DRAFT

Sexual Misconduct, Harassment, and Discrimination Policies and Procedures

Open to Comments:
November 17, 2015 to December 17, 2015

Submit comments for the Title IX Working Group to:
TitleIXComments@pomona.edu
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Sexual Misconduct, Harassment, and Discrimination Policies and Procedures

I. SCOPE OF POLICY

This Policy applies to all Pomona College (hereafter referred to as “College”) faculty, staff, and students. This Policy also applies to third parties (such as campus visitors or vendors) who may have contact with members of the College community either on the College’s campus or at other College events and programs. If the alleged perpetrator (hereafter referred to as “Respondent”) is an employee or student from one of the other Claremont Colleges or the Claremont University Consortium (“CUC”), the College will investigate the matter and take steps to stop the conduct and remedy its affects to the extent reasonably possible. However, the grievance or other relevant procedures related to any disciplinary action against the Respondent will be those of the Respondent’s home institution. Throughout the grievance, investigatory, hearing, appeal, and/or disciplinary process, the College will maintain its authority to take action to ensure campus safety.

The procedures set forth in this Policy are administrative in nature and are separate and distinct from the criminal and civil legal systems. Pursuing resolution through these procedures does not preclude someone from pursuing legal action now or in the future. If the conduct in question is alleged to be a violation of both College policy and public law, the College will proceed with its normal process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these or other College procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.

In the event of a conflict with any other Claremont Colleges intercampus policy, the procedures set forth in this Policy will prevail. Changes to the policies and procedures contained in this Policy may be made with the approval of the Board of Trustees and/or the President.

II. INTRODUCTION

Pomona College is committed to providing a safe and non-discriminatory educational, working, and residential environment for the students, faculty, staff and other members of the Pomona College and Claremont Colleges community. In particular, the College aspires to providing members of its community with an environment that is free from sexual harassment, sexual assault, relationship violence, and stalking (collectively, “sexual misconduct”). This conduct is disruptive of the living, learning and working environment of the Pomona College community and deprives students, employees and other community members of equal access to the College’s programs and activities.

The College embraces its responsibility to increase awareness of sexual misconduct, prevent its occurrence, diligently investigate complaints of sexual misconduct and retaliation, support survivors, deal fairly with those accused of sexual misconduct and firmly with offenders, and comply with Title IX of the Higher Education Amendments of 1972 (“Title IX”); Title VII of the Civil Rights Act of 1964 (“Title VII”); Violence Against Women Reauthorization Act of
2013 ("VAWA"); the Campus SaVE Act and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") as well as the California statutes.

The College’s Sexual Misconduct, Harassment, and Discrimination Policy (the “Policy” and these “Procedures”) confirms the College community’s commitment to gender equity required by federal and state law and the College’s own values.

This Policy has the following goals:

- It identifies the conduct prohibited by the College. If a person engages in such conduct, the College will take steps to determine the person’s responsibility and, if determined to be responsible, to impose appropriate sanctions against the person. In addition, the Policy provides the College with the means to protect the College community from a person who the College reasonably believes, based upon evidence, presents a danger to members of the College community.

- It sets forth in reasonable detail the procedures that the College will follow in the event any member of the College community is or believes himself or herself to be the victim of sexual misconduct, harassment, or discrimination. The procedures are grouped into four categories: (i) reporting, (ii) intake and initial review, (iii) investigation, and (iv) hearings and sanctions. The procedures are designed to be fair and impartial and to resolve complaints promptly and equitably for the parties involved and the College community. This description of the procedures are designed to provide members of the College community with information about what to expect if a report alleging a violation of this Policy is made to the College.

- It provides information about some of the medical, psychological and other resources available to persons who are the victims of sexual misconduct, discrimination or harassment. The College is committed to expanding resources, and a detailed list of the most current resources is maintained on the Pomona College website here.

Certain terms used in this Policy must be defined with as much precision as possible. For example, the formal definitions of such terms as “Sexual Misconduct,” “Consent” and “Incapacitation” are critical to understanding the Policy. When those terms are used in the text of the Policy online, they are hyperlinked so that if the cursor is placed over the term, the definition appears in a popup box.

III. STATEMENT OF PROHIBITED CONDUCT UNDER THIS POLICY

A. Summary

- This Policy prohibits Sexual Misconduct that is either Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse.
• This Policy prohibits **Dating Violence, Domestic Violence, Stalking** and **Hazing** when any of those types of conduct is Gender-Based.
• This Policy prohibits Sexual Misconduct in the form of **Sexual Exploitation**.
• This Policy prohibits **Discrimination** on the basis of Gender.
• This Policy prohibits **Retaliation** against any person who is exercising his or her rights under this Policy.
• This Policy prohibits **False Reporting** of reports of violations of this Policy.

The obligations of this Policy require a clear understanding of the concept of consent. In order for individuals to engage in sexual activity of any type, there must be clear, knowing and voluntary **Consent** prior to and during sexual activity.

**Consent** is positive permission to engage in the sexual activity. California law defines consent as “affirmative, conscious, and voluntary.”

Persons are unable to give **Consent** if they **Lack Capacity** to give **Consent** including **Incapacitation Due To Alcohol Or Drugs Or Other Reasons** or if **Consent** was obtained through **Force** and **Coercion**. A person who engages in any conduct prohibited by this Policy is not excused from responsibility owing to the person’s use of alcohol or drugs such that the person’s judgment was impaired.

**B. Definitions of Prohibited Conduct**

1. **Sexual Misconduct**

The College defines sexual misconduct as any of the following:

a. **Non-Consensual Sexual Contact** (or attempts to commit same)

Non-Consensual Sexual Contact is:

• any intentional sexual touching,
• however slight,
• with any object,
• by a person upon a person,
• that is without consent, with or without force.*

Sexual contact includes: Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

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*The use of force is not “worse” than the subjective experience of violation of someone who has sex without consent. The use of force will be a factor in increasing sanctions.

b. **Non-Consensual Sexual Intercourse** (or attempts to commit same)

Non-Consensual Sexual Intercourse is:

- any sexual intercourse however slight,
- with any object,
- by a person upon a person,
- that is without consent, and with or without force.

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

Nonconsensual sexual contact and nonconsensual sexual intercourse are often referred to as “sexual assault.” As defined by the federal Violence Against Women Act, sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Generally, a sexual assault has been committed when an individual engages in sexual activity without the explicit consent of the other individual involved, including when the individual lacks capacity to consent. In this Policy, sexual activity is any touching of a sexual or other intimate part of a person either for the purpose of asserting power or gratifying sexual desire of either party. This includes coerced touching of the Respondent by the Complainant as well as the touching of the Complainant by the Respondent, whether directly or through clothing. Accordingly, for purposes of the College’s policies, sexual assault falls within the College’s definition for sexual misconduct.

2. **Other Conduct When Gender-Based:**

The following alleged conduct will be addressed through the Procedures outlined in this Policy when the conduct is gender-based:

a. **Dating Violence**

As defined by the VAWA, dating violence is violence committed by a person

1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

2) where the existence of such a relationship shall be determined based on a consideration of (1) the length of the relationship, (2) the type of the relationship, and (3) the frequency of interaction between the persons involved in the relationship.
b. **Domestic Violence**

As defined by the VAWA, domestic violence is the use of physical, sexual or emotional abuse or threats to control another person who is a current or former spouse or other intimate partner. It includes felony or misdemeanor crimes of violence committed by a current or former spouse of the 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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.

c. **Stalking** as defined by the College Stalking Policy found in Article III, number 18 of the College’s Student Code.

d. **Hazing** as defined by the College Hazing Policy found in Article III, number 5 of the College’s Student Code.

3. **Sexual Exploitation:**

Sexual exploitation is a form of sexual misconduct which occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

a. Invasion of sexual privacy;
b. Prostituting another person;
c. Non-consensual video or audio-taping of sexual activity;
d. Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
e. Engaging in voyeurism;
f. Knowingly transmitting a sexually transmitted infection, a sexually transmitted disease, or HIV to another person;
g. Exposing one’s genitals in non-consensual circumstances; inducing another to expose their genitals;
h. Sexually-based stalking.

4. **Sexual Harassment**

Sexual harassment may be either “quid pro quo” harassment, that is sexual advances or requests for sexual favors where submission is made an explicit or implicit term or condition of an individual’s employment or education or where submission or rejection is used as the basis for making employment or educational decisions affecting an individual; or “environmental” harassment, where the individual is subjected to a hostile or intimidating environment, in which
verbal or physical conduct, because of its severity and/or persistence, is likely to interfere with 
an individual’s work or education, or to affect adversely an individual’s living conditions. 
Occasional compliments that are generally accepted as not offensive or other generally accepted 
social behavior, on the other hand, do not constitute sexual harassment.

Examples of sexual harassment may include such conduct as:

a. Direct or implied threats that submission to sexual advances will be a condition of 
   employment, work status, promotion, grades, or letters of recommendations;
b. Direct propositions of a sexual nature;
c. Subtle pressure for sexual activity, an element of which may be repeated requests 
   for private meetings without an academic and employment purpose;
d. A pattern of conduct that would discomfort or humiliate, or both, a reasonable 
   person at whom the conduct was directed that includes one or more of the 
   following: (1) unnecessary touching, patting, hugging, or brushing against a 
   person’s body; (2) remarks of a sexual nature about a person’s clothing or body, 
   whether or not intended to be complimentary; (3) remarks about sexual activity or 
   speculations about previous sexual experience; or (4) other comments of a sexual 
   nature, including sexually explicit statements, questions, jokes or anecdotes;
e. Certain visual displays of sexually-oriented images outside the educational 
   context;
f. Letters, notes or electronic mail containing comments, words or images as 
   described in (e) above.

Sexual harassment includes harassment of women by men, of men by women, and same gender 
gender-based harassment.

5. **Sex Discrimination**

Sex discrimination involves treating someone unfavorably because of that person’s sex 
(gender). Sex discrimination also can involve treating someone less favorably because of his or 
her connection with an organization or group that is generally associated with people of a certain 
sex.

C. **Definition of “Consent”**

**California law defines consent as “affirmative, conscious, and voluntary.”** Consent is 
active, not passive, and is clear, knowing and voluntary. Consent is positive sexual permission; 
silence, without more, cannot be interpreted as consent. Consent can be given by words or 
actions, as long as those words or actions create mutually understandable and affirmative 
permission regarding willingness to engage in (and the conditions of) sexual activity. In order to 
give effective consent, one must be of legal age and have the capacity to give consent:

1. The legal age of consent in the state of California is 18 years.
2. Consent to any one form of sexual activity does not imply consent to any other form(s) of sexual activity.

3. A previous relationship or prior consent does not imply consent to future sexual acts.

4. Consent can be withdrawn. Thus, even if a person agreed to sexual interaction or continued sexual interaction, that person has the right to change their mind, irrespective of how much sexual interaction may have already taken place.

5. **Force and Coercion**: Consent obtained through force is not consent. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force includes the use of threats, intimidation (implied threats) and/or coercion to produce consent. Coercion is unreasonable pressure for sexual activity (“Have sex with me or I’ll hit you. Okay, don’t hit me; I’ll do what you want.”). Coercive behavior differs from seductive behavior based on the type of pressure used to get consent. When someone makes 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, continued pressure beyond that point can be coercive.

   NOTE: There is no requirement that a party resists a sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force, however, is not demonstrated by the absence of resistance.

6. **Capacity/Incapacitation**: Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). Sexual activity with someone who is known to be -- or based on the circumstances should reasonably have been known to be -- mentally or physically incapacitated (i.e. by alcohol or other drug use, unconsciousness, asleep, or blacked out), constitutes a violation of this policy.

   a. **Incapacitation due to alcohol or other drugs**: Because alcohol or other drug use can place an individual’s capacity to consent in question, sober sex is less likely to raise such questions. Being under the influence of alcohol or other drugs does not in and of itself indicate incapacitation. When alcohol or other drugs, including date rape drugs (such as Rohypnol, Ketamine, GHB, etc.), are involved, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (the who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Administering a date rape drug to another individual is a violation of this policy.
policy. More information on these drugs can be found at http://www.911rape.org/.

b. **Incapacitation due to other reasons:** This policy also covers a person whose incapacity results from mental or physical disabilities, sleep, unconsciousness, or involuntary physical restraint.

### IV. SEXUAL MISCONDUCT, HARASSMENT, AND DISCRIMINATION COMPLAINT PROCEDURES

These procedures govern the reporting, initial review, investigation, and resolution of complaints of alleged violations of this Policy when they involve Pomona College students, faculty, staff, and/or third-party Respondent.

Individuals who believe they have been subjected to sexual misconduct, harassment and/or discrimination are encouraged to report such conduct. Any College faculty member, coach, student affairs professional staff and student resident assistant, as well as other College designated staff, who receives information of an alleged sexual misconduct, discrimination and/or harassment is obligated to file a report with one of the College representatives set forth below.

A. **Reporting an Alleged Violation of this Policy**

1. Reporting to the College

Individuals who believe that they have been the subject of or have witnessed alleged sexual misconduct, discrimination and/or harassment are encouraged to contact any of the appropriate College representative listed below. Under no circumstances is an individual required to report sexual misconduct to a supervisor or academic instructor who is the alleged perpetrator:

**Title IX Coordinator**

Daren Mooko, Associate Dean  
909-621-8017; Email: daren.mooko@pomona.edu  
Office: Alexander 102

**Deputy Title IX Coordinators:**

Lisa Beckett, Professor of Physical Education and Associate Director of Athletics  
909-621-8428; Email: lisa.beckett@pomona.edu  
Office: Rains Center 225

Fernando Lozano, Professor of Economics and Associate Dean of the College

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On-Call Dean:

Students can always reach an on-call dean 24 hours a day by calling Campus Safety (909-607-2000) and having the on-call dean called.

Law Enforcement:

The College encourages any member of the College community who experiences any form of sexual violence to immediately contact the Claremont Police Department ("CPD") by contacting Campus Safety (909-607-2000) if they are on campus or by dialing 911 if they are off campus.

Callisto:

Callisto, an online option for reporting sexual assaults, is an independent, third-party reporting system designed to allow individuals to confidentially complete an incident report online. Specifically, this system allows survivors to confidentially complete an incident report online, receive a clear explanation of their reporting options and either directly submit the report to the chosen College official or place a hold on submitting their report until someone else reports the same assailant, or to save their report with a timestamp, which allows the individual to review and submit the report later with an accurate indication of the original report time. Callisto has been live since August 2015 at Pomona College. For more information, please visit the Project Callisto website.

Prompt reporting is encouraged, because facts often become more difficult to establish as times passes. However, the College will investigate and take appropriate action in response to all reports regardless of when the alleged conduct occurred. The ability of the College to respond to the conduct is limited if the Respondent is no longer a member of the College community. If a College staff member, faculty member or student leaves the College with a pending complaint against them, they will not be permitted to return to the College until the case is resolved through these procedures.
2. Confidentiality of Reports to the College

One of the most significant concerns expressed by Complainants and witnesses when they come forward is a desire for confidentiality. Respondents who deny responsibility for the wrongdoing also have expressed a strong desire for confidentiality until the matter has been resolved. The College deeply respects these concerns, as cases involving sexual discrimination, harassment, and assault are particularly sensitive and demand special attention to issues of privacy.

The College will make all reasonable efforts to maintain the confidentiality of the parties involved in an investigation and/or hearing for a complaint as well as the confidentiality of the details of an investigation, any hearing, and except where permitted by law, the sanctions imposed. The College will inform in writing all individuals involved in the investigation and/or hearing process of the critical importance and expectation that, while the processes are ongoing, they maintain the confidentiality of the process and any information shared with them as a result of their participation. Further, all documents provided in preparation for or related to the hearing proceedings may not be disclosed to any other party under FERPA as such documents constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. All hearing proceedings will be confidential and will not be discussed outside the process; this includes any witnesses and advisors/support persons.

Complainants and Respondents are not prohibited from sharing details of complaints with family/partner, counsel, or a support person/advisor below, who may support or assist the parties in presenting their case. Those persons are also expected to maintain the same level of confidentiality as Complainants and Respondents and the College will provide a writing regarding confidentiality to Complainants and Respondents so that they can deliver it to such persons.

Following resolution of an investigation and any related hearing, the College does not impose any restrictions on the parties regarding re-disclosure of the following: the name of the student (Respondent or Complainant), the findings of the hearing, any sanctions imposed by the College, and the rationale for the findings and sanctions.

If at any point the Complainant requests confidentiality with respect to the Respondent and/or decides not to pursue action by the College, the College will make all reasonable attempts to comply with this request. In these situations, the College’s ability to investigate and respond to the conduct may be limited. The College is required to weigh the Complainant’s request for confidentiality with the College’s commitment to provide a reasonably safe and non-discriminatory environment. If the College cannot maintain a Complainant’s confidentiality, the Complainant will be notified by the Title IX Coordinator.
3. Confidential Resources at the College and in the Community

An individual who wishes for the details of the incident to remain completely confidential may speak with certain designated College employees who, by law, shall maintain confidentiality and may not disclose the details of an incident, subject to certain exceptions in the law (e.g., child abuse). If an individual makes a report to these confidential resources but not to the persons or entities identified in section IV.A.1 above, then the College will not be in a position to take action because it will not have notice of the incident. These resources are listed below:

**Project Sister Rape Crisis Counselor at the Claremont Colleges, EmPOWER Center.** The EmPOWER Center has limited counseling hours; call the number below or check the Pomona College Sexual Assault: Pomona College Processes & Resources website.
- 1030 Dartmouth Ave
- 909-607-0690

**Monsour Counseling and Psychological Services staff**
- Tranquada Student Services Center, 1st floor
- 757 College Way
- 909-621-8202, 909-607-2000 (after-hours emergency)

**Student Health Services staff**
- Tranquada Student Services Center, 1st floor
- 757 College Way
- 909-621-8222, 909-607-2000 (after-hours emergency)

**Members of the Clergy including the McAlister Center chaplains.**
- McAlister Center for Religious Activities
- 919 North Columbia Avenue
- 909-621-8685

**Pomona College Ombuds Office: Conchita Serri**
- Harvard Building/McCarthy Building Suite 103
- Campus Email: conchita.serri@pomona.edu
- Private/Secure Email: PomonaCollegeOmbuds@hotmail.com
- 909-621-2328

**Alternative Resources**
Individuals who have experienced sexual misconduct, including sexual assault may also seek confidential support from a local or national groups, including:

**Pomona College Advocates**
- Campus Email: advocates@pomona.edu
- 909-503-7972
- Advocates are a trained student group who are available through on-call system to assist students who have experienced sexual assault or misconduct on a 24/7 basis. The Advocates can be contacted at any stage
B. **Retaliation Policy**

Retaliation is defined as the taking of an adverse action by any student, faculty or staff member against another individual as a result of that individual’s exercise of a right under this policy, including participation in the reporting, investigation or hearing as provided in this Policy. Retaliation includes adverse actions intended to improperly deter involvement of another in these procedures set forth in this Policy, and may involve actions intended either to intimidate or to penalize individuals for their participation. Retaliation is strictly prohibited by law and this policy; any person who is found to have engaged in retaliation shall be subject to disciplinary action. Persons who believe that they have been retaliated against for making a complaint/report or for cooperating in an investigation or hearing should immediately contact the Title IX Coordinator. A complaint filed in good faith under this policy shall not constitute retaliation.

C. **False Reporting Policy**

It is a violation of College policy to file a knowingly false complaint under this Policy of alleged discrimination, harassment and/or sexual misconduct. A complaint by an individual against another based on the filing of a knowingly false complaint may be pursued using the steps followed for sexual misconduct harassment, and discrimination, harassment, and sexual misconduct related complaints as outlined in this Policy and may be filed only after there is completion of the underlying complaint. A complaint filed in good faith under this provision shall not constitute a false report. A finding of no responsibility is not evidence that the underlying complaint was not filed in good faith.

D. **The Title IX Coordinator’s Initial Review of A Report**

1. Title IX Coordinator and Title IX Coordinator’s Team

The purpose of the Title IX Coordinator is to promote and protect gender equity at Pomona College as required by Title IX and related federal and state laws. The Title IX Coordinator does not favor Complainants over Respondents or Respondents over Complainants. The Title IX Coordinator does not promote the College’s interests other than its interest in gender equity as evidenced in this Policy and provided by law. The Title IX Coordinator’s primary jobs are to administer the procedures in this Policy in order (i) to make appropriate
resources available to persons who have experienced sexual harassment, discrimination or misconduct and (ii) to provide equitable and prompt resolution.

Although a report may come in through many sources, the College is committed to ensuring that all reports of sexual misconduct, harassment, and discrimination are referred to the Title IX Coordinator, which ensures consistent application of this Policy.

The Title IX Coordinator may enlist the Title IX Coordinator’s Team to assist in the review, investigation, and/or resolution of the report. Members of this team include the Title IX Coordinator, deputy Title IX coordinators, and the associate deans of students. At any point during the process, from initial intake through the appeal, the Title IX Coordinator and the Title IX Coordinator’s Team may consult with an expert on trauma-informed response and sexual assault response or with the College’s legal counsel.

Depending on the relationship of the Complainant and the Respondent to the College (student, staff, faculty, or other) and the nature of the report, additional Title IX Coordinator’s Team members may include representatives from other Pomona or CUC offices as necessary, such as Campus Safety, Dean of the College, or Human Resources. The members of this Team oversee the resolution of the reported harassment or misconduct through the College’s resolution procedures.

2. The Title IX Coordinator’s Intake and Initial Review

Upon receipt of a report, the Title IX Coordinator or their designee will provide resources and support information and will conduct an Initial Review. The first step of the Initial Review will typically include an initial meeting between the Complainant and the Title IX Coordinator or a member of the Title IX Coordinator’s Team. The purpose of the meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full investigation interview. At this meeting, the Complainant will be provided with information about resources, procedural options, and interim remedies.

During and following this meeting, the Title IX Coordinator or, when appropriate, the designated Title IX Coordinator’s Team member, will make a reasonable assessment of the safety of the individual and of the campus community and will determine whether the College has sufficient information to determine the appropriate interim measures, if any.

The Title IX Coordinator or, when appropriate, the designated Title IX Coordinator’s Team member, will also consider the interest of the Complainant and the Complainant’s expressed preference for the manner of resolution (e.g., in a harassment case, for example, there might be an initial preference for mediation efforts that does not impact the ultimate decision to be made regarding whether a violation of policy occurred). Where appropriate, and as warranted by an assessment of the facts and circumstances, the College will seek action consistent with the Complainant’s request. Mediation is not an option for resolution in cases involving allegations of sexual assault.
The Title IX Coordinator Team will make use of a checklist of tasks that shall be completed by the Title IX Coordinator and/or the Title IX Coordinator Team in connection with the intake and initial review. A sample of the checklist, which may be modified from time to time, is set forth as Appendix A below.

The Title IX Coordinator also will promptly inform the Respondent of any action(s) (including any interim protective measures) that will directly impact the Respondent, and provide appropriate opportunities for the Respondent to respond to such action(s) as set forth in this Policy.

3. Support Person/Advisor

The Complainant and Respondent may each have a support person of their choosing present with them at all meetings and any hearing associated with a complaint and in which the respective individual is participating. The support person can be the advisor of choice of the student, and can include a current member of the Claremont Colleges community or an external support person, including a lawyer. The support person cannot have involvement in the underlying case. The support person may attend, but shall not participate in, meetings or the hearing. Because this is an administrative process, any legal counsel present as the party’s support person during any investigation or hearing shall be permitted only in a non-participatory advisory role at that party’s expense.

4. Case Manager

The Complainant and Respondent will each be assigned by the Title IX Coordinator, or their designee, a separate College-appointed, trained Case Manager. The Case Manager can help the party to whom they are assigned to navigate through the policy and procedures, and support the party in accessing resources, accommodations, and other kinds of support. At the discretion of the party, their assigned Case Manager may accompany them to any meeting/hearing related to these procedures. The Case Manager is expected to be a silent and non-participatory observer in any meetings/hearings. The Title IX Coordinator will assign the Case Manager from a pool of trained individuals after the initial intake usually within seven (7) days.

5. Interim Measures

The College may take whatever measures it deems necessary in response to an allegation in order to protect an individual’s rights and personal safety and the safety of the College community. Such measures include, but are not limited to, an interim suspension (immediate, temporary suspension pending the outcome of investigation and/or hearing process), a no contact order (an order that an individual refrain from direct or indirect contact with another person or persons), restrictions on access to campus or areas of campus, and/or appropriate changes in academic schedule. Interim measures may include reporting the matter to the local police.
Failure by the Respondent to adhere to the parameters of any interim measure is a violation of College policy and may lead to additional disciplinary action.

Other interim measures may include:

- Campus Safety escort to ensure safe movement on campus;
- referral to medical or emergency services;
- counseling services;
- assistance with identifying off-campus resources;
- assistance with transportation, parking, and/or travel needs;
- assistance in obtaining a court-issued restraining order;
- varied forms of academic assistance, including academic support services, tutoring, alternative course completion options, rescheduling of exams and assignments, changing class schedules, transferring course sections or withdrawing from a course without penalty;
- change of work schedules, job assignments, and worksite location;
- voluntary leave of absence;
- and/or any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

Interim measures assume no determination of responsibility.

6. How Complainant Requests for Confidentiality Impact the Title IX Process

The Title IX Coordinator and Title IX Coordinator’s Team will take all reasonable steps to respond to a complaint consistent with a Complainant’s requests for confidentiality. However, the team’s ability to do so may be limited based on the nature of a Complainant’s request. For example if a Complainant requests confidentiality, that the Complainant’s name or other identifiable information not be shared with the Respondent or that no formal action be taken, the College may be limited in its ability to fully respond to the complaint. The College will balance the Complainant’s requests with its responsibility to provide a safe and non-discriminatory environment for all College community members and to afford a Respondent fundamental fairness.

In the event that a Complainant does not wish to proceed with formal action, the Title IX Coordinator, in consultation with the Title IX Coordinator’s Team, as appropriate, will decide, based on the available information, whether additional steps are required. In making this decision, the Title IX Coordinator’s Team will consider following factors: whether the Complainant has requested confidentiality; whether the Complainant wants to participate in additional steps; the severity and impact of the sexual misconduct; the respective ages of the parties, including whether the Complainant is a minor under the age of 18; whether the College can undertake any action without the participation of the Complainant; whether the Respondent
has a pattern of committing sexual misconduct; the existence of independent evidence; the extent of prior remedial methods taken with the Respondent; and any legal obligation to proceed based on the nature of the conduct.

7. Conclusion of the Initial Review

At the completion of the Initial Review, the Title IX Coordinator, in collaboration as appropriate with the Title IX Coordinator’s Team, will determine whether to refer the report for further investigation. An investigation will not necessarily result in a hearing. The facts developed by the investigator may not warrant a hearing or the Complainant may decide not to go forward with a hearing. However, even if a hearing is not pursued, the College has the discretion to take interim measures that ensure campus safety.

The Title IX Coordinator or a member of the Title IX Coordinator’s Team will discuss the determination with the Complainant and provide information to assist in understanding available resources and procedural options, which will be communicated to the Complainant in writing.

The Title IX Coordinator will separately inform the Complainant and the Respondent that retaliation is prohibited by law under the VAWA, Title VII, and California state law (Fair Employment and Housing Act, as well as College policy. The College will take strong responsive action to protect the safety of any individual.

The Title IX Coordinator will document each report or request for assistance in resolving a case involving charges of sexual misconduct, gender discrimination or other violations of this Policy, whether by the Complainant or a third party, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

E. Time Frames for Resolution

The College seeks to resolve all reports of violations of this Policy, especially those involving sexual misconduct, within sixty (60) calendar days of the Title IX Coordinator’s Conclusion of the Initial Review. The College seeks to complete the investigation phase, including the Investigation Report, in thirty (30) calendar days, and the post-investigation response and hearing process, though not including the appeals processes, in thirty (30) calendar days. The policy also includes other specific deadlines which fall within the 60 day time frame. The College seeks to complete any appeals processes within forty (40) calendar days. While all time frames expressed in this policy are not rigid requirements, they are meant to be followed except upon showing of good cause. Circumstances may arise that require the extension of time frames.

Circumstances that may require the extension of time frames include the complexity of the allegations, the number of witnesses involved, the effect of a concurrent criminal

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investigation, any intervening school break or vacation, or other unforeseen circumstances. The College will seek, if possible, to continue investigations or scheduling of hearings during breaks, or if the student is on leave or off-campus due to study abroad or other reasons. Due to the time frame expectations for these kinds of cases, the College acknowledges that academic deadlines, and curricular and/or co-curricular commitments may have to be delayed or not met; they do not constitute bases or rationales for delay. As the College recognizes that the investigation and adjudicative processes take precedence over academic deadlines and/or commitments, the College will provide academic accommodations, including reduction of course loads and other accommodations.

In the event that the investigation and/or resolution processes described in this policy are anticipated to exceed this time frame, the Title IX Coordinator will notify all parties of the reason for the delay in writing and the expected adjustment in time frames.

Student Respondents will not be eligible to be considered for graduation until the completion of the entire proceedings, including any appeals process. In such circumstances, fair and reasonable efforts will be made to expedite the process, including seeking the cooperation of all parties.

F. Reporting Options Outside of the College: State and Federal Enforcement Agencies and the Claremont Police Department

The College’s internal procedures are administrative in nature and are separate and distinct from the criminal and civil legal systems. Pursuing resolution through these procedures does not preclude someone from pursuing legal action now or in the future.

1. Reporting Potential Criminal Violations to Claremont Police Department (“CPD”)

In cases involving potential criminal misconduct, individuals are encouraged to file a report with the CPD. The College’s procedures and the legal system work independently from one another and the College will proceed with its process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.

2. Compliance with California Education Code Section 67383

In certain circumstances as defined under the California Education Code, the College shall be required to forward information concerning reports of violent crimes, including reports of sexual assaults, to the CPD. The report shall be forwarded to the CPD without identification of the Complainant and Respondent, unless explicit consent is provided by the Complainant allowing for the sharing of personally identifying information.
3. Prohibited Sexual Harassment and Discrimination in Employment-Reporting to State and Federal Enforcement Agencies

In addition to the College’s internal remedies, employees and students should also be aware that the Federal Equal Employment Opportunity Commission (“EEOC”) and the California Department of Fair Employment and Housing (“DFEH”) investigate and prosecute complaints of prohibited harassment and discrimination in employment. These agencies may be contacted at the addresses listed below:

**EEOC Los Angeles District Office**
255 East Temple Street, 4th Floor
Los Angeles, CA 90012
(213) 894-1000

**DFEH Los Angeles Office**
611 W. Sixth Street, Suite 1500
Los Angeles, CA 90017
(213) 439-6799

Students also have the right to file a formal complaint with the United States Department Education:

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

G. Truthfulness

All participants in an investigation and/or hearing are expected to cooperate fully and provide only truthful statements and responses in all meetings and/or hearings related to these procedures. Individuals may be hesitant to report conduct which they have experienced or witnessed or participate in an investigation and/or hearing because they fear that they themselves may be charged with a policy violation, such as underage drinking at the time of the incident. To encourage truthfulness and reporting, the College pursues a policy of offering Complainants and witnesses limited immunity from being charged for policy violations related to an alleged incident (such as policies prohibiting the use of alcohol or drugs) which is reported in good faith. While violations cannot be completely overlooked, the College will provide educational rather than punitive responses, in such cases.
H. Investigation Procedures

When a determination has been made by the Title IX Coordinator to proceed with an investigation, the following steps are initiated by the Title IX Coordinator or Title IX Coordinator’s Team designee.

1. Student Complaints Involving Allegations of Sexual Misconduct, including Sexual Assault
   a. Appointment of Investigators

   The Title IX Coordinator will select one external investigator, and may select one internal investigator employed by Pomona College, both chosen from a pool of investigators trained in the College’s policies and procedures, trauma-informed response, Title IX investigations, and the dynamics of sexual harassment and sexual violence; however, where one of the involved parties is from a different Claremont College, a single external investigator may be selected. The Investigator(s) will meet with the Complainant to review the complaint, related policies, and these procedures.

   The Title IX Coordinator will promptly notify the parties of the identity of the Investigator(s). If a party objects to the proposed Investigator’s involvement based upon a conflict of interest, the party must provide written notice to the Title IX Coordinator within three (3) calendar days from the notification explaining the conflict of interest. The Title IX Coordinator will promptly rule on the objection and provide notice to the parties. If a conflict of interest is found, the Title IX Coordinator will expedite selection of another Investigator(s), and shall promptly notify the parties of the selection.

   b. Appointment of External Adjudicator

   In those matters moving forward to investigation and involving a Respondent from the College, the Title IX Coordinator will also select an External Adjudicator who will preside over any hearing of the matter to determine responsibility under this Policy, including (in consultation with the Title IX Coordinator) the determination of sanctions pursuant to Policy’s guidelines. The External Adjudicator will also review and evaluate any pre-hearing concerns raised by the parties with respect to improper investigative procedures. The External Adjudicator will be a neutral party from outside of the College, typically a retired civil jurist, experienced attorney or seasoned student conduct administrator experienced in these matters, who is trained and experienced in dispute resolution, Title IX and trauma-informed response to complaints of sexual harassment and sexual violence, the dynamics of sexual misconduct, and the College’s policies and procedures, including applicable confidentiality requirements.

   The Title IX Coordinator will promptly notify the parties of the identity of the External Adjudicator. If a party objects to the proposed External Adjudicator’s involvement based upon a conflict of interest, the party must provide written notice to the Title IX Coordinator within three
(3) calendar days from the notification explaining the conflict of interest. The Title IX Coordinator will promptly rule on the objection and provide notice to the parties. If a conflict of interest is found, the Title IX Coordinator will expedite selection of another External Adjudicator, and shall promptly notify the parties of the selection.

c. Expert Consultation(s)

The Investigator and External Adjudicator may consult medical, psychological, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation and/or before the External Adjudicator during a hearing.

d. Investigation Overview

Every complaint alleging sexual misconduct that the College submits to an Investigator will be investigated promptly and thoroughly. In conducting an investigation, the Investigators will be particularly sensitive to concerns regarding retaliation relating to an individual’s participation in the process as a party or witness. The Investigators will conduct interviews as needed with all appropriate individuals, including the Complainant and Respondent, and will gather any pertinent evidentiary materials.

After concluding their investigation, the Investigators will draft an Investigation Report summarizing witnesses interviewed, evidentiary materials gathered, and conclusions concerning any violations of College policy. The Investigation Report shall identify the evidence considered material to the Investigators’ recommendation that the case should or should not move forward to a hearing, and will provide explanation of the investigators’ characterization of evidence for purposes of reaching their conclusion. The Investigators will normally complete their investigation and deliver the Investigation Report to the Title IX Coordinator within 30 calendar days.

The Investigators will then provide their report to the Title IX Coordinator for review. The Title IX Coordinator may refer back to the Investigators any questions that the Coordinator has concerning the report’s contents or conclusions. After the Investigators successfully answer or resolve the Title IX Coordinator’s questions or concerns, or if the Title IX Coordinator agrees with the Investigators’ conclusions, the Title IX Coordinator will: (1) prepare a Statement of Alleged Policy Violations which will summarize why the College believes it is more likely than not that the alleged conduct did occur and the Respondent is responsible for violating College policy; or (2) will prepare a Results Notification Memorandum which will summarize why the College believes it is more likely than not that the alleged conduct did not occur and the Respondent is not responsible for violating College policy.
e. Post-Investigation Meetings with Parties

The Title IX Coordinator will then meet with the Complainant and Respondent, separately, to discuss the content of the Statement of Alleged Policy Violations or the Results Notification Memorandum and to provide them with copies of the document along with copies of the Investigators’ report. To protect the integrity of the investigation and hearing process, these documents shall be kept confidential by the parties involved and not shared with witnesses or persons not involved in the matter. However, Complainants and Respondents are not prohibited from sharing these documents with family, counsel, or a support person/advisor. Neither the Complainant nor the Respondent are required to meet with the Title IX Coordinator, and may decline to do so.

f. Post-Investigation Responses by Parties

The parties will have seven (7) calendar days after meeting with the Title IX Coordinator and receiving either the Statement of Alleged Policy Violation or Results Notification Memorandum to prepare an optional written response, which shall be provided to the Title IX Coordinator for review by the External Adjudicator. Exceptions to the seven day period will be limited and rare.

Through this written response, either party may request to overturn the determination of the Title IX Coordinator’s assessment based on improper investigative procedures and/or the discovery of new evidence that was not reasonably available at the time of the investigation interviews. Any party asserting improper investigative procedures should outline additional steps that party believes are necessary for a proper investigation, including:

- Posing any follow-up issues or questions for any witness, the Complainant or Respondent;
- Requesting a follow-up interview with the Investigators to clarify or provide any additional information that such party believes is relevant to the investigation or to seek clarification from the Investigator on aspects of the Investigation Report;

Any party asserting new evidence should clearly identify that evidence, including:

- Identifying any new witnesses who should be interviewed (including a description of what topics/issues the witness should be asked to address and why this is necessary for the investigation); and
- Explaining any additional new evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available (e.g., emails, text messages, social media postings, etc.), understanding that the Investigator lacks the power to subpoena evidence.

Any response to the Statement of Alleged Policy Violations or the Results Notification Memorandum and/or Investigation Report shall not exceed 5,000 words (approximately 20 pages).
pages, double-spaced). Non-conforming submissions will not be considered beyond the first 20 pages. Late submissions will not be accepted.

g. Post-Investigation Review by External Adjudicator

In response to a Statement of Alleged Policy Violations, after the applicable seven calendar day period has passed, if the Respondent does not take responsibility for the conduct alleged in the Statement of Alleged Policy Violations, the Title IX Coordinator will forward the document, the Complainant and/or the Respondent’s response(s), if any, and the Investigation Report and supporting evidence directly to the External Adjudicator for further review and consideration.

The External Adjudicator has seven (7) calendar days to review these documents and make any of the following decisions: (i) admit additional information for consideration by the External Adjudicator during the hearing; (ii) send the case back to Title IX Coordinator to facilitate further investigation; or (iii) review and decide claims of improper investigative procedure/new evidence. The decision of the External Adjudicator under this provision may not be appealed, and any further appeals by either party may not be based on the ground of improper investigative procedures.

h. Respondent Takes Responsibility: Overview

If the Respondent takes responsibility, then the Title IX Coordinator will forward the documents to the External Adjudicator for a determination of sanctions. The External Adjudicator will determine sanctions in consultation with the Title IX Coordinator and in conformity with this Policy. The Complainant will be informed of the Respondent’s decision to take responsibility, and has the opportunity to submit an Impact Statement for consideration by the External Adjudicator. Similarly, the Respondent has the opportunity to submit a Mitigation Statement following their decision to take responsibility for the violation(s). The Impact and Mitigation Statements, each no longer than 1,500 words, must be submitted within three (3) calendar days. The Title IX Coordinator will ensure that each of the parties will receive any statement submitted by the other party.

All submissions should be sent to the Title IX Coordinator. The Title IX Coordinator will provide any statement(s) to the External Adjudicator. The External Adjudicator will then have ten (10) calendar days to reach a determination of sanctions.

i. Appeal of Results Notification Memorandum

In response to a Results Notification Memorandum, the Complainant may appeal the Title IX Investigators’ determination to the External Adjudicator. Any written response to the Results Notification Memorandum will be forwarded by the Title IX Coordinator to the External Adjudicator for review and analysis, along with the Investigation Report and supporting evidence. As above, the External Adjudicator has seven (7) calendar days to review these
documents and make any of the following decisions: (i) determine that the complaint should proceed to hearing; (ii) send the case back to Title IX Coordinator for further investigation; or (iii) review and reject claims of improper investigative procedure/new evidence. The decision of the External Adjudicator may not be appealed, and any further appeals by either party may not be based on the ground of improper investigative procedures.

2. Student Complaints Involving Gender-Based Discrimination/Harassment and No Allegations of Sexual Misconduct
   
a. Initial Intake of Complaint

Upon receipt of a student complaint of gender-based discrimination/harassment with no allegations of sexual misconduct, the Title IX Coordinator or their designee will consult with the Complainant. The Title IX Coordinator or their designee will obtain consent from the Complainant before beginning an investigation.

b. Initial Determinations by Title IX Coordinator

The Title IX Coordinator, or their designee, may, after speaking with Complainant, determine that the conduct complained about clearly does not constitute sexual harassment or sex discrimination and so inform the Complainant. The Title IX Coordinator or their designee may also determine that although the conduct does not constitute sexual harassment or sex discrimination, if left unchecked, it could develop into sexual harassment or sex discrimination. In this case, the Title IX Coordinator or their designee will speak with the individual(s) engaging in this conduct and/or take other steps to prevent such harassment or discrimination from occurring.

c. Informal Resolution by Title IX Coordinator or Mediator

In some circumstances, where both parties are amenable, the College may choose informal resolution as an alternative to the hearing process provided in this Policy. This alternative process will adhere to Title IX standards.

If the Title IX Coordinator or Deputy Coordinator determines that such an informal process is appropriate under the facts and circumstances of the case, one or more of the following, or similar, methods may be utilized:

1. A meeting of the Title IX Coordinator or Deputy Title IX Coordinator, the Complainant, and the Respondent; and/or
2. A meeting between the Title IX Coordinator or Deputy Title IX Coordinator and the Respondent; and/or
3. A recommendation of training courses or seminars for either principal; and/or
4. Referral of the case to a mediator who has both legal and/or personnel
relations experience. The mediator will discuss the issues with both principals and seek appropriate actions by the principals involved to reach an acceptable resolution.

None of the informal resolution alternatives above are options for resolution in cases involving allegations of sexual assault. This informal procedure is intended to resolve actual or perceived instances of harassment and discrimination through agreement and mutual understanding between the parties involved without the need for more formal action by the College. Mediation will normally be completed within four weeks although it may take longer.

At the conclusion of an informal procedure which results in the parties and the Title IX Coordinator or deputy Title IX Coordinator agreeing the charge has been successfully resolved, each party will be asked to sign an acknowledgment that the informal procedure was performed with their agreement and resulted in a resolution of the charge that was satisfactory to her or him.

The details of any conditions agreed to by either party (e.g. counseling, the avoidance of a particular behavior) may be included in this agreement. Signing the acknowledgment form is the final step in the informal resolution process, and is entirely voluntary. There will be no adverse consequences for anyone who declines to participate in the informal resolution procedure or who participates in an informal resolution procedure and then subsequently declines to sign the acknowledgment of resolution. The signed acknowledgment will be kept in the confidential files of the Office of Student Affairs and available to its Title IX and Deputy Title IX Coordinators.

If either party declines to sign the acknowledgment, the informal procedure will be deemed unsuccessful.

d. Investigation and Hearing Process Before External Adjudicator

In all cases where informal resolution attempts are not made or have failed, and where there are disputes to resolve, the Title IX Coordinator will refer the case to investigation, and where appropriate, set the case for hearing before the External Adjudicator as set forth in this policy. The procedure for formal hearings will normally be completed within 60 calendar days of receipt of the Complainant’s written statement or a written statement by the Title IX Coordinator, although the process may sometimes take longer.

V. HEARING PROCEDURES INVOLVING STUDENT RESPONDENTS

A. Hearings Before External Adjudicator: Overview

The External Adjudicator shall hear all claims of sexual misconduct, harassment, and discrimination pursuant to the procedures set forth in this Policy. For student Respondents, the External Adjudicator will determine responsibility and decide sanctions, if appropriate, after a finding of responsibility. In cases brought under the Sexual Misconduct, Harassment, and
Discrimination Policy, the evidentiary standard of preponderance of evidence will be used for the sexual misconduct-related violations. In addition, if a student Respondent admits responsibility, the External Adjudicator will decide sanctions.

B. Role of Title IX Coordinator

The Title IX Coordinator will refer the written complaint, if any, Statement of Alleged Policy Violations, the investigation report, and the response, if any, to the External Adjudicator. The External Adjudicator is supported by the Title IX Coordinator, who will be present during the hearing, to serve as a resource for the External Adjudicator on issues of policy and procedure, and to see that policy and procedure are appropriately followed throughout the hearing. If the External Adjudicator determines, by a preponderance of the evidence, that the Respondent has violated the Sexual Misconduct, Harassment, and Discrimination Policy, the External Adjudicator, in consultation with the Title IX Coordinator, will determine the appropriate sanction.

C. Scope of Hearing

The External Adjudicator may only find responsibility for claims or supporting allegations that appear on the Statement of Alleged Policy Violations prepared by the Title IX Coordinator. In cases involving complaints against students where related complaints are submitted to the Title IX Coordinator and the Dean of Students Office pursuant to the Student Code, the investigation and/or hearing of both the sexual misconduct, harassment and/or discrimination complaint and the Student Code violation(s) will be decided by the External Adjudicator, as discussed herein.

D. Hearing Protocols

1. Timing

The External Adjudicator will conduct a prompt, thorough, and unbiased hearing. Hearings will be held as soon as practicable, normally within two weeks of circulation of the investigation report, including between semesters due to the availability of witnesses, etc. The parties will receive notice of any delay of convening a hearing.

2. Review and Consideration of Evidence

The External Adjudicator will base its determination whether behavior constitutes sexual misconduct, harassment, and/or discrimination under this Policy on the evidence presented. With respect to other violations of the Student Code, the External Adjudicator will consult with the student dean advising the Judicial Council. The External Adjudicator will invite the Complainant and Respondent to appear before it, and will hear and question witnesses, if there are any. The Complainant and Respondent may be present at the hearing if they choose or they may choose to participate in the hearing remotely. However, neither party shall be allowed to
directly question or cross-examine the other during the hearing. Five (5) calendar days prior to
the hearing, questions, if any, shall be submitted to the External Adjudicator by both parties in
writing, who will then decide whether those questions are relevant to the matter and in
compliance with Title IX requirements; this does not preclude either party from submitting
additional written questions during the hearing for the External Adjudicator’s consideration.

In addition, five (5) calendar days prior to the hearing, the parties shall, for the External
Adjudicator’s consideration, the names of any witnesses, if any, they suggest be called. Further,
the Complainant shall be offered the opportunity to participate in the hearing without being in
the presence of the Respondent, or accommodations can be made so the Complainant may
participate in the hearing without facing the Respondent. The External Adjudicator will conduct
a hearing and will review whatever information it deems necessary to assist it in reaching a
determination as to the merits of the charge, including information obtained by the Investigators
during the investigation.

3. Review and Consideration of “New” Evidence

If the External Adjudicator determines that “new” evidence that did not come to light
during the investigation has been presented during the hearing, the External Adjudicator may
adjourn the hearing for a period that the External Adjudicator deems appropriate to enable the
Complainant and/or Respondent to respond to such evidence. Evidence is considered “new”
only if the External Adjudicator finds the evidence is relevant and important and could not with a
reasonable effort have been discovered earlier by the party and provided to the investigator.

4. Confidentiality of Proceedings

The hearings will be closed, except to the Complainant and the Respondent, their
respective advisor/support person and their respective Case Manager. The advisor/support
person may consult with the party during the hearing but may not address the External
Adjudicator. Once the hearings have ended and the process of deliberation has begun, the
meeting will be closed to all but the External Adjudicator and the Title IX Coordinator.

5. Impact and Mitigation Statements

Within two (2) calendar days of the close of the hearing, either party may submit a
separate Impact or Mitigation statement, no longer than 1,500 words, that will only be read and
considered by the External Adjudicator upon a finding of responsibility. These statements
should be sent to the Title IX Coordinator, who will forward the submissions to the External
Adjudicator as appropriate. The Title IX Coordinator will ensure that each of the parties will
receive any statement submitted by the other party.

The Impact Statement is a written statement describing the impact of the Respondent’s
conduct on the Complainant and expressing a preference about the sanction(s) to be imposed.
The Mitigation Statement is a written statement explaining any factors that the Respondent
believes should mitigate or otherwise be considered in determining the sanctions(s) imposed.

6. Decisions by External Adjudicator

Decisions of the External Adjudicator following the hearing will be limited to the following issues: (i) whether a violation of this policy has occurred; and (ii) upon a finding of responsibility, an appropriate sanction. As soon as a decision on the case is reached, it will be summarized in a writing containing factual findings and the basis for the conclusion, prepared by the External Adjudicator within 10 calendar days of the hearing.

7. Determination of Sanctions by External Adjudicator

The External Adjudicator, upon a finding of responsibility, shall determine sanctions for student Respondents. The sanctions may include remedial or corrective actions as warranted (including, but not limited to, extension of or expansion of any interim measures already in place). In general:

- Expulsion is the expected sanction for any student who is determined to have committed sexual assault involving sexual penetration and force and/or incapacity.
- Any determination of responsibility for committing sexual assault involving sexual penetration without force or incapacitation may result in a sanction ranging from suspension of no less than one-year or the Complainant’s remaining tenure on campus (whichever is longer) to expulsion.
- Any determination of responsibility for committing sexual assault involving sexual contact may result in a sanction ranging from conduct probation up to expulsion.
- Any determination of responsibility for engaging in any other prohibited form of conduct may result in a sanction ranging from conduct warning to expulsion.

The External Adjudicator will not deviate from the range of recommended outcomes unless compelling justification exists to do so. The External Adjudicator may issue a single sanction or a combination of sanctions. In considering the appropriate sanction within the recommended outcomes, the External Adjudicator will consider the following factors:

1. the impact of the conduct on the Complainant;
2. the impact of the conduct on the community, its members, or its property;
3. the Respondent’s prior discipline history;
4. how the College has sanctioned similar incidents in the past;
5. the nature and violence of the conduct at issue;
6. whether the Respondent has accepted responsibility;
7. whether the Respondent is reasonably likely to engage in the conduct in the future based on pattern and practice evidence heard and considered by the investigator and/or External Adjudicator;
the need to deter similar conduct by others; and
(9) any other mitigating or aggravating circumstances, including the College’s values.

Absent compelling justifications, if the Respondent has previously been found responsible under College policy to have engaged in the same or similar conduct in the past, the sanction will be expulsion.

The following list of sanctions is illustrative rather than exhaustive, and the College reserves the right to impose other reasonable sanctions or to combine sanctions as it deems appropriate:

**Conduct Warning**—A written notification that a violation of the Student Code occurred and that any further responsible finding of misconduct may result in more severe disciplinary action. Warnings are typically recorded for internal purposes only and are not considered part of a student’s permanent student conduct record. Though disclosed with a student’s signed consent, a student who receives a warning is still considered in good standing at the College.

**Conduct Probation**—A written notification that indicates a serious and active response to a violation of the Student Code. Probation is for a designated period of time and includes the probability of more severe sanctions, if found responsible for additional violations of the Student Code, including suspension or expulsion from the College. Notification of probation is considered a change in status and will normally be sent to parents. Probation may also include restrictions from certain activities, such as registered parties, or all activities with alcohol.

**Loss of Privileges**—Denial of the use of certain College facilities or the right to participate in certain activities or to exercise certain privileges for a designated period of time.

**Restitution**—A student may be required to make payment to an individual or to the College related to the misconduct for damage, destruction, defacement, theft, or unauthorized use of property.

**Fines**—The College reserves the right to impose fines, as appropriate, in addition to requiring payment for costs resulting from or associated with the offenses.

**Residential Relocation or Suspension from Housing**—Relocation is the reassignment of a student from one living space to another. Residential Suspension is the removal of a student from on-campus housing. Relocation and Residential Suspension are typically accompanied by the loss of privileges regarding the visitation to specific residential areas for a specified period of time. The College may take such action for remedial, rather than disciplinary purposes. These actions may also be part of interim measures.

**Educational Requirements/Referrals**—The College reserves the right to impose counseling or substance assessments or other required educational sanctions.
**College Suspension**—The separation of a student from the College for a specified period of time, after which the student is eligible to return. Conditions for re-enrollment may be required and will be included in the notification of suspension.

During the period of suspension, the student may not participate in College academic, co-curricular, or extra-curricular activities; may be banned from all property owned or operated by the College, as well as the other Claremont Colleges. Students who are suspended may not be on campus without specific, written permission of the Dean of Students or designee.

Suspension is for a designated period of time and includes the probability of more severe sanctions, including expulsion, if found responsible for violations of the Student Code. Notification of suspension will normally be sent to parents, as it results in a change of status.

**Expulsion**—Expulsion is the permanent separation of the student from the College. Students who have been expelled may not be on campus without specific, written permission from the dean of students or designee. Notification of expulsion will normally be sent to parents, as it results in a change of status.

a. Other Remedial Decisions by External Adjudicator

The External Adjudicator should also consider other remedial actions that may be taken to address and resolve any incident of discrimination or harassment and to prevent the recurrence of any discrimination, including strategies to protect the Complainant and any witnesses from retaliation; provide counseling for the Complainant; other steps to address any impact on the Complainant, any witnesses, and the broader student body; and any other necessary steps reasonably calculated to prevent future occurrences of harassment.

b. Transmission of External Adjudicator’s Decision and Report

In the case of student Respondents, the External Adjudicator will communicate their decision and hearing report in writing to the Title IX Coordinator within 10 calendar days. The External Adjudicator and Title IX Coordinator may communicate during this period if there any outstanding issues that require clarification or explication. Once the decision and report by the External Adjudicator is received by the Title IX Coordinator, the Title IX Coordinator will inform each of the parties simultaneously and provide in writing the decision and hearing report. The Complainant’s copy of the decision, report and details of the sanction(s) imposed on the Respondent, if any, may be limited in the copy of the External Adjudicator’s report given to Complainant due to Respondent’s FERPA or other applicable privacy rights. A copy of the decision and report will also be provided to the Vice President for Student Affairs/Dean of Students who will also enter the decision into the Respondent’s record and will be placed in permanent confidential records in the Dean of Students office and available to the Title IX Coordinator and External Adjudicators.
The sanction(s) imposed will be implemented immediately and will be in effect pending the outcome of any appeal.

E. Hearing Procedures involving Staff Respondents

Complaints against staff concerning allegations of sexual misconduct will be resolved in terms of factual determination and determination of responsibility as defined by College policy by the External Adjudicator, and as per the hearing procedures in this policy.

The External Adjudicator will communicate their factual determination, decision of responsibility, recommended sanctions, if any, and the hearing report in writing to the Title IX Coordinator and the Vice President/Treasurer within 10 calendar days. The External Adjudicator and Title IX Coordinator may communicate during this period if there are any outstanding issues that require clarification or explication. The Respondent’s prior conduct shall be taken into account when recommending a sanction. The Vice President/Treasurer will have access to the complete record of the case and will determine any sanctions to be imposed or corrective action to be taken. The Vice President/Treasurer may consider both the gravity of the offense and prior conduct in determining sanctions to be imposed on the violator. The Vice President/Treasurer shall communicate their decision regarding sanctions, along with the External Adjudicator’s factual determination, determination of responsibility, recommended sanctions, if any, and hearing report, to each of the parties simultaneously, in writing, within five (5) calendar days. The Vice President/Treasurer will also enter the decision into the Respondent’s file. The decision may be subject to applicable grievance and arbitration procedures of any applicable collective bargaining agreement.

If the Respondent is a member of the executive staff of the President, the President will serve as the disciplinary authority to determine sanctions. If the President is the Respondent, the Chair of the Board of Trustees will serve as the disciplinary authority to determine sanctions.

F. Hearing Procedures involving Faculty Respondents

The External Adjudicator will communicate their factual determination, determination of responsibility, recommended sanctions, if any, and the hearing report in writing to the Title IX Coordinator and the Vice President for Academic Affairs/Dean of the College within 10 calendar days. The External Adjudicator and Title IX Coordinator may communicate during this period if there are any outstanding issues that require clarification or explication. The Respondent’s prior conduct shall be taken into account when recommending a sanction. The Vice President for Academic Affairs/Dean of the College will have access to the complete record of the case and will determine any sanctions to be imposed or corrective action to be taken. The Vice President may consider both the gravity of the offense and prior conduct in determining sanctions to be imposed on the violator.

The Vice President for Academic Affairs will communicate their decision regarding sanctions, along with the External Adjudicator’s factual determination, determination of

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responsibility, recommended sanctions, if any, and hearing report, to each of the parties simultaneously, in writing, within five (5) calendar days. The Vice President will also enter the decision into the Respondent’s file.

Consistent with the Faculty Handbook, termination of a tenured appointment, or of a term appointment before its expiration occurs only for adequate cause. When the External Adjudicator recommends termination as the appropriate sanction for tenured faculty or faculty for whom a term appointment has not expired, the Vice President for Academic Affairs/Dean of the College will consult the procedures of the “Pomona College Dismissal Policy” found in the Faculty Handbook. In applying these procedures, the finding that the policy has been violated will not be revisited. The sole decision is whether the specific policy violation constitutes acts sufficient to support adequate cause for termination or dismissal.

VI. APPEAL PROCEDURES INVOLVING STUDENT RESPONDENTS

A. From Decisions of the External Adjudicator Concerning Cases of Sexual Misconduct Involving Student Respondents

Either party may appeal the determination of responsibility or sanction(s) in writing to the Vice President for Student Affairs/Dean of Students or their designee. The appeal must be filed within 10 calendar days of receiving the written notice of outcome.

Dissatisfaction with the outcome of the hearing is not grounds for appeal. The limited grounds for appeal are as follows:

1. Improper Hearing Procedure.

The party may appeal if the procedures outlined in the Sexual Misconduct policies are violated. The Vice President/Dean of Students shall consider

   a. Whether provisions of the policies were violated in such a clear manner as to deny the appealing party consideration of the party’s position during the hearing; and
   b. Consideration of the party’s position would have led to a different finding concerning the alleged violation of the Sexual Misconduct policies.

2. New Evidence.

During the standard hearing process, sufficient time is allowed to gather all available evidence. However, in extraordinary circumstances a party may appeal if new evidence becomes available. The Vice President/Dean of Students shall consider

   a. Whether the evidence was genuinely unavailable and could not
have been made available through the appellant’s diligent efforts at the time of the original hearing; and

b. Whether the evidence would have led to a different conclusion had it been available.

3. **Sanctions:**

The sanctions imposed were grossly disproportionate to the violation committed.

Requests for appeal and responses to the same shall not exceed 5,000 words (approximately 20 pages double-spaced). Non-conforming submissions will not be considered beyond the first 20 pages. Late submissions will not be accepted. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. Upon receipt of an appeal, the Vice President/Dean of Students will notify and provide a copy of the appeal to the other party. That party shall then have an opportunity to respond in writing to the appeal; any response must be submitted within five (5) calendar days from receipt of the appeal.

The appeal consideration will be conducted in an impartial manner by the Vice President/Dean of Students. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The Vice President/Dean of Students shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal and supporting information provided in the written request for appeal and the record of the original hearing. The Vice President/Dean of Students can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal.

If the appeal is granted based on procedural error(s) that materially affected the outcome of the hearing, the Vice President/Dean of Students will return the case to the External Adjudicator for additional review or forward the case for a new hearing, which may be heard by an alternate External Adjudicator if the Dean of Students finds that to be appropriate.

In the case of new and relevant information, the Vice President/Dean of Students can recommend that the case be returned to the original adjudicator to assess the weight and effect of the new information and render a determination after considering the new facts.

Absent extenuating circumstances, the Vice President/Dean of Students will simultaneously and in writing communicate the result of the appeal to the Complainant and Respondent within 30 calendar days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

The parties will receive notice of any delay of written notice of any appeal decision. Any sanctions imposed shall remain in effect while the appeal is being considered. In cases where the appeal results in reinstatement to the College or of privileges, all reasonable attempts will be
made to restore the individual to their prior status, recognizing that some opportunities lost may be irretrievable.

VII. APPEAL PROCEDURES INVOLVING STAFF OR FACULTY RESPONDENTS

Either party may appeal the determination of responsibility or sanction(s) in writing to the President or their designee. The appeal must be filed within 10 calendar days of receiving the written notice of outcome by the relevant vice president.

Dissatisfaction with the outcome of the hearing is not grounds for appeal. The limited grounds for appeal are as follows:

1. Improper Hearing Procedure.

The party may appeal if the procedures outlined in the Sexual Misconduct policies are violated. The president shall consider:

   a. Whether provisions of the policies were violated in such a clear manner as to deny the appealing party consideration of the party’s position during the hearing; and
   b. Consideration of the party’s position would have led to a different finding concerning the alleged violation of the Sexual Misconduct policies.

2. New Evidence.

During the standard hearing process, sufficient time is allowed to gather all available evidence. However, in extraordinary circumstances a party may appeal if new evidence becomes available. The President shall consider:

   a. Whether the evidence was genuinely unavailable and could not have been made available through the appellant’s diligent efforts at the time of the original hearing; and
   b. Whether the evidence would have led to a different conclusion had it been available.

3. Sanctions:

The sanctions imposed were grossly disproportionate to the violation committed.

Requests for appeal and responses to the same shall not exceed 5,000 words (approximately 20 pages double-spaced). Non-conforming submissions will not be considered beyond the first 20 pages. Late submissions will not be accepted. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. Upon
receipt of an appeal, the President will notify both parties. Each party has an opportunity to respond in writing to the appeal. Any response to the appeal must be submitted within five (5) calendar days from receipt of the appeal.

The appeal consideration will be conducted in an impartial manner by the President or their designee. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The President or their designee shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal and supporting information provided in the written request for appeal and the record of the original hearing. The President or their designee can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal.

If the appeal is granted based on procedural error(s) that materially affected the outcome of the hearing or in the case of new and relevant information, the President or their designee will return the case to the relevant vice president for additional review or forward the case for a new hearing, which may be heard by an alternate External Adjudicator if the relevant vice president finds that to be appropriate.

Absent extenuating circumstances, the President will simultaneously and in writing communicate the result of the appeal to the Complainant and Respondent within 30 calendar days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

B. Recording of Proceedings

The College will audio record the hearing, but will not record any related deliberations by the External Adjudicator. The College will maintain a copy of that recording and will provide the Parties with a copy of that recording, as well as a transcript of that recording, upon request. Such a transcript is subject to the same protections as other documents related to the hearing and may not be shared or disclosed outside of the parties and their support persons. The parties and any support persons present are not permitted to record the proceedings under any circumstances.

C. Record Retention

The Title IX Coordinator will review and retain copies of all reports generated as result of investigations. These records will be kept confidential to the extent permitted by law. Records of investigations and hearings are maintained by the College for five (5) years as indicated below.
If the Respondent is a student, the records will be maintained for five (5) years past the student’s graduation or if the student leaves the College before graduation, for five (5) years past their original expected graduation date.

VIII. SPECIAL PROVISIONS

A. Attempted Violations:

In most circumstances, the College will treat attempted conduct as if that conduct had been completed.

B. College as Complainant:

As necessary, the College reserves the right to initiate a complaint, to serve as Complainant, and to initiate proceedings without a formal complaint by the subject of the misconduct.

C. Alcohol and substance use:

The use of alcohol or other drugs will never function as a defense for any behavior that violates College policy.

D. Good Samaritan Policy:

Sanctions related to alcohol or drug policy violations will not be imposed on individuals cooperating in an investigation or hearing.

E. Past Sexual History:

The past sexual history of a party will generally not be admissible by the other party in an investigation or hearing unless such information is determined to be highly relevant by the Title IX Coordinator. If the party believes the past sexual history of the other party is relevant to the investigation and/or hearing they must submit a written request to the Title IX Coordinator explaining the nature of the information and why the information is relevant to the investigation and/or hearing. The External Adjudicator, in consultation with the Title IX Coordinator, will review the request and render a decision.

F. Respondent’s Prior Conduct History:

Generally, any previous College policy violation(s) by the Respondent are generally not admissible as information about the present allegation. However, the Title IX Coordinator may supply information about previous behavior and/or complaints to the Investigator(s) or the External Adjudicator if:
1. The Respondent was previously found to be responsible for a similar violation; or

2. The information indicates a pattern of behavior by the Respondent and substantial conformity with the present allegation.

A Respondent’s prior conduct will be taken into consideration by the External Adjudicator or appropriate vice president (when applicable) when determining what sanction(s) to recommend or impose. See the section on Sanctions.

I. Rights of Parties Involved in a Proceeding Under These Policies

G. Complainants are afforded the following rights:

1) To be treated with respect, dignity, and sensitivity throughout the process.
2) To be advised and informed of the support services available from the College, including, but not limited to, the Case Manager, and those provided by the Project Sister rape crisis counselor, Monsour Counseling and Psychological Services.
3) For student Complainants, to confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). For all Complainants, the College will make all reasonable efforts to ensure the preservation of privacy, restricting access to information to those with a legitimate need to know.
4) To be informed of the College’s policies and procedures related to discrimination, harassment, and sexual misconduct.
5) To a prompt and thorough investigation of the allegation(s).
6) To challenge the appointment of the Investigator or External Adjudicator or request an alternate Vice President if a conflict of interest is present.
7) To participate or decline to participate in the process related to a discrimination, harassment, and/or sexual misconduct complaint with the understanding that the process may continue without their involvement and that the Investigator and/or External Adjudicator will determine an outcome with the information available to it.
8) To appeal the decision made by the Investigator, Title IX Coordinator or External Adjudicator and sanction(s) determined by the appropriate Vice President.
9) To be notified, in writing, of the case resolution – including the outcome of any appeal.
10) To report the incident to law enforcement or civil authorities if one wishes to do so.
11) To understand that information collected in this process may/could be subpoenaed for a criminal or civil proceeding.
H. **Respondents are afforded the following rights:**

1. To be treated with respect, dignity, and sensitivity throughout the process.
2. To seek support services through the College, including, but not limited to, the Case Manager and those through Monsour Counseling and Psychological Services.
3. For student Respondents, to confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). For all Respondents, the College will make all reasonable efforts to ensure the preservation of privacy, restricting access to information to those with a legitimate need to know.
4. To be informed of the College’s policies and procedures related to discrimination, harassment, and sexual misconduct.
5. To a prompt and thorough investigation of the allegation(s).
6. To challenge the appointment of the Investigator(s) or the External Adjudicator if a conflict of interest is present.
7. To participate or decline to participate in the review procedure, with the understanding that the process will continue regardless and the Investigator and/or External Adjudicator will determine an outcome with the information available to it.
8. To appeal either the decision or sanctions of the appropriate Vice President.
9. To be notified, in writing, of the case resolution – including the outcome of the appeal.
10. To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.
11. To have a support person/advisor.
12. To have a Case Manager.

IX. **THE COLLEGE’S EXTERNAL REPORTING OBLIGATIONS**

A. **The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”)**

1. Statistical Reporting:

   Certain College officials have a duty to report certain misconduct for federal statistical reporting purposes. All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community...
with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

2. Timely Warning:

Complainants should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. For purposes of the Timely Warning requirement, the College will not disclose a Complaint’s name. However, the College will provide enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are exactly the same as detailed in the paragraph above.

B. FERPA

1. The outcome of a campus hearing is part of the educational record of the Respondent, if they are a student, and the employee record if they are a faculty or staff member. The educational records of students are protected from release under a federal law, FERPA. The College complies with FERPA regulations regarding the privacy of student records and observes the following exceptions to FERPA as mandated by the Clery Act:

- The Complainant(s) in a non-consensual sexual contact/intercourse incident have the right to be informed of the finding, and sanction(s) of the investigation or hearing, in writing, except that any documents prepared for or as a result of any investigation and/or hearing shall remain protected from re-disclosure.

- The Complainant(s) in sexual exploitation, sexual harassment, stalking, relationship violence and any other gender-based offense have the right to be informed of the finding, in writing, and to be informed of any sanction(s) that directly relate to them, and to essential facts supporting the outcome when the outcome is “responsible” (and the underlying offense is a crime of violence as defined below and in 34 C.F.R. 99.39) and/or it is equitable to share the essential findings with all parties.

- The College may release publicly the name, nature of the violation and the sanction(s) for any student who is found in violation of a College policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass
stalking and/or bullying), hazing, destruction/damage/vandalism of property and kidnapping/abduction. The College will release this information to the Complainant in any of these offenses regardless of the outcome.

X. SEXUAL MISCONDUCT PREVENTION AND RISK REDUCTION

A. Prevention:

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner and yourself. These suggestions may help you avoid committing a nonconsensual sexual act and reduce your risk of being accused of sexual misconduct:

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly communicate their intentions to you.
2. Understand and respect personal boundaries. Do not pressure a potential partner.
3. DON’T MAKE ASSUMPTIONS about consent; about someone’s sexual availability; about whether they are attracted to you; about how far you can go or whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent and you should stop.
4. If you think you are receiving unclear or conflicting messages from your partner, this is a clear indication that you should stop, defuse any sexual tension and communicate better.
5. Don’t take advantage of someone’s drunkenness, drugged, or otherwise incapacitated state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don’t abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. If you are not sure, stop.

B. Risk Reduction

Risk reduction tips can, unintentionally, take victim-blaming tone. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for such conduct, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.

1. If you have sexual limits, make them known as early as possible.
2. If you do not want to engage in a particular activity, tell the other person “NO” clearly and firmly.
3. Try to remove yourself from the physical presence of a sexual aggressor, if you can do so safely.
4. If someone is nearby, ask for help or if it is safe to do so, text or call someone.
5. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
6. Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to enter a dangerous situation. Respect them when they do.

XI. FREQUENTLY ASKED QUESTIONS: SEXUAL ASSAULT AND MISCONDUCT

Below are some of the most commonly asked student questions regarding sexual misconduct:

1. Does information about a complaint remain confidential?

   The confidentiality of all parties to a complaint of sexual misconduct must be respected, insofar as it does not interfere with the College’s obligation to fully investigate allegations of sexual misconduct. Where confidentiality is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant or the Respondent may lead to disciplinary action by the College. In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the College may choose make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain College administrators are informed of the outcome within the bounds of student privacy (e.g., the President, Dean of Students, Director of Campus Safety, Title IX Coordinator). If there is a report of alleged sexual misconduct to the College and there is evidence that a felony has occurred, local police will be notified if the Complainant consents. This does not mean charges will be automatically filed or that a Complainant must speak with the police. The College also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

2. Will I (as a survivor/victim) have to pay for counseling/or medical care?

   Students can access the Project Sister rape crisis counselor located in the EmPOWER Center or the CUC Monsour Counseling and Psychological Services. The Counseling Service also hosts a support group for survivors of sexual assault. If you are accessing community and non-institutional services, payment for these services may be covered by your health insurance plan; please check your coverage. If you have elected coverage under the Claremont College’s
Student Health Insurance Plan (“SHIP”), payment for these services may also be covered under
this insurance plan. SHIP documentation is available at:
http://www.cuc.claremont.edu/healthcenter/. The Dean of Students office has emergency grant
and loan funds which you may be able to access if you want to see off-campus counseling; you
can receive more information from your Case Manager or the Dean of Students office.

3. Will my parents or guardian be told?

Unless you are under 18, no, not unless you tell them. Whether you are the Complainant
or the Respondent, the College’s primary relationship is to you, the student, and not to your
parent or guardian. However, we strongly encourage you to communicate with your parents
when you are in distress whether for medical, behavioral, or academic reasons. We will contact
your parents if we believe your health or safety is at risk or if your status at the College is at risk
(due to residential or College suspension or expulsion). In addition, College officials will speak
with your parents directly at your request.

4. Do I have to name the alleged perpetrator?

Yes, if you want the College to conduct an investigation and hearing process as outlined
in this Policy. No, if you choose to respond informally and do not file a formal complaint. You
should consult the confidentiality provisions set forth in the Policy to better understand the
College’s legal obligations depending on what information you share with different College
officials. Complainants should be aware that not identifying the alleged perpetrator may limit
the College’s ability to respond comprehensively.

5. Will the alleged perpetrator know my identity?

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the
Respondent has the right to know the identity of the Complainant/alleged victim. If there is a
hearing, the College does provide alternative testimony options.

6. What do I do if I am accused of sexual misconduct?

DO NOT contact the Complainant. You may want to speak with someone in the campus
community who can act as your support person/advisor. The Title IX Coordinator can explain
the College’s procedures for addressing sexual misconduct complaints. You may also want to
seek confidential counseling through the counseling center or seek support through off campus
services in the community. See below regarding legal representation.

7. What about legal advice?

Complainants do not need private legal counsel to pursue criminal prosecution because
representation will be handled by the District Attorney’s office. However, you may want to
retain an attorney if you are considering filing a civil action. Respondents may want to retain
legal counsel given the potential for criminal and/or civil action. Legal counsel may only participate in College proceedings as a support person to their respective party.

8. What about changing residence hall rooms or other accommodations?

If you are the Complainant, you may request a room change through the Title IX Coordinator who will facilitate with a Dean of Campus Life room change to the first available, suitable room. If you want the Respondent to move, you must be willing to pursue a formal complaint. No contact orders can be imposed.

Other accommodations available to Complaints might include:

- Assistance with or rescheduling an academic assignment (paper, exams, etc.);
- Assistance in requesting an incomplete in a class;
- Assistance with transferring class sections, if available;
- Temporary withdrawal;
- Assistance with alternative course completion options;
- Other accommodations for safety as necessary.

9. What should I do about preserving evidence of a sexual assault?

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim’s person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the emergency room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner, a nurse who is specially trained to collect evidence in cases of alleged sexual assault, at Pomona Valley Hospital Medical Center (1798 N. Garey Avenue, Pomona, CA 91767, 909-865-9500) is usually on call 24 hours a day, 7 days a week. If you decide to seek medical attention and wish to have evidence collected, contact the emergency room and request that they call a SANE nurse.

The hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence.

You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. If you would like someone from the College staff to accompany you to the hospital, contact Campus Safety at 909-607-2000 and ask them to contact the On-Call
An On-Call Dean is available whenever the College offices are closed to assist students in emergency situations. In addition, the Advocates for Survivors of Sexual Assault are a student support resource.

If you go to the hospital, local police will be called, but you are not obligated to talk to the police or to pursue prosecution. Collecting evidence can assist the authorities in pursuing criminal charges, should you decide later to do so at a later date. Collecting evidence will not obligate you to any course of action.

10. Will the Complainant be sanctioned when reporting a sexual misconduct if they have illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of the College’s response, but whenever possible the College will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the College does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

11. Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?

The use of alcohol and/or drugs by either party will not diminish the Respondent’s responsibility. On the other hand, alcohol and/or drug use is likely to affect the Complainant’s memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to support their complaint. If the Complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the Respondent without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a Respondent.

12. Will either party’s prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

13. What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the College policy, you should contact the College’s Title IX Coordinator who can explain the policy and resolution options. If you would like to speak with someone in strict confidence to explore the incident, you may want to first speak with a counselor at Monsour Counseling and Psychological Services, a chaplain from the McAlister Center, an Advocate for Survivors of Sexual Assault, or a rape crisis hotline.
14. Can the College require all the parties involved in an investigation and/or hearing process to sign confidentiality agreements?

No. Accordingly, the College will make all reasonable efforts to maintain the confidentiality and privacy of the parties involved in an investigation and/or hearing for a complaint as well as the confidentiality of the details of an investigation and any hearing. The College will inform all individuals involved in the investigation and/or hearing process of the critical importance and expectation that, during the process, they maintain the confidentiality of the process and any information shared with them as a result of their participation. Accordingly, all testimony presented during the hearing proceeding is confidential and shall not be disclosed to the public. Specifically, testimony, whether written or oral, presented by the Respondent, Complainant or witnesses during the hearing and all documents provided in preparation for or related to the hearing may not be disclosed to any other party under FERPA as such documents constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law.

15. Does the College allow the Complainant and Respondent to share all details and information from the investigation, hearing process, and other parts of the case with their support persons or their advisors for the case?

Yes. While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting their case, including their family/partner and support person/advisor. The College also recognizes that Complainants and Respondents may have more than one support person/advisor.

16. What are the College’s confidentiality expectations while the process is taking place?

The College will make all reasonable efforts to maintain the confidentiality and privacy of the parties involved in an investigation and/or hearing for a complaint as well as the confidentiality of the details of an investigation and any hearing. The College will inform all individuals involved in the investigation and/or hearing process of the critical importance and expectation that they maintain the confidentiality of the process and any information shared with them as a result of their participation. Accordingly, all testimony presented during the hearing proceeding is confidential and shall not be disclosed to the public. Moreover, all documents provided in preparation for or related to the hearing may not be disclosed to any other party under FERPA as such documents constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting their case, including their family/partner and support person/advisor.
17. What are the College’s confidentiality expectations after the process is complete?

Following resolution of an investigation and any related hearing, if any, the College does not impose any restrictions on the parties regarding re-disclosure of the following: the name of the student (Respondent or Complainant), the findings of the External Adjudicator, any sanctions imposed by the institution, and the rationale for the findings and sanctions. At the same time, all testimony presented during the hearing proceeding is confidential and shall not be disclosed to the public. Moreover, all documents provided in preparation for or related to the hearing may not be disclosed to any other party under FERPA as such documents constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. It should be noted that the College has limited authority to sanction alumni with regard to violations in this matter.

18. Why were a specific party’s questions not asked during the hearing?

Many times, questions have been rejected because they cover the same ground as specific questions raised during the investigation. The External Adjudicator may determine that the question is inappropriately prejudicial or otherwise not helpful in reaching conclusions on facts at issue.
APPENDIX A: Overview of Initial Review Checklist

During the Title IX Process, the Title IX Coordinator or their designee(s) will:

- assess the nature and circumstances of the allegation;
- address immediate physical safety and emotional well-being of the Complainant and the College community;
- discuss with the Complainant the range of interim measures and remedies, including options for no-contact orders, changes in living, academic, transportation, working situations;
- provide the Complainant with information about on- and off-campus resources, including the College-appointed support options, and visa and immigration assistance, as appropriate;
- provide information about their student financial aid options, as appropriate;
- obtain the Complainant’s expressed preference for the manner of resolution and assess any barriers to proceeding;
- provide the Complainant with an explanation of the anticipated time frames for the resolution process if the Complainant wished to move to an investigation;
- provide the Complainant with an explanation of the limitations on the College’s response should the Complainant choose to remain anonymous;
- provide information about a sexual assault and harassment policy Case Manager and information about an adviser of their choice, including legal counsel;
- determine if concerns exist for discrimination or harassment based on other protected classes;
- explain the College’s policies for confidentiality and prohibiting retaliation, as described in the Sexual Misconduct, Harassment, and Discrimination Policy and provide a writing explaining confidentiality;
- explain the difference between confidential and non-confidential resources;
- assess the reported conduct for the need for a timely warning notice under federal law;
- determine if pattern of evidence or other similar conduct by Respondent exists;
- determine if any issues of academic freedom exist, which may be reviewed by the Dean of the College or designee;
- submit non-identifying information about the report to Campus Safety for entry into the College’s daily crime log if the report includes a Clery-reportable crime;
● provide the Complainant with a written explanation of the Complainant’s rights and options as set forth in this Policy, including, but not limited to:
  ○ the right to report, or decline to report, the incident to law enforcement if the conduct is potentially criminal in nature. The College is available to assist in this process;
  ○ the right to obtain a “no-contact” order from the College, or local authorities;
  ○ the right and importance of seeking medical treatment to address physical health and to preserve evidence;
  ○ the right to file a complaint through the applicable internal complaint resolution process;
  ○ the right to receive an explanation of the internal complaint resolution process and the preponderance of the evidence standard of proof used to resolve the complaint (“more likely than not”);
  ○ the right to be provided a prompt, fair, and impartial investigation and resolution; and
  ○ the right to receive an explanation of the possible sanctions against Respondents.

● provide the Respondent with a written explanation of the Respondent’s rights and options as set forth in this Policy, including, but not limited to:
  ○ the right to participate, or decline to participate, in any investigation and hearing;
  ○ discuss with the Respondent the range of interim measures and remedies, including options for no-contact orders, changes in living, academic, transportation, working situations;
  ○ provide the Respondent with information about on- and off-campus resources, including the College-appointed support options, and visa and immigration assistance, as appropriate;
  ○ the right to receive an explanation of the internal complaint resolution process and the preponderance of the evidence standard of proof used to resolve the complaint (“more likely than not”);
  ○ the right to be provided a prompt, fair, and impartial investigation and resolution; and
  ○ the right to receive an explanation of the possible sanctions against Respondents.