

# Title IX / Sexual Misconduct Policy

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## PART 1: RESOURCES AND DEFINITIONS

### I. INTRODUCTION

#### **A. Notice of Nondiscrimination and Policy on Statement on Sexual Misconduct**

The health, safety, and well-being of all members of the North-West College, Glendale Career College, and Nevada Career Institute (“College/Institute”) community are the College’s/Institute’s primary concerns. In accordance with Title IX of the Education Amendments of 1972 (“Title IX”) and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by the Violence Against Women Act/Campus Sexual Violence Act (“Campus SaVE Act”), and other applicable state, federal and local laws, the College/Institute is committed to maintaining a community free from all forms of sex discrimination, including sexual misconduct. In accordance with Title IX, the College/Institute does not discriminate on the basis of sex in its education programs and activities. Under Title IX, discrimination on the basis of sex includes sexual harassment and sexual violence.

Sexual misconduct includes a broad range of behaviors that will not be tolerated in the College’s/Institute’s education programs or activities. The College/Institute strictly prohibits sexual harassment and sexual violence, including the offenses of sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking. Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity. The College/Institute does not tolerate any form of sexual misconduct.

Questions regarding Title IX and the Campus SaVE Act may be referred to the College’s/Institute’s Title IX Coordinator or to the U.S. Department of Education’s Office for Civil Rights.

#### **B. The Title IX Coordinator**

The College’s/Institute’s designated Title IX Coordinator and Title IX Deputy Coordinator are:

Title IX Coordinator:

Serjik Kesachekian  
Chief Strategy Officer  
2101 West Garvey Avenue, North  
West Covina, CA 91790  
626-251-1078  
[SerjikK@Success.edu](mailto:SerjikK@Success.edu)

Title IX Deputy Coordinator:

Ann Marie McGuiness  
Corporate Director of Compliance  
2101 West Garvey Avenue, North  
West Covina, CA 91790  
626-251-1078  
[AnnMarieM@Success.edu](mailto:AnnMarieM@Success.edu)

The Title IX Coordinator’s responsibilities include, but are not limited to, overseeing the College’s/Institute’s response to complaints of sexual misconduct, coordinating investigations into allegations of sexual misconduct, and identifying and addressing any patterns or systemic problems of sexual misconduct that arise during the investigation of a complaint of sexual misconduct.



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## **C. Scope of Policy**

This Policy governs sexual misconduct involving students, and applies to such students regardless of sex, race, national origin, disability, part-time/fulltime status, sexual orientation, gender identity, or other protected status. Complaints of discrimination or harassment on the basis of sex that do not involve sexual misconduct are governed by the College's/Institute's Non-Discrimination and Anti-Harassment Policy contained in the College's/Institute's catalog.

This *Title IX/ Sexual Misconduct Policy* applies to any allegation of sexual misconduct that takes place on College/Institute property or any other property on which a College/Institute program or activity takes place. This Policy also covers conduct that takes place off of College/Institute property, or has a reasonable connection to the College/Institute.

This Policy:

1. sets forth the rights of the victim;
2. describes programs implemented by the College/Institute to educate and increase awareness among the College/Institute community regarding sexual misconduct;
3. sets forth available resources and reporting options for victims of sexual misconduct;
4. defines prohibited conduct;
5. describes the College's/Institute's procedures for responding to complaints of sexual misconduct, including the investigation, hearing, and sanctioning process.

## **Victim's Rights**

All victims of sexual misconduct have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the investigation and hearing process and/or criminal justice process free from pressure from the College/Institute;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the College/Institute courteous, fair, and respectful referral to health care and counseling services, where available;
6. Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident with as few College/Institute representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the College/Institute, any student, the Respondent, and or their friends, family and acquaintances within the jurisdiction of the College/Institute;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;

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11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the College/Institute;
12. Be informed of the outcome of the College's/Institute's investigation;
13. Be provided with information about health, counseling, and other support services from local resources. All members of the College/Institute community may obtain information about such resources from the College's/Institute's Title IX Coordinator.

Local community resources include:

Agency	Location	Telephone Number
<b>California</b>		
Rape Crisis Center	7116 Sophia Ave. Van Nuys, CA 91406	818-886-0453
Sexual Assault Crisis Agency	1703 Termino Ave. Long Beach, CA 90804	562-494-5046
Riverside Area Rape Crisis Center	1845 Chicago Ave, Suite A Riverside, CA 92507	951-686-7273
Project S.I.S.T.E.R.	PO Box 1369 Pomona, CA 91769	909-626-4357
Glendale Adventist Medical Center	1509 Wilson Terrace Glendale, CA 91206	818-409-8027
Foothill Family Services – West Covina	1215 West Covina Pkwy, Suite 200 West Covina, CA 91790	626-338-9200
<b>Nevada</b>		
Community Action Against Rape (CARR) – Rape Crisis Center	6375 West Charleston Blvd., W1B Las Vegas, NV 89146	702-385-2153
Mental Health Services for Children & Adults	6600 W. Charleston Blvd., #140 Las Vegas, NV 89146	702-437-4673

14. Be notified of options for changing academic, living, transportation, and working situations;
15. Report the incident to College/Institute authorities and seek guidance from the College's/Institute's Title IX Coordinator;
16. The prompt, impartial, and thorough investigation of his/her complaint in accordance with this Policy;
17. Be informed of the importance of preserving evidence;
18. Be informed of his/her rights and the College's/Institute's responsibilities for orders of protection, restraining orders, or "no-contact" orders as applicable;
19. Confidentiality in accordance with this *Policy*.

## II. **PREVENTION AND AWARENESS EDUCATION PROGRAMS**

Creating a safe and respectful environment is the responsibility of all members of the College's/Institute's community. To promote and maintain this environment, the College/Institute engages in comprehensive educational programming to prevent sexual misconduct, (including sexual harassment, domestic violence, dating violence, sexual assault, stalking, and retaliation). The



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College/Institute provides primary prevention and awareness programs for all incoming students and employees, and ongoing prevention and awareness campaigns for all students and employees.

The College/Institute conducts primary prevention and awareness training programs designed to promote the awareness of sexual misconduct. Such training is offered to all incoming students and new employees during their respective orientation processes. In addition, at least annually, the College/Institute conducts ongoing prevention and awareness training programs for current students and employees. These training programs include a review of the policies set out in the report and, as appropriate, a review of the College's/Institute's *Employee Handbook*, and the College's/Institute's *Annual Safety and Security Report*.

For additional information about the College's/Institute's sexual misconduct prevention and awareness programming, please contact the College's/Institute's Title IX Coordinator or Deputy Title IX Coordinator:

Title IX Coordinator:

Serjik Kesachekian  
Chief Strategy Officer  
2101 West Garvey Avenue, North  
West Covina, CA 91790  
626-251-1078  
[SerjikK@Success.edu](mailto:SerjikK@Success.edu)

Title IX Deputy Coordinator:

Ann Marie McGuiness  
Corporate Director of Compliance  
2101 West Garvey Avenue, North  
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626-251-1078  
[AnnMarieM@Success.edu](mailto:AnnMarieM@Success.edu)

### III. RESOURCES AND REPORTING OPTIONS FOR VICTIMS OF SEXUAL MISCONDUCT

#### A. Immediate Medical Assistance and Counseling

If you or someone you know is or may be the victim of any form of sexual misconduct, the College/Institute strongly urges you to seek immediate assistance. Assistance is available 24 hours a day, 7 days a week, from the local police and Emergency Assistance – call 911, and from the following:

Hospital	Location	Telephone Number
<b>California</b>		
Glendale Adventist Medical Center	1509 Wilson Terrace Glendale, CA 91206	818-409-8202
UC Irvine Medical Center	101 The City Drive South Orange, CA 92868	714-456-7890
Queen of the Valley Hospital	1115 S. Sunset Ave. West Covina, CA 91790	626-962-4011
Pomona Valley Hospital	1798 N. Garey Ave. Pomona, CA 91767	909-865-9500
Riverside County Regional Medical Center	26520 Cactus Ave. Moreno Valley, CA 92555	951-486-4000
<b>Nevada</b>		
University Medical Center	1800 W. Charleston Blvd. Las Vegas, NV 89102	702-383-2000

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### **B. College Counseling Resources**

The College/Institute does not offer campus based counseling resources. However, whether or not an official complaint of sexual misconduct is made, students may be referred to various community counseling options.

### **Reporting Options:**

Title IX Deputy Coordinators, Safety and Security Authority at the Campus Level:

North-West College-West Covina 2121 West Garvey Ave. North West Covina, CA 91790	Brooke Allen Executive Director 626-960-5046
North-West College-Pomona 170 West Holt Ave. Pomona, CA 91768	Kia Shirali Campus Director 909-623-1552
North-West College-Pasadena 530 East Union St. Pasadena, CA 91101	Alistair Curamen Campus Director 626-796-5815
North-West College-Glendale 221 North. Brand Blvd., Lower Level Glendale, CA 91203	Vivek Sharma Campus Director 818-242-0205
North-West College-Riverside 4550 La Sierra Ave. Riverside, CA 92505	Thuha Pacis Campus Director 951-351-7750
North-West College-Santa Ana 1840 East 17 <sup>th</sup> St. Santa Ana, CA 92705	Rick Sylstra Campus Director 714-550-8000
North-West College-Long Beach 3799 East Burnett St. Long Beach, CA 90815	Juan Tellez Campus Director 562-498-4500
Glendale Career College-Glendale 240 North Brand Blvd. Lower Level Glendale, CA 91203	Connie Bell Campus Director 818-243-1131
Nevada Career Institute 3231 North Decatur Blvd., Suite 201 Las Vegas, NV 89130	Mary Ann Jefferson Campus Director 702-893-3300

Title IX Coordinator and Deputy Coordinators at Campus Support Center:

Title IX Coordinator	Serjik Kesachekian Chief Strategy Officer 626-251-1078
Title IX Deputy Coordinator	Ann Marie McGuiness Corporate Director of Compliance 626-251-1078



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## IV. Reporting of Incidents of Sexual Misconduct

### A. Law Enforcement Notification

If you are the victim of sexual misconduct, the College/Institute strongly encourages you to promptly report the incident to the police. Timing is a critical factor in collecting and preserving evidence that may assist in proving that the alleged misconduct occurred, or may be helpful in obtaining a protection or restraining order from the police. College/Institute representatives are available to assist you in notifying law enforcement of an incident of sexual misconduct and in contacting law enforcement or legal service organizations to learn about these remedies. You may also decline to notify law enforcement.

### B. College Notification

The College/Institute is committed to providing a prompt, fair, and impartial investigation and resolution to all allegations of sexual misconduct. Therefore, the College/Institute also encourages the reporting of sexual misconduct to a College/Institute representative in a timely manner. Incidents of sexual misconduct should be reported to the College's/Institute's Title IX Coordinator. Any incident of sexual misconduct reported to another College/Institute employee, with the exception of those employees designated as confidential, as set forth herein, will be reported by the employee to the Title IX Coordinator.

When the College/Institute receives a report from a student that he or she has been the victim of sexual misconduct including dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the College/Institute will provide the reporting individual with a written explanation of his or her rights and options. The College/Institute will provide the reporting individual with written notification to students regarding existing counseling, health, mental health, victim advocacy, legal assistance, student financial aid, and other services available for victims in the community. If the reporting individual is not the Complainant, and the identity of the Complainant is made known to the College/Institute, the College/Institute will provide written notification to the Complainant.

A reporting individual will be provided with the complaint and will have emergency access to the Title IX Coordinator, or his or her designee, who is trained in interviewing victims of sexual assault and who shall be available upon the first instance of disclosure by the Complainant to provide information regarding options to proceed upon the first instance of disclosure of sexual misconduct to the College/Institute. The Title IX Coordinator, or other designated College/Institute official will be available to provide the reporting individual with information regarding his or her options to proceed, and other important information about his or her rights under College/Institute Policy and the law.

The Complainant reserves the right to withdraw a complaint or his/her involvement in the College's/Institute's investigation or resolution process at any time. However, in such instances the College's/Institute's ability to respond will be limited and Title IX may, nevertheless, require the College/Institute to complete the investigation processes.



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## **C. Reports of Sexual Misconduct from Anonymous Sources**

If the College/Institute receives a report of alleged sexual misconduct by someone other than the Complainant (e.g., friend or roommate, resident advisor) or from an anonymous source, the College's/Institute's Title IX Coordinator will promptly notify the Complainant of the report, and inform the Complainant of the available resources and assistance. The College/Institute will respond to the report of sexual misconduct as if the Complainant had made the initial report and an investigation will commence.

## **D. Time for Reporting**

There is no time limit for reporting sexual misconduct. Nevertheless, any member of the College/Institute community who believes that he or she has been a victim of sexual misconduct is encouraged to report the alleged sexual misconduct immediately in order to maximize the College's/Institute's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation.

Under no circumstances will the College/Institute allow an impending graduation to compromise its resolution of a sexual misconduct complaint. The conferral of a degree or diploma may, therefore, be withheld, if necessary, until proper resolution of any sexual misconduct charges, provided that a hearing opportunity will be scheduled for the earliest practical date that can accommodate the parties and their witnesses.

## **V. Confidentiality**

The College/Institute understands that, for many victims of sexual misconduct, confidentiality is a primary concern. However, certain College/Institute employees are required by state and federal law to share information from a report of sexual misconduct within the College/Institute or governmental agencies. Even College/Institute employees who cannot guarantee confidentiality will maintain the privacy of the reporting individual to the greatest extent possible. The information that the reporting individual provides to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. When reporting crimes for the purposes of Clery Act compliance, the College/Institute will not release identifying information regarding the victim. The ability of College/Institute employees to maintain confidentiality is as follows:

### **A. Professional and Pastoral Counselors**

The College/Institute does not offer professional, licensed counselors or pastoral counselors (ordained clergy).

### **B. Responsible Employees**

A "responsible employee" is a College/Institute employee who has the authority to redress sexual misconduct, who has a duty to report incidents of sexual misconduct, or who a student could reasonably believe has this authority or duty. A responsible employee must report all relevant details about the alleged sexual misconduct shared by the victim to the Title IX Coordinator. A responsible employee will strive to maintain privacy and information reported to the responsible employee will be shared only



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with those having a need to know such information in order to respond in accordance with College/Institute Policy.

The College/Institute is obligated by law to investigate all allegations of sexual misconduct regardless of whether the Complainant wishes to file a complaint. Therefore, if a Complainant reports an incident of sexual misconduct to a responsible employee but wishes to remain anonymous or requests that no investigation into the incident be conducted, the College/Institute will weigh that request against the College's/Institute's obligation to provide a safe, nondiscriminatory environment for all members of the College/Institute community, including the Complainant. If the College/Institute honors the request for confidentiality, the Complainant must understand that the College's/Institute's ability to effectively investigate the incident and pursue disciplinary action against the Respondent may be limited. In certain circumstances, the College/Institute may not be able to honor a Complainant's request for confidentiality when doing so would jeopardize the College's/Institute's responsibility to provide a safe, non-discriminatory environment. The Title IX Coordinator is designated to evaluate requests for confidentiality once a responsible employee is notified of alleged sexual misconduct.

When weighing a Complainant's request for confidentiality or the need to continue to pursue the investigation, the Title IX Coordinator will consider a range of factors, including, but not limited to, the following:

- whether there have been other sexual misconduct complaints about the same Respondent;
- whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- whether the incident represents an escalation in and unlawful conduct on behalf of the Respondent from previously noted behavior;
- whether there is an increased risk that the Respondent will commit additional acts of violence;
- whether the sexual misconduct was committed by multiple perpetrators;
- whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- whether the alleged sexual misconduct was perpetrated with a weapon;
- the age of the Complainant;
- whether the College/Institute has other means to obtain relevant evidence (e.g., security cameras or personal, physical evidence).

After considering these factors, the College/Institute may be compelled to investigate the alleged sexual misconduct and, if appropriate, pursue disciplinary action in a manner that may require the College/Institute to disclose the Complainant's identity to the Respondent. If the College/Institute determines that an investigation is required, the College/Institute will inform the Complainant and take immediate action necessary to protect and assist the Complainant.

If, after considering these factors, the College/Institute determines that it is able to respect the Complainant's request for confidentiality, the College/Institute will nevertheless take all reasonable steps to respond to the complaint consistent with the Complainant's confidentiality request, and will determine whether interim measures are appropriate or necessary. The College/Institute will also consider broader remedial action, such as increased monitoring, supervision of security at locations



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where the reported sexual misconduct occurred, increasing training, education and prevention efforts, and conducting climate surveys.

### **VI. College Amnesty Policy**

The health and safety of every student at the College/Institute is of utmost importance. The College/Institute recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College/Institute strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College/Institute officials. A bystander acting in good faith or reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to College/Institute officials or law enforcement will not be subject to the College/Institute Code of Conduct for violations of alcohol and/or drug use policies occurring at or near the time of the domestic violence, dating violence, stalking or sexual assault incident.

### **VII. Immediate Measures and Accommodations**

Any individual who has been the victim of sexual misconduct may request assistance in changing academic, living, transportation, and working situations. The College/Institute will grant such accommodations, provided they are reasonable and available, regardless of whether the student chooses to report the crime to law enforcement. Such accommodations may include providing increased security, supervision or monitoring at location or activities where the alleged misconduct occurred, adjusting a student's academic or College/Institute work schedule, and issuing a "no contact" order. The Complainant or Respondent may request a review of any individual against whom a no-contact order is issued and will, upon request, receive a prompt review of the need for, and terms of, the no-contact order, including potential modification, and may submit evidence in support of his or her request. The College/Institute will conduct a prompt review in response to such request.

### **VIII. Orders of Protection**

The College/Institute may also assist an eligible Complainant in acquiring an order of protection from either the Family or Criminal Court.

In **California**, protective orders include:

- [Domestic Violence Restraining Order](#)
- [Elder or Dependent Adult Abuse Restraining Order](#)
- [Civil Harassment Restraining Order](#)
- [Workplace Violence Restraining Order](#)

In **Nevada**, protective orders include:

- [Emergency Protective Order](#)
- [Temporary Order for Protection](#)
- [Extended Order for Protection](#)

If an order of protection is granted, the requesting individual will have the right to receive a copy of the order of protection when the order is received by the College/Institute. The Complainant will also have the opportunity to have an appropriate College/Institute employee explain the order, the consequences



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for violating the order, and answer any questions about the order. Additionally, if the Respondent violates the order of protection, the no contact order is violated and the Complainant may receive assistance from the College/Institute in calling local law enforcement to inform them of the violation.

When the Respondent is a College/Institute student and is determined to present a continuing threat to the health and safety of the College/Institute community, the Respondent may be subject to interim suspension pending the outcome of the hearing resolution process, described herein. In the event the College/Institute imposes an interim suspension on the Respondent, the Complainant or Respondent may request a review of the need for an interim suspension, including potential modification, and may submit evidence in support of his or her request. Upon such request, the College/Institute will conduct a prompt review.

Requests for accommodations in connection with incidents of sexual misconduct should be made to the College's/Institute's Title IX Coordinator. The College/Institute will provide information about the student's request for accommodations only to those having a need to know such information in order to implement the accommodations. Both the Complainant and the Respondent may ask the College/Institute to review the need for and terms of any interim measures or accommodations that directly affects him or her and may submit evidence in support of his or her request. Upon such request, the College/Institute will conduct a prompt review.

### **IX. Anti-Retaliation Policy**

The College/Institute prohibits retaliation against any person who reports sexual misconduct or participates in the investigation of any allegation of sexual misconduct, including testifying as a witness. Retaliation should be reported promptly to the College's/Institute's Title IX Coordinator. Reports of retaliation will be investigated in accordance with the appropriate College/Institute Policy, and such conduct may result in disciplinary action independent of the sanction(s) or interim measures imposed in response to the underlying allegations of sexual misconduct.

### **X. Definitions within the Policy**

**"Bystander"** means a person who observes a crime, impending crime, conflict, potentially violent or violent behavior or conduct that is in violation of rules or policies of the College/Institute.

**"Complainant"** means the individual who experienced the sexual misconduct, regardless of whether such individual reports such sexual misconduct to the College/Institute or participates in the College's/Institute's conduct process for responding to complaints of sexual misconduct described herein.

**"Confidentiality"** may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092 (f) and 20 U.S.C. 1681 (a).

**"Consent"** must be affirmative. Consent means a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

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- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated.
- Consent cannot be when it is the result of any coercion, intimidation, force, threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

In **California**, and for the purposes of the College's/Institute's *Title IX/Sexual Misconduct Policy*, an **Affirmative Consent** standard is applied to allegations of sexual misconduct. That term is defined in the California Education Code §67386 as follows:

*1) An affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. 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.*

*(2) A policy that, in the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:*

*(A) The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.*

*(B) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.*

*(3) A policy that the standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence.*

*(4) A policy that, in the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the 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 the sexual activity.*

*(C) The complainant was unable to communicate due to a mental or physical condition.*

In **Nevada**, and for the purposes of the College's/Institute's *Title IX/Sexual Misconduct Policy*, Nevada law has not codified a separate definition for Affirmative Consent.

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**“Force”** The use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

**“Incapacitation”** A state where a person cannot make a rational, reasonable decision because the person lacks the ability to understand his or her decision. A person can become incapacitated as a result of disability, involuntary physical constraint, sleep, or consumption of alcohol or other drugs.

**“Intimidation”** means implied threats or acts that reasonably cause another to fear for his/her safety or well-being.

**“Privacy”** may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a Complainant or bystander to a crime or incident reporting individual, including appropriate College/Institute employees, above what is necessary to comply with this and other applicable laws or College/Institute Policy.

**“No-Contact Order”** A directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.

**“Reporting Individual”** Any individual who reports a violation of this Policy to the College/Institute, including, but not limited to, a Complainant or bystander.

**“Respondent”** means the individual alleged to have committed acts constituting sexual misconduct.

**“Retaliation”** Taking any adverse action or attempting to take adverse action, including intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s complaint of sexual misconduct or participation in an investigation or proceeding related to alleged sexual misconduct.

### **Definitions of Gender-Based Misconduct**

**“Sexual Misconduct”** means a range of unwelcome behavior of a sexual nature that is committed without consent or by intimidation, coercion, threat or force. Sexual Misconduct includes, but is not limited to, sexual assault, sexual coercion, sexual exploitation, sexual harassment, dating violence, domestic violence, and stalking.

In **California** the same, or similar crimes, are defined as follows:

***Sexual Battery*** under California Penal Code §243.4 is defined as: *touching an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse.*

***Rape*** under California Penal Code §261 is defined as: *(a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:*

*(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of*

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*the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.*

*(2) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.*

*(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.*

*(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:*

*(A) Was unconscious or asleep.*

*(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.*

*(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.*

*(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.*

*(5) Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.*

*(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.*

*(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.*

**Unlawful sexual intercourse** is similar to **statutory rape** and is defined under California Penal Code §261.5 as an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

California does not have a separate definition of the crime of **Fondling**.

**Incest** is included in California Penal Code §285 and is defined as *persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.*

**Domestic Violence** under California Penal Code §13700 as: *abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom*



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*the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.*

Under **California** law, **Dating Violence** is included within the definition of **Domestic Violence** in California Penal Code §13700 (above).

**Stalking** is defined in §646.9 of the California Penal Code as (a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking.

In **Nevada** the same, or similar crimes, are defined as follows:

**NRS 200.366 Sexual assault: Definition; penalties.**

1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault.
2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:
  - (a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:
    - (1) For life without the possibility of parole; or
    - (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.
  - (b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.
3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:
  - (a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.
  - (b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.
  - (c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.



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4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:
  - (a) A sexual assault pursuant to this section or any other sexual offense against a child; or
  - (b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.
5. For the purpose of this section, “other sexual offense against a child” means any act committed by an adult upon a child constituting:
  - (a) Incest pursuant to [NRS 201.180](#);
  - (b) Lewdness with a child pursuant to [NRS 201.230](#);
  - (c) Sado-masochistic abuse pursuant to [NRS 201.262](#); or
  - (d) Luring a child using a computer, system or network pursuant to [NRS 201.560](#), if punished as a felony.

**NRS 201.180 Incest: Definition; penalty.** Persons being within the degree of consanguinity within which marriages are declared by law to be incestuous and void who intermarry with each other or who commit fornication or adultery with each other shall be punished for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole, and may be further punished by a fine of not more than \$10,000.

**NRS 200.368 Statutory sexual seduction: Penalties.** Except under circumstances where a greater penalty is provided in [NRS 201.540](#), a person who commits statutory sexual seduction shall be punished:

1. If the person is 21 years of age or older, for a category C felony as provided in [NRS 193.130](#).
2. If the person is under the age of 21 years, for a gross misdemeanor.

(Added to NRS by [1977, 1627](#); A [1979, 1426](#); [1995, 1187](#); [2001, 703](#))

**NRS 33.018 Acts which constitute domestic violence.**

1. Domestic violence occurs when a person commits one of the following acts against or upon the person’s spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person’s minor child or any other person who has been appointed the custodian or legal guardian for the person’s minor child:
  - (a) A battery.
  - (b) An assault.
  - (c) Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.
  - (d) A sexual assault.
  - (e) A knowing, purposeful or reckless course of conduct intended to harass the other person.Such conduct may include, but is not limited to:

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- (1) *Stalking.*
- (2) *Arson.*
- (3) *Trespassing.*
- (4) *Larceny.*
- (5) *Destruction of private property.*
- (6) *Carrying a concealed weapon without a permit.*
- (7) *Injuring or killing an animal.*
- (f) *A false imprisonment.*
- (g) *Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.*
2. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

### **NRS 200.575 Stalking: Definitions; penalties.**

1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, and that actually causes the victim to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:
  - (a) For the first offense, is guilty of a misdemeanor.
  - (b) For any subsequent offense, is guilty of a gross misdemeanor.
2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause the person to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$5,000.
3. A person who commits the crime of stalking with the use of an Internet or network site, electronic mail, text messaging or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in [NRS 193.130](#).
4. Except as otherwise provided in subsection 2 of [NRS 200.571](#), a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.
5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.
6. As used in this section:
  - (a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.
  - (b) "Family or household member" means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.
  - (c) "Internet or network site" has the meaning ascribed to it in [NRS 205.4744](#).

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- (d) “Network” has the meaning ascribed to it in [NRS 205.4745](#).
- (e) “Provider of Internet service” has the meaning ascribed to it in [NRS 205.4758](#).
- (f) “Text messaging” means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person’s telephone or computer by addressing the communication to the recipient’s telephone number.
- (g) “Without lawful authority” includes acts which are initiated or continued without the victim’s consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:
  - (1) Picketing which occurs during a strike, work stoppage or any other labor dispute.
  - (2) The activities of a reporter, photographer, camera operator or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.
  - (3) The activities of a person that are carried out in the normal course of his or her lawful employment.
  - (4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

**Note: the NRS does not separately define “consent”, “rape”, “fondling” or “dating violence.”**

## PART II: PROCEDURES FOR RESPONDING TO A COMPLAINT OF SEXUAL MISCONDUCT

The College/Institute is committed to providing a prompt, fair, and impartial investigation and resolution of all allegations of sexual misconduct. Incidents of sexual misconduct should be reported to the College’s/Institute’s Title IX Coordinator. Any incident of sexual misconduct reported to another College/Institute responsible employee, with the exception of those employees designated above as confidential, will be reported by the responsible employee to the Title IX Coordinator.

### I. Initial Steps

#### A. Intake Meeting with Complainant

Upon notice of any allegation of sexual misconduct, the Title IX Coordinator or his or her designee will schedule an individual intake meeting with the Complainant. At the intake meeting, the Title IX Coordinator or his or her designee will provide the Complainant with a general understanding of this Policy for reports of student sexual misconduct, and identify forms of support or immediate assistance available to the Complainant (e.g., referrals to appropriate law enforcement agencies; referrals for medical treatment at local hospitals and trauma centers). The Title IX Coordinator or his or her designee will also provide the Complainant with a written explanation of his or her rights and options with respect to his or her report of sexual misconduct. The intake meeting may also involve a discussion of any interim accommodations that may be appropriate concerning the Complainant’s academic schedule and/or College/Institute employment arrangements. Additional information regarding interim accommodations is set forth below.

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At the initial intake meeting or at a subsequent time the Title IX Coordinator or his or her designee will seek to determine how the Complainant wishes to proceed, i.e., whether the Complainant wishes to pursue Formal Resolution, Informal Resolution, or does not wish to pursue resolution of any kind. Regardless of how the Complainant chooses to proceed, the College/Institute seeks to resolve every report of sexual misconduct within 60 calendar days of the initial report, excluding any appeal. The time frames included in this Policy may vary depending on the details of the complaint and, in some cases, the time of the academic year (e.g., during College/Institute breaks or final exams). The College/Institute may extend any time frame for good cause, provided the Complainant and Respondent are given a written explanation as to the reason for such extension.

If the Complainant wishes to proceed with either Formal Resolution or Informal Resolution, the Title IX Coordinator will ascertain the name of the Respondent, and the date, location, and nature of the alleged sexual misconduct, and, in a timely fashion, will schedule an individual intake meeting with the Respondent. The College/Institute will notify the Respondent that a complaint has been filed and provide the date, time, location and factual allegations concerning the alleged violation, and possible sanctions.

If the Complainant wishes to proceed with Formal Resolution, the Title IX Coordinator will promptly prepare a formal letter to the Hearing Committee on Student Behavior (“Hearing Committee”) notifying the Hearing Committee of the initiation of a formal investigation. The letter will provide the Hearing Committee with the names of the Complainant and Respondent and the date, location, and nature of the alleged sexual misconduct.

If the Complainant does not wish to pursue Formal Resolution or Informal Resolution, and either requests that his or her complaint remain confidential, or refuses to participate in the initial intake meeting with the Title IX Coordinator, the Title IX Coordinator will inform the Complainant that the College’s/Institute’s ability to respond may be limited. In such scenarios, Title IX nevertheless requires the College/Institute to evaluate the Complainant’s request(s) for no action in the context of the College’s/Institute’s commitment to provide a reasonably safe and non-discriminatory environment for the entire community.

### **B. Interim Measures**

In all complaints of alleged sexual misconduct, the College/Institute will undertake an appropriate inquiry and take immediate action to support and protect the Complainant, including taking appropriate interim steps before the final outcome of the investigation and hearing, if any. Accordingly, at or after the intake meeting, the College/Institute may impose a “no-contact” order, which typically will include a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means, including social media, pending the investigation and, if applicable, the hearing.

To ensure the safety and well-being of the Complainant, the Title IX Coordinator also may take any further protective action that he or she deems appropriate concerning the interaction of the parties pending the hearing, which may include directing appropriate officials to alter the students’ academic, transportation, and/or College/Institute employment arrangements, or other appropriate protections.



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Any student who has been the victim of sexual misconduct may request assistance in changing academic, transportation, and working situations after a report of sexual misconduct. The College/Institute will grant such accommodations, provided they are reasonable and available, regardless of whether or not the victim chooses to report the crime to law enforcement.

When taking such steps to separate the Complainant and the Respondent, the College/Institute will, to the extent practicable, minimize the burden on the Complainant.

Violation(s) of the Title IX Coordinator's directives and/or protective actions will constitute related offenses that may lead to additional disciplinary action.

## **Effect of Criminal Proceedings**

Sexual misconduct may constitute a violation of both law and College/Institute Policy. The College/Institute encourages students to report alleged sexual misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy. Therefore, criminal investigations or reports are not determinative of whether sexual misconduct under this Policy, has occurred. In other words, conduct may constitute sexual misconduct under this Policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

The filing of a complaint of sexual misconduct under this Policy is independent of any criminal investigation or proceeding. The College/Institute will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any necessary interim measures to protect the Complainant and the College/Institute community. However, the College/Institute may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate the state criminal code.

## **II. Formal Resolution Process**

### **A. Investigation**

When the Complainant indicates a desire to pursue Formal Resolution, the reported allegations will be investigated promptly, thoroughly, and impartially. College/Institute will notify the Respondent that a complaint has been filed and will include notice of the allegations. The Complainant and Respondent will be given the opportunity to meet separately with the Title IX Coordinator. Additionally, the Title IX Coordinator will inform both the Complainant and Respondent that both parties have the right to an advisor of their choice to assist in the resolution process. During all phases of the Formal Resolution Process, the parties will be provided with advance notice of any meeting they are required or eligible to attend.

The Title IX Coordinator will collect and review evidence it deems necessary or helpful to the investigation of the alleged sexual misconduct. The Title IX Coordinator may designate a specially trained investigator or investigators to conduct the interviews and investigation. The investigation will





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include individual interviews with the parties involved and with individuals who may have observed the alleged conduct or may have other relevant knowledge. The investigation may also include examination of medical records, surveillance video, cell phone and other electronic records, and other evidence.

In response to the Investigation, both the Complainant and the Respondent will be given the opportunity to submit a written statement. The written statement will be provided to the Title IX Coordinator, the opposing party, as well as members of the Hearing Committee.

### **B. Hearing Committee**

Formal Resolution involves a hearing before a committee. The Committee is comprised of at least three (3) College/Institute Administrators, all of whom receive training, at least annually, on the issues relating to sexual misconduct, including sexual harassment, dating violence, domestic violence, sexual assault, and stalking. They will also be trained regarding how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The Hearing Committee Chair will select the

Hearing Committee members who will participate in the hearing and will either serve as the presiding chair of the hearing, or will appoint the presiding chair.

### **C. The Hearing**

After the investigation the College/Institute will provide written notice at least five (5) business days before the hearing date to both parties stating the date, time, and place of the hearing. A party wishing to challenge the participation of any member appointed to the Committee must notify the Hearing Committee Chair, in writing, within three (3) business days of receipt of the notice of hearing, stating the specific reason(s) for the party's objection. The Committee Chair will determine whether the challenge has merit, and reserves discretion to make changes in the composition of the Committee at any time. A party wishing to challenge the participation of the Committee Chair must notify the Title IX Coordinator, in writing, within three (3) business days of receipt of the notice of hearing, stating the specific reason(s) for the party's objection. The Title IX Coordinator will determine whether the challenge has merit and reserves discretion to instruct the Hearing Committee to designate a new Committee Chair.

#### **i. Pre-Hearing Submissions**

In addition to the written statements submitted by the parties, the parties will provide the Title IX Coordinator with a list of witnesses they wish the Committee to call, copies of documents, and a description of any other information they propose to present at the hearing at least three (3) business days prior to the hearing. The Title IX Coordinator will determine whether such witnesses and documents are deemed relevant to the Hearing. The Title IX Coordinator will provide each party with a copy of the list of witnesses and copies of documents or other information submitted by each party.

In the absence of good cause, as determined by the Committee, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided by this deadline.





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### **ii. Conduct of the Hearing**

The hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the College/Institute will provide both parties with written notice explaining the reason for such change. The College/Institute will arrange for the hearing to be recorded, and may arrange for the preparation of any transcript of the recording that the College/Institute deems appropriate.

As a non-adversarial process, the hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The Hearing Committee will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. The College/Institute will ask for all necessary witnesses to be present, or to have provided written statements in lieu of attending the hearing. This may be done as necessary to accommodate a witness who cannot be present, or whom the Hearing Committee determines may remain anonymous. The Hearing Committee will review in advance of the hearing all the written materials provided.

Only the Hearing Committee may question the individual parties and any witnesses, unless permission is granted to modify the questioning process. After all witnesses have been questioned, each party may make a closing statement.

In order to comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, the College/Institute will not disclose documents prepared in anticipation of the hearing, documents, testimony, or other information introduced at the hearing, and any transcript of the hearing itself may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law and/or College/Institute Policy.

Both the Complainant and the Respondent may have advisors present to support and assist them during any meeting, the hearing and appeal stages of the Formal Resolution process. At the Complainant's or Respondent's request, the Title IX Coordinator will appoint to each party an advisor who has been formally trained. An advisor may not direct questions to the Hearing Committee or witnesses at the hearing, but may consult with the party that he or she is assisting. The Hearing Committee will not allow an advisor's presence to inhibit the parties' sharing of information or the conduct of the hearing.

The parties are expected to cooperate at the hearing. If either party fails to appear at the scheduled hearing, the Hearing Committee may postpone the proceedings if there is a legitimate documented reason for the absence, or proceed and determine the complaint on the basis of the evidence available, provided the absent party was duly notified of the scheduled hearing date.

If the Hearing Committee determines that unresolved issues exist that would be clarified by the presentation of additional information, the Hearing Committee may suspend the hearing and reconvene it in a timely manner to receive such information. A delay may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents which were readily available at the time of the hearing.



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## **D. Determination**

In all investigations into alleged sexual misconduct, the College/Institute will evaluate evidence under a **“preponderance of the evidence”** standard. A preponderance of the evidence means that information shows it is **“more likely than not”** that the Respondent violated this Policy. The Hearing Committee must decide if the Respondent is responsible, not responsible, or whether there is sufficient evidence to make a determination.

The Respondent will be found to be responsible for the alleged sexual misconduct if the Hearing Committee concludes, based upon careful review of all information presented, that such sexual misconduct more likely than not occurred. The Hearing Committee shall determine whether the Respondent is responsible for sexual misconduct, and will provide a written statement of such determination to the Campus Director.

## **Complainant and Respondent Impact Statement**

Within three (3) business days of the conclusion of the hearing, both the Complainant and Respondent will be given access to the record of the hearing and offered an opportunity to provide an impact statement to the Campus Director while they are deliberating on the appropriate sanctions. The record of the hearing may not be copied.

The impact statement may be up to five (5) pages single spaced. The impact statement is the student’s opportunity to discuss his or her experience and the incident in question, as well as respond to how the investigation and hearing were conducted and any areas of agreement or/disagreement with the investigation or hearing, or determination of the Hearing Committee.

This impact statement must be provided to the Title IX Coordinator who will provide it to the opposing party as well and the Campus Director, and all members of the Hearing Committee.

## **III. Sanctions**

The Campus Director may consider suspending or expelling any student found responsible for sexual misconduct; however, he or she may impose any of the following sanctions that are determined to be fair and proportionate to the violation:

- Reprimand or warning
- Changing the Respondent’s academic schedule
- Disciplinary probation
- Revocation of honors or awards
- Restricting the Respondent’s access to College/Institute facilities or activities
- Community service
- Issuing a “no-contact” order to the Respondent or requiring that such an order remain in place
- Dismissal from or restricting or reassignment of College/Institute employment
- Suspension (limited time or indefinite)
- Expulsion

In determining appropriate sanctions, the Campus Director will consider any record of past violations of College/Institute policies, as well as the nature and severity of such past violation(s). The Campus

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Director will consider as part of the deliberations whether the Respondent poses a continuing risk to the Complainant and/or the College/Institute community. Any sanction imposed will be explained and supported in the written decision of the Campus Director.

Within five (5) business days from the determination of the Committee hearing, the Campus Director will issue a determination letter to the Respondent and the Complainant. Both parties, concurrently, will receive a copy of this determination letter.

The determination letter will contain only the following information: (i) the name of the Respondent; (ii) whether the Respondent has been found responsible or not responsible for specific violation(s) of the Sexual Misconduct Policy; (iii) a list of the possible sanctions imposed, if any; (iv) the sanctions actually imposed; (v) the rationale for the sanctions imposed, if any; (vi) the College's/Institute's appeal process; (vii) any change to the results that occur prior to the time that the results become final; and (viii) when the results become final. Both the Respondent and the Complainant have a right to this information.

If the Respondent is found responsible for sexual misconduct that involves a crime required by the Clery Act to be reported by the College/Institute, and, as a result, is suspended and or expelled by the College/Institute, the College/Institute is required by California law to make a notation on the Respondent's transcripts indicating that s/he has been dismissed and/or expelled, whether the student is ineligible to reenroll, and when the student would be eligible to reenroll.

### IV. Appeal Process

Either party may appeal the Hearing Committee's determination and/or the disciplinary decision of the Campus Director. A party has three (3) grounds under which to appeal the College's/Institute's determination: (i) the Hearing Committee committed procedural errors that had an impact on the complaint's decision, (ii) there is new evidence that was not reasonably available at the time of the hearing before the Hearing Committee, or (iii) the sanctions are not consistent with past practices or the severity of the alleged sexual misconduct.

Final sanctions are in effect until any timely appeal of the decision is resolved. The Campus Director may suspend the determination pending exhaustion of appeal, allow the student to attend classes or other activity on a supervised or monitored basis, or make such other modifications to the determination as may be advisable. Interim measures will remain in effect until the appeal is resolved.

The procedure to file an appeal is as follows:

1. A party wishing to appeal the findings of the Hearing Committee and/or sanctions by the Campus Director must file a **notice of intent to appeal** within five (5) business days of the date the party is notified of the Hearing Committee's finding and the Campus Director's sanctions. The notice of intent to appeal must be submitted in writing (either email or hard-copy) to the Title IX Coordinator. The notice of intent to appeal must contain the party's grounds for the appeal.



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2. Within two (2) weeks of filing a notice of intent to appeal, the party's formal appeal must be filed. The party should submit copies of any and all material the party wishes to provide as evidence for his/her appeal.

3. A committee made up of three (3) full-time Team Members ("Appeals Committee"), which shall not include the Campus Director or members of the Hearing Committee, will be assembled by the Title IX Coordinator. Except for appeals brought under (ii) above, the Appeal Committee's entire review process will be based on the party's appeal and the Hearing Committee's record of the case. Otherwise, no additional evidence is allowed and no witnesses may be heard.

4. The Appeals Committee will make a final determination on the appeal. The Appeals Committee shall render its decision regarding the appeal within 20 calendar days of receipt of the appeal, record of the case, and if applicable, any new evidence pursuant to (ii) above.

5. Within three (3) business days of the Appeals Committee's determination, the Campus Director will issue a final determination letter to the Respondent and the Complainant. Both parties, concurrently, will receive a copy of this final determination letter.

### **V. Informal Resolution**

A Complainant who wishes to file a complaint but who does not wish to pursue Formal Resolution may request a less formal proceeding, known as "Informal Resolution."

While the Informal Resolution process is not as structured as the Formal Resolution process, it can be an effective and appropriate means to deal with the complaint. The Informal Resolution procedure is not available for complaints of sexual violence.

If the Complainant wishes to proceed with Informal Resolution, the Title IX Coordinator will ascertain the name of the Respondent, and the date, location, and nature of the alleged sexual misconduct, and, within two (2) business days, will schedule an individual intake meeting with the Respondent in order to provide him or her with a general understanding of the Policy.

The Complainant and the Respondent may each bring an advisor to the Informal Resolution. Advisors are subject to the same restrictions for advisors in Formal Resolution, as set forth above. The Title IX Coordinator or designee will preside over the Informal Resolution and may elect to be assisted by another member of the senior staff of the College/Institute or outside expert.

If, in the course of the Informal Resolution, the Respondent admits to violating the College's/Institute's Policy and Procedures for Reports of Student Sexual Misconduct, that admission will serve as a finding of responsibility that is final and cannot be appealed. The Title IX Coordinator or designee will recommend one or more sanctions, which the Respondent can accept or reject. The sanctions that may be imposed as the result of the Informal Resolution process are the same as those outlined in the Formal Resolution process above. If the Title IX Coordinator or designee's recommended sanction is accepted, the process is concluded. If it is rejected, the complaint will proceed to the Formal Resolution process.



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Informal Resolution may result in the imposition of protective actions agreed upon by the parties, or (with or without such agreement) based on information derived from the Informal Resolution taken together with any other relevant information known to the College/Institute at the time of the Informal Resolution.

The College/Institute may, at any time, elect to end such proceedings and initiate Formal Resolution instead. Statements or disclosures made by the parties in the course of the Informal Resolution may be considered in the Formal Resolution.

