

Sexual Misconduct Policy

I. POLICY STATEMENT

Consistent with the requirements of Title IX of the Education Amendments of 1972, the Clery Act, and the Violence Against Women Act (“VAWA”), Southeast Missouri Hospital College of Nursing & Health Sciences (the “College”) prohibits discrimination based on sex in its educational programs and activities; such discrimination includes sexual harassment, sexual violence (including sexual assault), and acts of domestic violence, dating violence, and stalking. The College also prohibits any retaliation, intimidation, threats, or any other discrimination against any individuals exercising their rights or responsibilities pursuant to these laws and institutional policy. The College’s Sexual Misconduct Policy is used to address complaints of this nature.

II. SCOPE

This policy applies to administrators, faculty, and other College employees; students; applicants for employment; customers; third-party contractors; and all other persons that participate in the College’s educational programs and activities, including third-party visitors on campus (the “College Community”). This policy prohibits Sex Discrimination, Sexual Harassment, and Sexual Violence/Assault when the complainant and alleged perpetrator are members of the same or opposite sex, and it applies regardless of national origin, immigration status, or citizenship status. The College’s prohibition on Sex Discrimination, Sexual Harassment, and Sexual Violence/Assault extends to all aspects of its educational programs and activities, including, but not limited to, admissions, employment, academics, and student services.

The College has jurisdiction over Title IX-related complaints regarding conduct that occurred on campus, during or at an official College program or activity (regardless of location), or off campus when the conduct could create a hostile environment on campus. The College will investigate all complaints made under this policy and, if necessary, take action to prevent the recurrence of Sex Discrimination and remedy its effects.

III. TITLE IX STATEMENT

The College will comply with Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act (VAWA), and implementing regulations, which prohibit Sex Discrimination in the College’s educational programs and activities. Those laws also prohibit retaliation for asserting claims of Sex Discrimination. The College has designated the following Title IX Coordinator to coordinate its compliance with these laws and to receive inquiries regarding Title IX and VAWA, including complaints of Sex Discrimination:

Ms. Debbie Howey, Registrar & Title IX Coordinator
573-334-6825 ext. 2215
dhowey@sehcollege.edu

A person may also file a complaint of Sex Discrimination with the United States Department of Education’s Office for Civil Rights regarding an alleged violation of Title IX by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html or by calling 1-800-421-3481.

IV. SEXUAL MISCONDUCT

A. Definition of Sexual Misconduct

“Sexual Misconduct” is an umbrella term covering Sex Discrimination, Sexual Harassment, Sexual Violence/Assault, as well as domestic violence, dating violence, and stalking. This term will be used throughout the remainder of this policy and the Complaint Resolution Procedures when collectively referring to these types of conduct.

B. Sex Discrimination

The College prohibits discrimination on the basis of sex (“Sex Discrimination”) in all the College’s programs and activities. Sex Discrimination occurs when a person is excluded from participation in, or denied the benefits of, any College program or activity because of their sex. The College has implemented this policy

to eliminate, prevent and address conduct that constitutes Sex Discrimination. Sexual Harassment, and Sexual Violence/Assault may constitute prohibited Sex Discrimination in violation of this policy.

C. Definition of Sexual Harassment and Examples

Sexual Harassment is any unwelcome conduct of a sexual nature. Sexual Harassment constitutes Sex Discrimination when it denies or limits a person's ability to participate in or benefit from the College's programs and activities. Sexual Harassment denies or limits a person's ability to participate in or benefit from the College's programs and activities, when:

- Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of any aspect of the College's programs and activities;
- Submission to or rejection of such conduct by a person is used as a basis for any decision adversely affecting such person with respect to the College's programs and activities; or
- Such conduct is severe or pervasive, such that, it interferes with an individual's academic or professional performance or by creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment or education environment.
- A hostile environment exists when unwelcome conduct of a sexual nature is sufficiently serious to deny or limit a person's ability to participate in or benefit from the College's programs and activities. In determining whether a hostile environment exists, the College will consider the totality of circumstances viewed from the perspective of a reasonable person in the alleged victim's position, including both objective and subjective factors. Examples of factors the College will consider include the type, frequency, and duration of the conduct, the severity of the conduct, whether the conduct is repeated, the age of the alleged victim, any power differential between the alleged victim and alleged perpetrator, and the number of persons ("hostile environment" sexual harassment).

The College encourages members of the College Community to report any and all instances of Sexual Harassment, even if they are unsure whether the Sexual Harassment constitutes Sex Discrimination.

Sexual Harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature, such as:

- Pressure for a dating, romantic, or intimate relationship
- Unwelcome touching, kissing, hugging, or massaging
- Pressure for sexual activity
- Unnecessary references to parts of the body
- Sexual innuendos or sexual humor
- Obscene gestures
- Sexual graffiti, pictures, or posters
- Sexually explicit profanity
- Asking about, or telling about, sexual fantasies
- E-mail and Internet use that violates this policy
- Sexual Violence/Assault (as defined below)

Further examples of Sexual Harassment may be found in the Frequently Asked Questions below.

D. Definition of Sexual Violence/Assault and Examples

Sexual Violence/Assault is a form of Sexual Harassment. Sexual Violence/Assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity, because he or she is below the minimum age of consent in the applicable jurisdiction, or because of his or her incapacitation due to the use of drugs and/or alcohol. A single instance of Sexual Violence/Assault may be sufficiently severe to deny or limit a person's ability to participate in or benefit from the College's programs or activities, and, therefore, constitute Sex Discrimination.

Some examples of Sexual Violence/Assault include:

- Rape or sexual assault: Sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another person
- Non-consensual video or audio-taping of sexual activity
- Knowingly transmitting a sexually transmitted disease to another

Further examples of Sexual Violence/Assault may be found in the Frequently Asked Questions below.

E. Definition of Consent

Lack of consent is a critical factor in determining whether Sexual Violence/Assault has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
 - Coercion is direct or implied threat of danger, hardship, or retribution sufficient to persuade a reasonable person to engage in sexual activity in which they otherwise would not engage or submit. Coercion is different from seductive behavior based on the type of pressure someone uses to get another to engage in sexual activity. A person's words or conduct cannot amount to coercion unless they wrongfully impair the other's free will and ability to choose whether or not to engage in sexual activity. Coercion can include unreasonable and sustained pressure for sexual activity. When someone makes clear to you that they do not want sex, 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; once a person has made it clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, you should be absolutely clear that they have changed their mind and are consenting before proceeding in sexual activity with them.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
 - Following are warning signs that a person may be incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, such that there is no consent.
 - If a person is asleep or unconscious, there is no consent.
 - If a person is below the minimum age of consent in the applicable jurisdiction, there cannot be consent.
 - Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
 - Consent to past sexual activity does not imply consent to other forms of sexual activity
 - Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
 - Being in a romantic relationship with someone does not imply consent.
 - Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.
 - Effective consent may not exist when there is a disparity in power

between the parties (e.g., faculty/student, supervisor/employee).

F. Definition of Domestic Violence, Dating Violence and Stalking

The crimes of Domestic Violence, Dating Violence and Stalking can also constitute Sexual Misconduct when motivated by a person's sex. These crimes, no matter the motivation behind them, are a violation of this policy.

1. Domestic Violence

"Domestic Violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction [...], or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- Missouri's definition of domestic violence can be found at Mo. Rev. Stat. § 455.010.
- Under Missouri law, domestic violence also includes the crime of "domestic assault" which can be found at Mo. Rev. Stat. §§ 565.072-565.074.

2. Dating Violence

"Dating Violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- Missouri law does not specifically define dating violence, but conduct of this nature is covered by Missouri's definitions of domestic violence and domestic assault.

3. Stalking

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

- Missouri's definition of stalking can be found at Mo. Rev. Stat. § 455.010 and § 565.225.

G. Reservation of Right to Address Conduct of a Sexual Nature that Does Not Rise to the Level of Sexual Misconduct

Notwithstanding the aforementioned definitions, the College reserves the right to resolve, investigate, and/or take disciplinary action against any improper conduct of a sexual nature even though such conduct is not of the type, severity, or pervasiveness that constitutes Sexual Misconduct under this policy.

V. ROLES AND RESPONSIBILITIES

A. Title IX Coordinator

The Title IX Coordinator has the responsibility to coordinate dissemination of information and education and training programs to: (1) oversee all Title IX complaints at the College; (2) identify and address any patterns or systemic problems that arise during the review of such complaints; (3) assist members of the College Community in understanding that Sexual Misconduct is prohibited by this policy; (4) ensure that investigators are trained to respond to and investigate complaints of Sexual Misconduct; (5) ensure that employees and students are aware of the procedures for reporting and addressing complaints of Sexual Misconduct; and (6) to implement the Title IX Complaint Resolution Procedures or to designate appropriate persons for implementing the Title IX Complaint Resolution Procedures.

B. Administrators, Deans, Department Chairs, and Other Managers

Administrators, deans, department chairs, and other managers (i.e., those that formally supervise other employees) have the responsibility to:

- Inform employees under their direction or supervision of this policy
- Work with the Title IX Coordinator to implement education and training programs for employees and students
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy\

C. All Employees

All employees have the responsibility to review this policy and comply with it.

D. Students

All students have the responsibility to review this policy and comply with it.

E. The College

When the College is aware that a member of the College Community may have been subjected to or affected by conduct that constitutes Sex Discrimination, the College will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the prohibited conduct. The College will act in accordance with its Title IX Complaint Resolution Procedures, described below.

VI. COMPLAINTS

A. Making a Complaint

1. Employees

All College employees have a duty to file a complaint with the Title IX Coordinator or the President when they believe or receive information indicating that a member of the College Community may have been subjected to conduct that constitutes Sexual Misconduct. This includes employees who may have a professional license requiring confidentiality if they are not employed by the College in that professional role. An employee not reporting Sexual Misconduct as required by this policy may be disciplined accordingly, up to and including termination.

This section does not apply to the employees who may maintain confidentiality as described in Section VI.A.3. of this policy.

2. Students and Other Persons

Students who believe they or another member of the College Community may have been subjected to conduct that constitutes prohibited Sexual Misconduct are encouraged to file a complaint with the Title IX Coordinator or President. Students and other persons may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth in Section III above.

Students should be aware that all employees at the College, except those designated in Section VI.A.3., have an obligation to report information about Sexual Misconduct to the Title IX Coordinator or President for review and investigation, and they may not keep such information confidential.

3. Confidential Discussions

If a victim desires to talk confidentially about his or her situation, the Student Health Nurse is available to assist you and will not report your circumstances to the College for investigation without your permission, unless otherwise required by law (such as when the victim is a minor). Notwithstanding, a non-identifying report may be made to the Title IX Coordinator so that the College can identify any patterns of Sexual Misconduct on campus and, if the conduct is a crime, it can be included in the College's annual crime statistics disclosure.

4. Content of the Complaint

So that the College has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged Sexual Misconduct; (2) the names of all person(s) involved in the alleged Sexual Misconduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the College may follow up appropriately.

5. Information Provided to Complainant and Respondent

A complainant who makes a claim of Sexual Misconduct to the College will be given a copy of the document titled “Explanation of Rights and Options After Filing a Complaint Under the Title IX: Non-Discrimination and Harassment Policy.” This document provides information about this policy and the Complaint Resolution Procedures used to investigate and resolve complaints of Sexual Misconduct, options for filing complaints with the local police, resources that are available on campus and in the community, etc. A person against whom a complaint has been filed will also be given information about the process.

6. Conduct that Constitutes a Crime

Any person who believes they have been subject to Sexual Misconduct that also constitutes a crime—including Sexual Violence/Assault, Domestic Violence, Dating Violence, or Stalking—is encouraged to make a complaint to local law enforcement, as well as to the College’s Title IX Coordinator. If requested, the College will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A victim may decline to notify such authorities.

7. Special Guidance Concerning Complaints of Sexual Violence/Assault, Domestic Violence, Dating Violence, or Stalking

If you are the victim of Sexual Violence/Assault, Domestic Violence, Dating Violence, or Stalking, do not blame yourself. These crimes are never the victim’s fault. The College recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this policy.

If you are the victim of Sexual Violence/Assault, Domestic Violence, or Dating Violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of Sexual Violence/Assault, Domestic Violence, or Dating Violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. In cases of Stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of Sexual Misconduct investigations.

Once a complaint of Sexual Violence/Assault, Domestic Violence, Dating Violence, or Stalking is made, the complainant has several options such as, but not limited to:

- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- pursuing disciplinary action
- requesting that no further action be taken

8. Vendors, Contractors, and Third-Parties

This policy applies to the conduct of vendors, contractors, and third parties. Persons who believe they have been discriminated against or harassed in violation of this policy should make a complaint in the manner set forth in this section.

9. Retaliation

It is a violation of this policy to retaliate against any member of the College Community who reports or assists in making a complaint of Sexual Misconduct or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint in the manner set forth in this section.

10. Protecting the Complainant

Pending final outcome of an investigation in accordance with the Title IX Complaint Resolution Procedures, the College will take steps to protect the complainant from further Sexual Misconduct or retaliation. This may include assisting and allowing the complainant to change his or her academic, transportation, or work situation, to the extent the College controls these environments, if options to do so are reasonably available. Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Requests of this nature should be made to the Title IX Coordinator. In the event such an accommodation is provided, the College will maintain it as confidential to the extent that maintaining such confidentiality would not impair the College's ability to provide it.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator. The College will take all reasonable and legal action to implement the order. Information about obtaining protection orders in Missouri can be found at: <http://www.courts.mo.gov/file.jsp?id=69655>.

B. Timing of Complaints

The College encourages persons to make complaints of Sexual Misconduct as soon as possible because late reporting may limit the College's ability to investigate and respond to the conduct complained of.

C. Investigation and Confidentiality

All complaints of Sexual Misconduct will be promptly and thoroughly investigated in accordance with the Title IX Complaint Resolution Procedures, and the College will take disciplinary and remedial action where appropriate. The College will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, the College cannot guarantee confidentiality to those who make complaints. In the event that the complainant's confidentiality cannot be ensured, the College will notify the complainant.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the College's ability to respond may be limited. The College reserves the right to initiate and proceed with an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community.

The Title IX Coordinator is the person responsible for evaluating requests for confidentiality.

D. Resolution

If a complaint of Sexual Misconduct is found to be substantiated, the College will take appropriate corrective and remedial action. Students, faculty, and employees found to be in violation of this policy will be subject to discipline up to and including written reprimand, suspension, probation, demotion, termination, or expulsion. Affiliates and program participants may be removed from College programs and/or prevented from returning to campus. Remedial steps may also include counseling for the complainant, academic, work, or transportation accommodations for the complainant, separation of the parties, and training for the respondent and other persons.

E. Bad Faith Complaints

While the College encourages all good faith complaints of Sexual Misconduct, the College has the responsibility to balance the rights of all parties. Therefore, if the College's investigation reveals that a complaint was knowingly false,

the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

VII. ACADEMIC FREEDOM

While the College is committed to the principles of free inquiry and free expression, conduct constituting Sexual Misconduct is neither legally protected expression nor the proper exercise of academic freedom.

VIII. EDUCATION

Because the College recognizes the prevention of Sex Discrimination, Sexual Harassment, Sexual Violence/Assault, Domestic Violence, Dating Violence, and Stalking is an important issue, it offers educational programming to a variety of groups, such as campus personnel, incoming students and new employees participating in orientation, and members of student organizations. Among other items, such training will cover relevant definitions, procedures, and sanctions. To learn more about education resources, please contact the Title IX Coordinator.

FREQUENTLY ASKED QUESTIONS

1. What kinds of conduct constitute prohibited Sex Discrimination?
2. What are some additional examples of Sexual Harassment?
3. What should I do if I am a victim of Sexual Misconduct?
4. What are some additional examples of Sexual Violence/Assault?
5. What constitutes “consent” for purposes of Sexual Violence/Assault?
6. What should I do if I am a victim of Sexual Violence/Assault, Domestic Violence, Dating Violence, or Stalking?
7. Can I make a complaint of Sexual Violence/Assault against my boyfriend or girlfriend?
8. What should I do if I am a victim of Sexual Misconduct committed by someone who is not a College student or employee?
9. What should I do if I am a victim of Sexual Misconduct but the incident occurred off campus?
10. Should I contact the College if I have already notified the police about Sexual Misconduct?
11. What should I do if I observe Sexual Misconduct, but it is not directed at me?
12. What is the role of the Title IX Coordinator?
13. If I make a complaint of Sexual Misconduct, will it be treated confidentially?
14. Who is typically involved in investigating a complaint of Sexual Misconduct?
15. What are the possible outcomes of an investigation into a complaint?
16. May I have a support person with me in the investigation process?
17. What should I do if I am retaliated against for making a complaint of Sexual Misconduct?
18. How does the College handle a bad faith allegation of Sexual Misconduct?

1. What kinds of conduct constitute prohibited Sex Discrimination?

All discrimination on the basis of sex in the College's programs and activities is prohibited under this policy. Sexual Harassment, defined as any unwelcome conduct of a sexual nature, is one way a person may discriminate against another due to his or her sex. The College has a duty under Title IX to take the steps outlined in this policy when conduct, like Sexual Harassment, denies or limits a person's ability to participate in or benefit from the College's programs and activities. In such circumstances, Sexual Harassment constitutes Sex Discrimination. The College encourages you to report any and all instances of Sexual Harassment, even if you are unsure whether the Sexual Harassment constitutes Sex Discrimination.

Sexual Violence/Assault is a particularly severe form of Sexual Harassment that includes physical sexual acts perpetrated against a person's will or where a person is for some reason incapable of giving consent. Even a single instance of Sexual Violence/Assault can constitute Sex Discrimination under this policy and should always be reported.

For further descriptions and examples of Sexual Harassment, Sexual Violence/Assault, and Sex Discrimination, please see Questions 2 and 4 below, as well as Section IV of the College's Title IX: Non-Discrimination and Anti-Harassment Policy.

2. What are some additional examples of Sexual Harassment?

Sexual Harassment is any unwelcome conduct of a sexual nature. Sexual Harassment constitutes a form of prohibited Sex Discrimination when it denies or limits a person's ability to participate in or benefit from the College's programs and activities. The College's policies protect men and women equally from Sexual Harassment, including harassment by members of the same sex. Staff, faculty, and students are protected from Sexual Harassment by any other staff, faculty, student, or contractor. Examples of kinds of conduct that constitute Sexual Harassment include, but are not limited to, the following:

- Engaging in unwelcome sexual advances
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- Telling unwelcome, sexually-explicit jokes
- Displaying sexually suggestive or lewd photographs, videos, or graffiti
- Making unwelcome and unwanted physical contact, such as rubbing, touching, pinching, or patting
- Making unwelcome and suggestive sounds, such as "cat calls" or whistling
- Commenting on a person's dress in a sexual manner
- Making sexual gestures
- Repeatedly asking someone for a date after the person has expressed disinterest
- Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
- Telling another person of one's sexual fantasies, sexual preferences, or sexual activities
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Using sexually explicit profanity

3. What should I do if I am a victim of Sexual Misconduct?

The College encourages you to report Sexual Misconduct as soon as possible. Ignoring Sexual Misconduct does not make it go away, and delayed reporting may limit the College's ability to investigate and remedy the Sexual Misconduct.

You may report Sexual Misconduct to the Title IX Coordinator or the President. If you are the victim of Sexual Misconduct that constitutes a crime, the College encourages you to also file a complaint with local law enforcement and to press charges. If requested, the College will assist you in filing a complaint with local law enforcement. You may decline to notify such authorities.

When you are being sexually harassed, you always have the option to directly confront the person that is harassing you. Sometimes, individuals are not aware that their behavior is offensive and quickly apologize and change their behavior once it is brought to their attention. However, you are not required or expected to confront your harasser prior to filing a complaint.

4. What are some additional examples of Sexual Violence/Assault?

Sexual Violence/Assault is a form of prohibited Sexual Harassment. Sexual Violence/Assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to use of drugs and/or alcohol or to an intellectual or other disability. Examples of kinds of conduct that constitute Sexual Violence/Assault include, but are not limited to, the following:

- The use of force or coercion to effect sexual intercourse or some other form of sexual contact with a person who has not given consent
- Having sexual intercourse with a person who is unconscious because of drug or alcohol use
- Hazing that involves penetrating a person's vagina or anus with an object
- Use of the "date rape drug" to effect sexual intercourse or some other form of sexual contact with a person
- One partner in a romantic relationship forcing the other to have sexual intercourse without the partner's consent
- Exceeding the scope of consent by engaging in a different form of sexual activity than a person has consented to
- Groping a person's breasts or groin on the dance floor or at a bar
- Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity
- Coercing someone into having sexual intercourse by threatening to expose their secrets
- Secretly videotaping sexual activity where the other party has not consented

5. What constitutes "consent" for purposes of Sexual Violence/Assault?

Lack of consent is the critical factor in determining whether Sexual Violence/Assault has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
 - Warning signs of when a person may be incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- If a person is below the minimum age of consent in the applicable jurisdiction, there cannot be consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent to past sexual activity does not imply consent to other forms of sexual activity
- Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Being in a romantic relationship with someone does not imply consent.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to

have consented to any sexual activity that occurs after he or she withdraws consent.

- Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee).

6. What should I do if I am a victim of Sexual Violence/Assault, Domestic Violence, Dating Violence, or Stalking?

If you are the victim of Sexual Violence/Assault, Domestic Violence, Dating Violence, or Stalking, do not blame yourself. These crimes are never the victim's fault. Please contact the Title IX Coordinator as soon as possible for information on options and resources available to you. You may also wish to call local law enforcement (911 if an emergency), or the National Sexual Assault Hotline at 1-800-656-HOPE.

If you are the victim of Sexual Violence/Assault, Domestic Violence, or Dating Violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of Sexual Violence/Assault, Domestic Violence, or Dating Violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. In case of Stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of Sexual Misconduct investigations.

7. Can I make a complaint of Sexual Violence/Assault against my boyfriend or girlfriend?

Anyone can commit Sexual Violence/Assault, even if you and that person are in a romantic relationship. The critical factor is consent. If your boyfriend or girlfriend perpetrates a sexual act against you without your consent, such conduct constitutes Sexual Violence/Assault, and you may make a complaint. This type of conduct and other types of conduct perpetrated by your boyfriend or girlfriend may also be classified as Domestic Violence or Dating Violence.

8. What should I do if I am the victim of Sexual Misconduct committed by someone who is not a College student or employee?

The College's policies protect you from Sexual Misconduct by vendors, contractors, and other third parties that you encounter in your College learning and employment environment. If you believe that you have been a victim of Sexual Misconduct, you should report it just as if it were committed by a College student or employee.

9. What should I do if I am a victim of Sexual Misconduct but the incident occurred off campus?

It is possible for off-campus conduct between College employees or students to contribute to a hostile working or academic environment or otherwise violate the College's policies. You may make a complaint of Sexual Misconduct even if the conduct occurs off-campus.

10. Should I contact the College if I have already notified the police about Sexual Misconduct?

Calling the local police or filing a police report is not the same as filing a Sexual Misconduct complaint with the College. You should not assume that local law enforcement will forward your complaint to the College. As such, anyone who reports Sexual Misconduct to local police is also encouraged to report the matter to the College's Title IX Coordinator so that the College can begin to investigate the issue as quickly as possible.

11. What should I do if I observe Sexual Misconduct, but it is not directed at me?

Anyone who witnesses conduct that constitutes Sexual Misconduct, even if it is directed at someone else, can still feel uncomfortable and harassed. If you are a student and witness conduct that you believe constitutes Sexual Misconduct please make a complaint in the same manner as if the conduct was directed against you. If you are an employee or staff member of the College, it is your duty to report conduct that constitutes Sexual Misconduct of any kind.

12. What is the role of the Title IX Coordinator?

The Title IX Coordinator oversees the College's compliance with Title IX and receives inquiries regarding Title IX, including complaints of Sexual Misconduct. The Title IX Coordinator has received special training on the College's policies and procedures pertaining to Sexual Misconduct, and is available to answer questions about those policies and procedures, respond to complaints, and assist you in identifying other resources to aid in your situation.

13. If I make a complaint of Sexual Misconduct, will it be treated confidentially?

The College will take reasonable and appropriate steps to preserve the confidentiality of the parties to the complaint and to protect the confidentiality of information gathered during the investigation. However, the College has an obligation to provide a safe and non-discriminatory environment for all students and employees. Therefore, no unconditional promises of confidentiality can be provided. If your confidentiality cannot be guaranteed, the College will notify you.

14. Who is typically involved in investigating a complaint of Sexual Misconduct?

The College's Title IX Coordinator or his/her designee will be involved in investigating complaints of Sexual Misconduct. The Title IX Coordinator may appoint another member of the staff to investigate and resolve the complaint. The process of gathering evidence will necessarily require the involvement of the complainant, the respondent, and any witnesses to the incident that gave rise to the complaint. In sum, it will involve those persons necessary to fairly and completely investigate the complaint and resolve it.

15. What are the possible outcomes of an investigation into a complaint?

The outcome will be determined based on the totality of the evidence using a preponderance of the evidence standard. If the preponderance of the evidence does not support a finding that the incident occurred, then the complaint is resolved in favor of the accused. If, however, the preponderance of the evidence supports a finding that Sexual Misconduct occurred, the actions taken by the College will include those necessary to maintain an environment free from discrimination and to protect the safety and well-being of the complainant and other members of the College Community. In addition, the College may, in its discretion, take action if the preponderance of evidence supports that improper conduct of a sexual nature has occurred, even if such conduct does not rise to the level of Sexual Misconduct under this policy. The College's actions will include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

16. May I have a support person with me in the investigation process?

During the investigation process, both a complainant and a respondent may ask a support person to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and must agree to maintain the confidentiality of the process. A support person may be removed if he or she becomes disruptive or does not abide by the limitations discussed in the previous sentence.

17. What should I do if I am retaliated against for making a complaint of Sexual Misconduct?

The College's Title IX: Non-Discrimination and Anti-Harassment Policy prohibits retaliation against any person for making a good faith complaint of Sexual Misconduct, and/or cooperating in the investigation of (including testifying as a witness to) such a complaint. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the underlying allegation of Sexual Misconduct. If you feel you are the victim of retaliation in violation of this policy, you should report the retaliation just as you would a complaint of Sexual Misconduct.

18. How does the College handle a bad faith allegation of Sexual Misconduct?

A bad faith allegation of Sexual Misconduct occurs when the accuser intentionally reports information or incidents that he or she knows to be untrue. Failure to prove a complaint of Sexual Misconduct is not equivalent to a bad faith allegation. The College may impose sanctions against an individual who knowingly makes false allegations of Sexual Misconduct.

TITLE IX: COMPLAINT RESOLUTION PROCEDURES

I. GENERAL PRINCIPLES

A. Administration

For purposes of these complaint resolution procedures, “Investigating Officer” means the Title IX Coordinator or his/her designee. The Investigating Officer shall have responsibility for administering these complaint resolution procedures.

B. Promptness, Fairness and Impartiality

These procedures provide for prompt, fair, and impartial investigations and resolutions. The Investigating Officer shall discharge his or her obligations under these complaint resolution procedures fairly and impartially. If the Investigating Officer determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, the Investigating Officer shall designate another appropriate individual to administer these procedures.

C. Training

These procedures will be implemented by officials who receive annual training on the issues related to Sex Discrimination, Sexual Harassment, Sexual Violence/Assault, Domestic Violence, Dating Violence, and Stalking and on how to conduct an investigation process that protects the safety of victims and promotes accountability.

II. INVESTIGATION AND RESOLUTION OF THE COMPLAINT

A. Commencement of the Investigation

Once a complaint is made, the Investigating Officer will commence an investigation of it as soon as practicable, but not later than seven (7) days after the complaint is made. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes Sexual Misconduct. During the course of the investigation, the Investigating Officer may receive counsel from College administrators, the College’s attorneys, or other parties as needed.

In certain narrow circumstances, the Investigating Officer may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the Investigating Officer will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant’s articulated concerns.

B. Content of the Investigation

During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The Investigating Officer will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

C. Support Person

During the investigation process, both a complainant and a respondent may ask a support person to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and must agree to maintain the confidentiality of the process. A support person may be removed if he or she becomes disruptive or does not abide by the limitations discussed in the previous sentence.

D. Interim Measures

At any time during the investigation, the Investigating Officer may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Title IX: Non-Discrimination and Anti-Harassment Policy.

E. Pending Criminal Investigation

Some instances of Sexual Misconduct may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, the College will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve the College of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the College will proceed with its own investigation and resolution of the complaint.

F. Resolution

At the conclusion of the investigation, the Investigating Officer will prepare a written report. The written report will explain the scope of the investigation, identify findings of fact, and state whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence.

If the written report determines that Sexual Misconduct occurred, the Investigating Officer shall set forth in an addendum to the written report those steps necessary to maintain an environment free from Sexual Misconduct and to protect the safety and well-being of the complainant and other members of the College Community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of Sexual Misconduct and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

The complainant and the respondent will receive a copy of the written report and any addendum within three (3) days of its completion. If necessary, the version of the addendum provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures is disclosed in a manner consistent with Title IX, the Family Educational Rights and Privacy Act ("FERPA"), and the Clery Act, as explained by the April 4, 2011 Dear Colleague Letter issued by the U.S. Department of Education, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

The written report of the Investigating Officer shall be final subject only to the right of appeal set forth in Section IV below. An explanation of the appeal procedures will be included in the notification of the outcome that is provided to the parties.

G. Special Procedure Concerning Complaints Against the President

If a complaint involves alleged conduct on the part of the College President, the College Board of Trustees (“Board”) will designate the Investigating Officer. Based on the information gathered by the investigation, the Board will prepare and issue the written report determining the complaint. The determination of the Board is final and not subject to appeal.

H. Informal Resolution

Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. The following standards apply to any informal resolution method that is utilized:

- The informal process can only be used with both parties’ voluntary cooperation and appropriate involvement by the institution (e.g., the Title IX Coordinator)
- The complainant will not be required to “work out” the problem directly with the respondent
- Either party may terminate the informal process at any time and elevate the complaint to the formal investigation procedures
- Informal resolution in the form of mediation, even on a voluntary basis, will not be used to resolve complaints alleging sexual assault

I. Timing of the Investigation

The College will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed. The Investigating Officer shall respond to any such request within three (3) days.

III. RIGHTS OF THE PARTIES

During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:

- Equal opportunity to identify and have considered witnesses and other relevant evidence
- Similar and timely access to all information considered by the Investigating Officer
- Equal opportunity to review any statements or evidence provided by the other party
- Equal access to review and comment upon any information independently developed by the Investigating Officer

IV. APPEALS

A. Grounds of Appeal

The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigating Officer, would result in a different decision
- There was a procedural error significant enough to call the outcome into question
- There was a clear error in factual findings
- Bias or prejudice on the part of the Investigating Officer, or
- The punishment or the corrective action imposed is disproportionate to the offense

B. Method of Appeal

Appeals must be filed with the President within ten (10) days of receipt of the written report determining the outcome of the complaint. If neither party files an appeal, both parties will be notified in writing the timeline for filing an appeal has passed and the complaint has been deemed resolved.

If an appeal is filed, the appeal must be in writing and contain the following:

- Name of the complainant
- Name of the respondent
- A statement of the determination of the complaint, including corrective action if any
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any.

The appellant may request a meeting with the President, but the decision to grant a meeting is within the President's discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity.

V. RESOLUTION OF THE APPEAL

The President will resolve the appeal within fifteen (15) days of receiving it and may take any and all actions that he/she determines to be in the interest of a fair and just decision. The decision of the President is final. The President shall issue a short and plain written statement of the resolution of the appeal, including any changes made to the Investigating Officer's previous written determination or the corrective measures imposed. The written statement shall be provided to the complainant, respondent, and the Title IX Coordinator within three (3) days of the resolution.

VI. DOCUMENTATION

Throughout all stages of the investigation, resolution, and appeal, the Investigating Officer, the Title IX Coordinator, and the President as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings.

VII. INTERSECTION WITH OTHER PROCEDURES

These complaint resolution procedures are the exclusive means of resolving complaints alleging violations of the Title IX: Non-Discrimination and Anti-Harassment Policy. To the extent there are any inconsistencies between these complaint resolution procedures and other College grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging violations of the Title IX: Non-Discrimination and Anti-Harassment Policy.

Nothing in the College's Title IX Complaint Procedures, Title IX: Non-Discrimination and Anti-Harassment Policy, or associated materials should be interpreted so as to limit the College's right to resolve, investigate, and/or take disciplinary action against any improper conduct of a sexual nature even though such conduct is not of the type, severity or pervasiveness that constitutes Sexual Misconduct as defined in the Title IX: Non-Discrimination and Anti-Harassment Policy.