. All procedural questions outside of the Presiding Hearing Panelist's authority under this Chapter are reserved for the TIX Coordinator to decide.

D. Hearing Panel

1. The Hearing Panel (typically consisting of three (3) individuals) will be selected by the TIX Coordinator. One of the selected individuals shall serve as the Presiding Hearing Panelist. The Hearing Panel members will not include the TIX Coordinator, Deputies, or the Investigators.

2. Prior to the Notice of Live Hearing, the Parties will be provided with the names of potential Hearing Panel members during their individual orientation meetings with the designated Deputy. The Parties may request a Hearing Panel member be excused because of a conflict of interest or bias. This request must be made in writing to the TIX Coordinator as soon as possible following the orientation meeting, but no less than **ten (10) academic days** prior to the scheduled hearing date. The TIX Coordinator will determine if such a conflict or bias is present by examining the particular facts of the situation, and objectively determine whether a reasonable person would believe a conflict or bias is present. The decision of the TIX Coordinator is final.

3. The Hearing Panel's role is not to re-investigate the Formal Complaint, but instead to review, assess, and weigh the totality of all relevant evidence; objectively evaluate that evidence; and independently reach a determination regarding responsibility. Determinations of responsibility are based upon the preponderance of the evidence.

4. The Presiding Hearing Panelist will be responsible for maintaining an orderly, fair, and respectful hearing, with broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing and/or excluding the offending individual, including a Party, an Advisor, Investigator(s), witnesses, or other participants.

5. The Presiding Hearing Panelist is also responsible for determining whether questions posed by a Party's Advisor to the other Party, Investigator(s) or witnesses are relevant or irrelevant as further explained in Chapter 21 Section 5 entitled "Cross-Examination Questioning by the Advisors".

E. Hearing Participation

1. Complainant and Respondent are encouraged to attend and participate in the hearing.

2. All witnesses are encouraged to attend and participate in the hearing.

3. Participating witnesses shall be excluded from the hearing until those persons are invited by the Presiding Hearing Panelist to testify and shall be dismissed from the hearing after testifying.

4. Investigator(s) are expected to attend the hearing. The Presiding Hearing Panelist may allow the Investigator(s) to leave the hearing after testifying, but reserves the right to request the Investigator(s) return to the hearing if needed.

5. A hearing may proceed without the participation or presence of either or all Parties. In that event, the hearing will continue in such person(s)'s absence to determine responsibility or non-responsibility for the Formal Complaint.

6. The Hearing Panel will not draw an inference regarding responsibility based solely on a Party's or witness's absence from the hearing or refusal to submit to questioning during that hearing.

F. Hearing Format Including Questions and Cross-Examination

1. INTRODUCTION

The TIX Coordinator/Presiding Hearing Panelist shall outline and initiate the hearing process.

2. OPENING STATEMENTS

The Presiding Hearing Panelist may allow participating Parties to make Opening Statements to the Hearing Panel directly. Participating Parties may decline this opportunity. A Party's Advisor may not make such a statement on behalf of a Party.

3. INVESTIGATORS' PRESENTATION

One or more Investigators will be present to provide an overview of the investigation including the investigation report.

4. QUESTIONING BY THE HEARING PANEL

After the Investigators' presentation, the Presiding Hearing Panelist will allow and facilitate a process by which each of the Panelists may initially ask the Investigators, Parties and any witnesses questions and follow-up questions.

5. CROSS-EXAMINATION QUESTIONING BY THE ADVISORS

a. After the initial questioning and any subsequent follow-up questioning by the Hearing Panel members, the Presiding Hearing Panelist will allow and facilitate a process by which each of the Parties' Advisors may ask the other Party and any witnesses relevant questions.

b. Such cross-examination questions during the live hearing must be conducted directly, orally, and in real time by the Party's Advisor.

c. The Parties themselves are not allowed to ask the other Party, the Investigators or any witnesses questions.

d. The Advisors are not allowed to ask their own advisee any questions.

e. If a Party does not have an Advisor present at the hearing, the College will provide that Party with an Advisor of the College's choice to ask questions on behalf of the Party.

f. The Advisor will first read the question to the Hearing Panel. The Presiding Hearing Panelist will then decide if the question is relevant or not relevant.

g. If the question is decided to be **not relevant**, the Presiding Hearing Panelist will provide an explanation for this determination. In that event, the question then may not be asked. Any answer will not be considered by the Hearing Panel.

h. If the question is decided to be **relevant,** the Presiding Hearing Panelist will say so. The Advisor will then repeat the question to the Investigator, Party or witness to be answered.

i. In deciding whether a posed question is **relevant** or **not relevant**, the following factors will be considered:

1) A reasonable person's standard of relevancy applies. A reasonable person's determination that a question is relevant or not relevant is made by applying logic and common sense and not based upon legal expertise.

2) Is the question relevant to establishing whether or not the Respondent is responsible or not responsible for the Formal Complaint allegations?

3) Is the question asked to establish any material fact concerning those allegations?

4) Duplicative questions, including duplicative evidence, may be deemed not relevant.

5) Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are **not relevant** unless:

a) such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent engaged in Formal Complaint allegations is **relevant**; or

b) such questions and evidence concern specifics of the Complainant's prior sexual behavior with Respondent and are offered to prove consent, then such questions are **relevant**.

j. Information protected by legally recognized privilege and any Party's medical or psychological records (unless the Party has given voluntary, written consent) are **not relevant**.

6. NEW EVIDENCE

During the living hearing, no new evidence beyond the scope of the investigation will be considered by the Hearing Panel unless the Party offering the new evidence can show such evidence was:

a. not reasonably available during the investigation; and
b. relevant to establishing whether or not the Respondent is responsible or not responsible for the Formal Complaint allegations.

If the introduction of new evidence is allowed by the Hearing Panel, the other Party, if present and participating, will have the opportunity to review and respond for good cause shown.

7. CLOSING STATEMENTS

The Presiding Hearing Panelist may allow the participating Parties to make Closing Statements directly to the Hearing Panel. Participating Parties may decline this opportunity. A Party's Advisor may not make such a statement on behalf of a Party.

8. ADJOURNMENT

Following the Closing Statements, if any, the hearing will be adjourned.

G. Hearing Record

1. There shall be a single, verbatim record, such as an audio recording, of all live hearings (in person or remote) before the Hearing Panel.

2. The record shall be the property of the College.

3. The TIX Coordinator will make the recording available (or any transcript if prepared) to the Parties for inspection and review.

4. No one other than the TIX Coordinator will be allowed to record the hearing. Any other recording is prohibited as a violation of this Handbook which may result in sanctions/discipline.

CHAPTER 22: DELIBERATION, DETERMINATION OF RESPONSIBILITY LETTER, AND FINAL OUTCOME LETTER

A. Deliberation

1. Following the hearing, the Hearing Panel will deliberate in private to make a determination of responsibility or non-responsibility, by a majority vote, based on the preponderance of relevant evidence. No Hearing Panel member may abstain.

2. During deliberations, the Hearing Panel may review and inspect the totality of the information and evidence presented. Their decision will be based upon an objective evaluation of all relevant evidence and information. In so doing, the Hearing Panel will evaluate the relevant evidence for weight and credibility.

B. Determination of Responsibility

1. Following deliberations, the Presiding Hearing Panelist will prepare a written Determination of Responsibility to be delivered to the TIX Coordinator. That Determination will contain the following content:

    a. Identification of the Formal Complaint allegations;

    b. A description of the procedural steps from the receipt of the Formal Complaint through the determination of responsibility, including any notifications to the Parties; interviews of the Parties and witnesses; site visits; the investigation methods used to gather evidence; and the hearing held;

    c. Findings of facts supporting the determination;

d. Conclusions regarding the application of this Handbook to the finding of facts;
e. A statement of and rationale for the determination as to each allegation, including responsibility or non-responsibility;

f. A description of any sanctions/discipline imposed upon the Respondent, if applicable;

g. Whether any remedies designed to restore or preserve equal access to the College's programs and activities will be provided to Complainant; and

h. The College's procedure and permissible bases for either Party to timely appeal the Determination.

2. Sanctions/Discipline
   a. If the Hearing Panel determines the Respondent is responsible for TIX Misconduct, it will also determine appropriate sanctions/discipline up to and including termination of employment and/or dismissal as a student as listed in Chapter 23.

   b. The appropriate sanctions/discipline will be decided and reviewed in consideration of existing applicable institutional; academic and Human Resources policies; Collective Bargaining Agreements; Faculty Handbook; and Student Handbook/publications including the Student Code of Ethics.

C. Final Outcome Letter

1. As soon as practicable after receiving the Determination of Responsibility, the TIX Coordinator will issue a notification letter ("Final Outcome Letter") to the Complainant and Respondent simultaneously. That letter will include:

   a. A copy of the Hearing Panel's Determination of Responsibility;

   b. College supportive measures and community services/resources individually suited to the Complainant and Respondent (private with respect to each Party);

   c. The College's prohibition against retaliation against any Party or any individual involved in the Formal Grievance Process; and

   d. The appeal process.

2. The content of the Final Outcome Letter to the Parties may differ based upon considerations such as FERPA privacy requirements and confidentiality interest. A copy of the Final Outcome Letter may be provided to the Respondent's supervisor or others with the need to know under FERPA as determined appropriate by the TIX Coordinator.

CHAPTER 23: POSSIBLE SANCTIONS/DISCIPLINE AND/OR REMEDIES

A. Sanctions/Discipline

Sanctions/Discipline may be imposed upon a Respondent who has been determined responsible for TIX Misconduct.

1. Factors considered when imposing sanctions/discipline may include, but are not limited to:
    a. The nature, severity of, and circumstances surrounding the TIX Misconduct;
    b. The Respondent's sanctions/discipline history;
    c. Remedying the effects of the TIX misconduct, including any retaliation;
    d. Detering future TIX misconduct, including any retaliation;
    e. Promoting safety for the College community; and
    f. Impact upon the Parties.

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

j. College dismissal: Permanent separation from the College.

3. Potential Sanctions/Discipline for **Employees**
   a. Oral reprimand documented in writing
   b. Written reprimand
   c. Suspension with or without pay
   d. Discharge

4. Potential Sanctions/Discipline for **Faculty**
   a. Oral reprimand documented in writing
   b. Written reprimand
   c. Suspension with or without pay
   d. Discharge

B. Remedies

1. When a Respondent has been determined responsible for TIX Misconduct the College may also impose remedies and offer supportive measures to the Complainant to restore or preserve equal access to the College's educational program and activities as appropriate.

2. Remedies that may be offered or provided to a Complainant may include the same Supportive Measures referenced below and within Chapter 12.

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

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

CHAPTER 24: APPEAL OF OUTCOME DETERMINATION

A. Basis for Appeal Submissions

An appeal is limited in scope. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new Responsibility Determination. Appeals may be submitted on one or more of the following bases:

1. procedural irregularity that **affected the Responsibility Determination**;

2. new evidence that was not reasonably available at the time the **Responsibility Determination** was decided that **could affect that determination;**

3. the TIX Coordinator, Investigator(s), or Hearing Panel decision-makers had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent that **affected the Responsibility Determination**;

4. severity or proportionality of the sanctions/discipline.

B. Submitting an Appeal

1. A decision by the Hearing Panel may be appealed by either Party.

2. To appeal, a Party must electronically submit a written appeal statement to the TIX Coordinator. The appeal must be submitted **no later than five (5) academic days** after the TIX Coordinator sends to the Parties the Final Outcome Letter with the attached Responsibility Determination.

3. The Appeal Official may deem a late submission reasonable only under extenuating circumstances.

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

C. Written Response by the Other Party

1. The other Party will be provided with a copy of the appealing Party's written appeal statement.

2. Any opposition to the appeal must be submitted **no later than five (5) academic days** after the TIX Coordinator sends the written appeal to the other Party.

3. No further appeal submissions from either Party shall be permitted.

D. Appeal Decision

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

2. In deciding an appeal, the Appeal Official may consider not only the Parties' written statements, but also may consider other documents the Appeal Official deems relevant which have been shared with the Parties.

3. The TIX Coordinator will simultaneously provide the Parties with the written Appeal Decision electronically including the rationale for the result.

    a. If the Appeal Official finds the Responsibility Determination and sanctions/discipline, if any, should stand, the Parties will be so informed. The Title IX process will then be concluded.

    b. If the Appeal Official finds that there was procedural irregularity that **affected the Responsibility Determination**, the matter will be remanded to the Hearing Panel with instructions from the Appeal Official to determine appropriate further action.

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

    d. If the Appeal Official finds that the TIX Coordinator, Investigator(s), or member(s) of the Hearing Panel had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the Responsibility Determination, the Appeal Official will take appropriate steps to address and remediate the impact of the bias or conflict consistent with this Handbook.

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

4. The Appeal Official will strive to complete the appeal review within twenty (20) academic days of receipt of both parties' written statement. The time frame for the Appeal Decision may be extended for good cause.

E. Effective Date of the Decision

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

1. the date the Parties are provided with the written Appeal Decision, if an appeal is filed; or,

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

CHAPTER 25: RECORDKEEPING

A. Records Retention

The College will retain records under this Handbook for at least seven (7) years or longer as may be required by the College's Records Retention Policy and applicable law.

B. Records Custodian

Such TIX records maintained by the TIX Coordinator will include:

1. Each report or Formal Complaint, investigation including any determination regarding responsibility, any audio or audiovisual recording or transcript, any sanctions/discipline and/or remedies imposed upon a Respondent, and any remedies provided to a Complainant designed to restore or preserve equal access to the College's education program or activity;

2. Any appeal and the result;

3. Any Informal Resolution and the result;

4. Any materials used to train the TIX Coordinator and Deputies, Investigators, Hearing Panel Members, Appeal Officials; and any person who facilitates an Informal Resolution Process;

5. Records of any Supportive Measures taken in response to a report of suspected TIX Misconduct or Formal Complaint, including documentation explaining the basis for any conclusion the College's response was not deliberately indifferent;

6. Records the College has taken measures designed to restore or preserve equal access to the College's education program or activity;

7. Records of why a Complainant and/or Respondent was not provided Supportive Measures including the reasons why such response was not clearly unreasonable in light of the known circumstances.

C. Additional Documentation

These records do not limit the College in the future from providing additional explanations or detailing additional measures taken to document the College's responses.

CHAPTER 26: RESOLUTION PROCESS AND DETERMINATION OF RESPONSIBILITY FOR THIRD PARTIES

The resolution processes in this Handbook do not apply to third parties. The resolution process and determination of responsibility for third parties under the Sexual Misconduct Policies and Procedures Handbook will be applied in the investigation and adjudication of all allegations against a Respondent who is a third party (as defined under Chapter 2 of this Handbook).