

# INTERCOAST COLLEGES

## CAMPUS SEXUAL MISCONDUCT POLICIES & PROCEDURES

### 1. Introduction

InterCoast Colleges (the “College”) is committed to providing a working and educational environment for all students, faculty and staff that is free from sex discrimination, including sexual misconduct. Every member of the College community should be aware that the College is strongly opposed to sexual misconduct, and that such behavior is prohibited by state and federal laws.

As part of the College’s commitment to providing a working and learning environment free from sexual misconduct, the Campus Sexual Misconduct Policies & Procedures (the “Policy”) shall be disseminated widely to the College community through publications, the College website, new employee orientations, student orientations, and other appropriate channels of communication. The College provides training to key staff members to enable the College to handle any allegations of sexual misconduct promptly and effectively. The College will respond promptly and equitably to all reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this Policy.

### 2. Scope of the Policy

This Policy governs sexual misconduct involving students that occurs on any College property or in connection with any College-sponsored program or event. Under this Policy, the College will assess the effects of off-campus misconduct to evaluate whether there is a hostile environment on campus. This includes a review of misconduct that did not occur in the context of an education program or activity but may have had such an impact. This Policy applies to alleged sex discrimination and harassment carried out by students, employees, and third parties conducting business with the College, regardless of the person’s gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status. The College encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the College can respond appropriately. As further described in this Policy, the College will seek to respect a victim’s request for confidentiality to the extent possible, while remaining ever mindful of the victim’s well-being.

### 3. Prohibited Conduct

Sexual misconduct comprises a broad range of behaviors focused on sex that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person’s consent is sexual assault, which is a form of sexual misconduct under this Policy. Sexual harassment and sexual exploitation, stalking, domestic violence, and dating violence are also forms of sexual misconduct. Intimidation for one of these purposes is sexual misconduct, as is retaliation following an incident of alleged sexual misconduct or attempted sexual misconduct. The definitions for specific acts of sexual misconduct can be found in the Definitions of Key Terms in Section 4 of the Policy.

Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. **This Policy prohibits all forms of sexual misconduct.**

### 4. Definitions of Key Terms

- Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment, (ii) submission to or rejection of such conduct by an individual is used as the basis for education or employment decisions affecting such individuals, or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's school or work performance or creating an intimidating, hostile, or offensive educational or working environment.
  - Hostile Environment Caused By Sexual Harassment - refers to a situation where students and/or employees are subject to unwanted sexual behavior that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a school program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not amount to a hostile environment caused by sexual harassment.

Quid Pro Quo Harassment – refers to a situation where students and/or employees are subject to unwanted sexual behavior where submission or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a school program or activity.

- Sexual Assault - is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Sexual assault includes Rape and Sex Offenses as defined below. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely.
- Rape - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Sex Offenses - Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - *Fondling* - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - *Incest* - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - *Statutory Rape* - Sexual intercourse with a person who is under the statutory age of consent.
- Domestic Violence - Violence committed (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (v) 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 in which the crime of violence occurred.
- Dating Violence - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purpose of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- Sexual Exploitation - sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for his or her own advantage or benefit or for the benefit or advantage of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault. Examples of sexual exploitation include, but are not limited to, videotaping or photographing of any type (web-cam, camera, Internet exposure, etc.) without knowledge and consent of all persons; prostituting another person; knowingly transmitting HIV or a sexually transmitted disease to an unknowing person or to a person who has not consented to the risk; or inducing incapacitation with the intent to commit sexual assault, without regard to whether sexual activity actually takes place.
- Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Retaliation - means any adverse action, or attempted adverse action, against an individual or group of individuals because of their participation in any manner in an investigation, proceeding, or hearing under this Policy.
- Intimidation - To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- Consent – InterCoast Colleges uses an ***affirmative consent*** standard to determine whether a sexual assault complainant consented to the alleged conduct. "Affirmative consent" is defined as an affirmative, conscious, and voluntary agreement to engage in sexual activity. Neither the lack of protest or resistance nor silence constitutes consent, and consent may be withdrawn at any time. Affirmative consent must be given by all parties to sexual activity. For the purpose of evaluating complaints during the disciplinary process described under this Policy, it is not a valid excuse that the respondent believed the complainant consented if: (A) the respondent's belief arose from his or her own intoxication or recklessness, or (B) the respondent did not take reasonable steps to ascertain whether the complainant affirmatively consented. Similarly, it will not be a valid excuse that the respondent believed the complainant affirmatively consented where the respondent knew or reasonably should have known that the complainant was unable to consent because he or she was: (A) asleep or unconscious, (B) incapacitated due to drugs/alcohol/ medication, or (C) unable to communicate due to a mental or physical condition.
- Complainant – means the person making the allegation(s) of sexual misconduct.
- Respondent – means the person alleged to have committed sexual misconduct.

**5. Options for Assistance Following an Incident of Sexual Misconduct**

The College strongly encourages any victim of sexual misconduct to seek immediate assistance. Seeking prompt assistance may be important to ensure a victim’s physical safety or to obtain medical care. The College strongly advocates that a victim of sexual misconduct report the incident in a timely manner. Time is a critical factor for evidence collection and preservation.

**Reporting Incidents of Sexual Misconduct.**

Victims of sexual misconduct may file a report with the Fairfield Police Department. Victims may also file a report with the College’s Title IX Coordinator. More information about reporting an incident of sexual misconduct can be found in Section 7 of this Policy, below.

When a student or employee reports to the College that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the College will provide the student or employee a written explanation of the student’s or employee’s rights and options. The College will also provide the student or employee with written notification about assistance available both within the College and without, as well as information about options for academic or protective measures.

The victim of the sexual misconduct may choose for the investigation to be pursued simultaneously through the criminal justice system and the College’s disciplinary procedures. The College and the criminal justice system work independently from each other. Law enforcement officers do not determine whether a violation of this Policy has occurred. The Title IX Coordinator will guide the victim through the available options and support the victim in his or her decision.

**Support Services Available.**

Counseling, advocacy and support services are available for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the College’s disciplinary or criminal process. *InterCoast Colleges does not provide counseling or health care services. Personal counseling offered by the College will be limited to initial crisis assessment and referral.*

Counseling and support services outside the College system can be obtained through **RAINN at 1-800-656-HOPE** or through the **California Coalition on Domestic Violence at toll free 1-800-524-4765**. Additional sexual misconduct crisis and counseling options are available locally and nationally through a number of agencies, including:

<p><b>STATE AND NATIONAL RESOURCES</b>  <b>California Partnership to End Domestic Violence (CPEDV)</b>  <a href="http://www.cpedv.org">www.cpedv.org</a>  <b>National Coalition Against Domestic Violence (NCADV)</b>          303-839-1852; <a href="http://www.ncadv.org">www.ncadv.org</a>   <b>National Sexual Assault Hotline</b>          800-656-HOPE (4673)  <b>National Domestic Violence Hotline</b>          800-799-SAFE; 1-800-799-7233; <a href="http://www.thehotline.org">www.thehotline.org</a>   <b>GLBT (Gay, Lesbian, Bisexual, Transgender) Hotline:</b> 888-843-4564   <b>It’s On Us</b> (supporting bystander intervention)          Assault Hotline at 1-800-656-HOPE (4673)</p>	<p><b>RANCHO CORDOVA CAMPUS RESOURCES</b>   <b>Women Escaping a Violent Environment (WEAVE)</b> Rape Crisis Center; support line: 916-920-2952; toll free 866-920-2952   <b>A Community For Peace</b>          6060 Sunrise Vista, Ste. 2340, Citrus Heights, CA 95616          Office: 916-728-5613; Crisis Line: 916-728-7210  <b>Sacramento Regional Family Justice Center</b>          Inside the Sacramento County Child Support Building, Third Floor;          3701 Power Inn Road, Suite 3100, Sacramento, CA 95826          PHONE; (916) 875-HOPE (4673)</p>
<p><b>ANAHEIM CAMPUS RESOURCES</b>   <b>SAVS (Sexual Assault Victims Services)</b> Santa Ana: 714-834-4317</p>	<p><b>RIVERSIDE CAMPUS RESOURCES</b>   <b>Riverside Family Justice Center</b>          3900 Orange St. Riverside, Ca 92501; (951) 955-6100   <b>Riverside Area Rape Crisis Center</b></p>

<p><b>Project Sister</b> 909-626-4357 (a 24-hour hotline that provides the victim with a Rape Advocate at Pomona Valley Hospital Medical Center during the police interview and in court)  <b>GLBT Information /Referrals:</b> 714-953-5428  <b>Women’s Transitional Living Center</b> 877-531-5522 (a 24-hour bilingual hotline for temporary shelter; individual/group counseling)</p>	<p>24/7 Hotline - 951.686.7273  1845 Chicago Ave., Suite A, Riverside, CA 92507    <b>C.A.S.A. The Center Against Sexual Assault</b>  1600 E Florida Ave #206, Hemet, CA 92544;  24/7 CRISIS HOTLINE (866) 373-8300</p>
<p><b>FAIRFIELD CAMPUS RESOURCES</b></p> <p><b>Solano County Office of Family Violence Prevention</b>  707-784-7635; 604 Empire Street; Fairfield, CA 94533  <a href="http://www.co.solano.ca.us/depts/fvp/mission.asp">www.co.solano.ca.us/depts/fvp/mission.asp</a>  <b>Solano &amp; Napa SANE/SART</b>  707-258-9404; 1141 Pear Tree Lane #220; Napa, CA 94558  <b>SafeQuest Solano</b>  707-422-7345; Crisis Hotline: 1-866-487-7233  1745 Enterprise Dr #2d; Fairfield, California 94533  <a href="http://www.safequest.org/">www.safequest.org/</a></p> <p><b>Napa Emergency Women's Services (NEWS)</b>  707-252-3687; Crisis Hotline: 707-255-NEWS (6397)  1141 Pear Tree Lane, Suite 220; Napa, CA 94558</p>	<p><b>WEST COVINA CAMPUS RESOURCES</b></p> <p><b>YWCA San Gabriel Valley;</b> Covina CA, 91724  Crisis: (626) 967-0658; Office: (626) 960-2995</p> <p><b>House of Ruth, Inc.;</b> Claremont CA, 91711-0459  Pomona Outreach Office: 1 (909) 623-4364  Crisis: (877) 988-5559</p> <p><b>Women’s and Children’s Crisis Center;</b> Whittier, CA 90601  (562) 945-3939</p> <p><b>Shepherd’s Door Domestic Violence Resource Center</b>  Pasadena, CA 91104  Office Line: (626) 765-9967</p>

The College’s Title IX Coordinator will work with all students affected by sexual misconduct to ensure their safety and support their well-being. This assistance may include providing accommodations to support or protect a student after an incident of sexual misconduct and while an investigation or disciplinary proceeding is pending. Such accommodations may include the ability to alter class schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring). The College may be able to provide additional interim measures to victims while an investigation is pending, such as no contact orders. Interim measures will be individualized and appropriate based on the information gathered by the Title IX Coordinator, making every effort to avoid depriving any student of his or her education. The measures needed by each student may change over time, and the Title IX Coordinator will communicate with each student throughout the investigation to ensure that any interim measures are necessary and effective based on the students’ evolving needs. Students who report an incident of sexual misconduct may also be able to obtain a formal protection order from a civil or criminal court. The College will work with the student and the applicable court to assist in the enforcement of any such protective orders.

**Evidence Preservation**

Victims of sexual assault, domestic violence or dating violence should consider seeking medical attention as soon as possible. It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen where they were assaulted so that evidence necessary to prove criminal activity may be preserved. In circumstances where the victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address health concerns. Victims of sexual misconduct are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful in connection with a College or police investigation.

**6. Title IX Coordinator**

The College’s Title IX Coordinator is responsible for monitoring and overseeing the College’s compliance with Title IX and the prevention of sex harassment, sexual misconduct and discrimination. The Title IX Coordinator is:

- Knowledgeable and trained in College policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or a third party, about College and community resources and reporting options;
- Available to provide assistance to any College employee regarding how to respond promptly and equitably to a report of Title IX-related prohibited conduct and related retaliation;
- Participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and

- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.
- Inquiries or concerns about Title IX may be referred to the College's Title IX Coordinator.

## **7. Reporting Policies and Protocols**

InterCoast Colleges strongly encourages all members of the College community to report information about any incident of sexual misconduct as soon as possible, whether the incident occurred on or off campus. Reports can be made either to the College and/or to law enforcement.

### **Reporting to the College**

An incident of sexual misconduct may be reported directly to the College's Title IX Coordinator. If the College's Title IX Coordinator is the alleged perpetrator of the sexual misconduct, the report should be submitted to the College's Director of Student Affairs. Filing a report with a College official will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from police officers.

While there is no time limit for reporting, reports of sex discrimination or harassment should be brought forward as soon as possible. All incidents should be reported even if significant time has elapsed, but prompt reporting will better enable the College to respond, investigate, provide an appropriate remedy, and impose discipline if appropriate. The College is committed to supporting the rights of a person reporting an incident of sexual misconduct to make an informed choice among options and services available.

The College will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt steps to prevent recurrence of any sex discrimination or harassment found to have occurred, and to correct its discriminatory effects on the complainant and others, if appropriate.

### **Reporting to Law Enforcement**

An incident of sexual misconduct can be reported to law enforcement at any time, 24 hours a day/7 days a week, by calling 911. At the complainant's request, the College will assist the complainant in contacting law enforcement. If the complainant decides to pursue the criminal process, the College will cooperate with law enforcement agencies to the extent permitted by law. A complainant has the option to decide whether or not to participate in any investigation conducted by law enforcement. Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam)

### **Reporting of Crimes & Annual Security Reports**

Campus safety and security are important issues at InterCoast Colleges. Our goal is to provide students with a safe environment in which to learn and to keep students, parents, and employees well informed about campus security. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or Clery Act, requires institutions of higher education to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual misconduct under this Policy.

Each year the College prepares this report to comply with the Clery Act. The full text of this report can be located on the College's web site at [www.intercoast.edu](http://www.intercoast.edu). This report is prepared in cooperation with the local law enforcement agencies around our campus. Each year notification is made to all enrolled students and employees that provides the web site to access this report. Copies of the report may also be obtained in person from the Campus President or by calling 310-847-8400. All prospective employees may obtain a copy from the Business Office, website: [www.intercoast.edu](http://www.intercoast.edu), or by calling 818-672-2100.

### **Timely Warnings**

In the event that a situation arises, either on or off campus, that, in the judgment of the College President constitutes an ongoing or continuing threat, a campus wide “timely warning” will be issued. The warning will be disseminated to staff and students through announcements in campus facilities, cell phone messages, e-mail, College website, social media and/or flyers to ensure that the entire campus is likely to receive the warning. The timely warning will include information that promotes safety and tips to prevent similar crimes, allowing the campus community to take appropriate precautions. The timely warning will also include the time, location, and type of crime reported. Anyone with information warranting a timely warning should report the circumstances to the Campus President by phone at 310-847-8400 or in person at the College.

### **Third-Party and Anonymous Reporting**

In cases where sexual misconduct is reported to the Title IX Coordinator by someone other than the alleged victim (by an instructor, classmate or friend, for example), the Title IX Coordinator will promptly notify the alleged victim that a report has been received. This Policy and the Procedures will apply in the same manner as if the alleged victim had made the initial report. The Title IX Coordinator will make every effort to meet with the alleged victim to discuss available options and resources. Reports from an anonymous source will be treated in a similar fashion.

### **No Retaliation**

The College prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness). The College will take strong responsive action if retaliation occurs. Any incident of retaliation should be promptly reported to the Title IX Coordinator or the College President.

### **Coordination with Drug Free School Policy**

The College encourages students to report all instances of sexual misconduct. The College will take into consideration the importance of reporting sexual misconduct in addressing violations of the College’s alcohol and drug policies. An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the College’s student conduct policies at or near the time of the incident, unless the College determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

### **8. College Policy on Confidentiality**

The College encourages victims of sexual misconduct to talk to somebody about what happened – so victims can get the support they need, and so the College can respond appropriately.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of sexual misconduct. The College encourages victims to talk to someone identified in one or more of these groups.

### **Privileged and Confidential Communications – Professional & Pastoral Counselors**

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim’s permission. *The College does not provide professional or pastoral counseling, but can assist a victim of sexual misconduct in obtaining support services from these groups or agencies.* Contact information for these support organizations is listed in Section 5 of this Policy.

A victim who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated.

**NOTE:** While these professional and pastoral counselors and advocates may maintain a victim’s confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

**ALSO NOTE:** If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the College community, the Campus President may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

### **Reporting to “Responsible Employees”**

A “responsible employee” is a College employee who has the authority to redress sexual misconduct, who has the duty to report incidents of sexual misconduct or other student misconduct, or who a student could reasonably believe has this authority or duty.

When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the victim and that the College will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College’s response to the report. A responsible employee should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

The College’s responsible employees include any College employee that a student can reasonably believe has the authority or duty to redress and/or report incidents of sexual misconduct, including, but not limited to, professors, the Campus President, Administrative Assistant, Assistant Director of Admissions, Admissions Representatives, Tuition Coordinator, Director of Student Affairs, and Career Services Coordinator.

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim’s request for confidentiality.

Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim’s wishes, including for the College to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

#### **Reporting to Title IX Coordinator**

When a victim tells the Title IX Coordinator about an incident of sexual misconduct, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

To the extent possible, information reported to the Title IX Coordinator will be shared only with people responsible for handling the College’s response to the report. The Title IX Coordinator should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

Before a victim reveals any information to the Title IX Coordinator, the Coordinator should ensure that the victim understands the Coordinator’s obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources. If the victim wants to tell the Title IX Coordinator what happened but also maintain confidentiality, the Coordinator should tell the victim that the College will consider the request, but cannot guarantee that the College will be able to honor it.

The Title IX Coordinator will not pressure a victim to request confidentiality, but will honor and support the victim’s wishes, including for the College to fully investigate an incident. By the same token, the Title IX Coordinator will not pressure a victim to make a full report if the victim is not ready to.

#### **Requesting Confidentiality: How the College Will Weigh the Request and Respond.**

If a victim discloses an incident to the Title IX Coordinator but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College’s obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the College honors the request for confidentiality, a victim must understand that the College’s ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the College may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

The Title IX Coordinator will evaluate requests for confidentiality. When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, such as:
  - whether there have been other sexual misconduct complaints about the same alleged perpetrator;
  - whether the alleged perpetrator has a history of arrests or records from a prior College indicating a history of violence;
  - whether the alleged perpetrator threatened further sexual misconduct or other violence against the victim or others;
  - whether the sexual misconduct was committed by multiple perpetrators;
- Whether the sexual misconduct was perpetrated with a weapon;
- Whether the victim is a minor;
- Whether the College possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras or personnel, physical evidence);
- Whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality.

**If the College determines that it cannot maintain a victim's confidentiality**, the College will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. The College will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated. The College will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The College may not require a victim to participate in any investigation or disciplinary proceeding.

Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/surveys; and/or revisiting its policies and practices.

**If the College determines that it can respect a victim's request for confidentiality**, the College will also take immediate action as necessary to protect and assist the victim. A victim's request for confidentiality will likely limit the College's ability to investigate a particular matter. The College may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the College's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

#### Miscellaneous



**Take Back the Night and other public awareness events.** Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents of sexual violence, are not considered notice to the College of sexual misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts.

**Off-campus Counselors and Advocates.** Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the victim requests the disclosure and signs a consent or waiver form. Contact information for these off-campus resources can be found in Section 5 of this Policy.

## **9. Investigation Procedures and Protocols**

The College’s Title IX Coordinator oversees the College’s investigation, response to, and resolution of all reports of prohibited sexual misconduct, and of related retaliation, involving students, faculty, and staff.

As soon as practicable after receiving a report, the Title IX Coordinator will make an initial assessment of the report to determine whether the report, on its face, alleges an act prohibited by this Policy. If the Title IX Coordinator determines the report states facts which, if true, could constitute a violation of this Policy, the Title IX Coordinator will assess whether the complaint should proceed through the voluntary resolution process or formal investigation process (see below). The Title IX Coordinator will communicate the determination regarding the initial assessment in writing to the complainant. If the Title IX Coordinator determines the complainant’s report does not state facts that, if true, could constitute a violation of the Policy, the complainant may still file a report with the federal Office for Civil Rights, the police, or seek available civil remedies through the judicial system. The complainant may also re-file the report with the College upon discovery of additional facts.

### **Notice**

After the initial assessment, if the Title IX Coordinator determines that the complaint may appropriately be resolved through voluntary resolution, the Title IX Coordinator will ask the complainant and respondent, separately, whether they would agree to pursue resolution of the complaint informally. If either party does not agree to pursue voluntary resolution, or if the complainant, respondent, or College, at any time, determines that voluntary resolution is not or no longer appropriate, the Title IX Coordinator will promptly inform the complainant and respondent in writing that the complaint will proceed through formal investigation.

After the initial assessment, the Title IX Coordinator may determine the complaint must proceed through formal investigation. The Title IX Coordinator will notify the complainant and respondent with written notice of the formal investigation, including the allegation(s). The complainant and respondent will be given the opportunity to meet separately with the Title IX Coordinator to review the Policy.

### **Voluntary Resolution**

Voluntary resolution, when selected by all parties and deemed appropriate by the Title IX Coordinator, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the safety and welfare of the College community. If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving a full disclosure of the allegation(s) and their options for formal resolution and if the College determines that the particular Title IX complaint is appropriate for such a process, the College will facilitate an informal resolution to assist the parties in reaching a voluntary resolution. The College retains the discretion to determine which cases are appropriate for voluntary resolution.

Voluntary resolution may include: conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the respondent with the complainant present; and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy.

Voluntary resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant or to the College community. Restorative models will be used only with the consent of both parties, and following a determination by the Title IX Coordinator that the matter is appropriate for a restorative approach.

The College will not compel parties to engage in mediation or to participate in any particular form of informal resolution. As the title implies, participation in voluntary resolution is a choice, and either party can request to end this manner of

resolution and pursue an investigation and adjudication at any time, including if voluntary resolution is unsuccessful at resolving the report.

The time frame for completion of voluntary resolution may vary, but the College will seek to complete the process within 15 days of the all parties' request for voluntary resolution.

#### **Formal Investigation Process**

The Title IX Coordinator will designate a specially trained investigator (or team of investigators) to interview the complainant, respondent and any witnesses. The investigator will also gather pertinent documentary materials (if any) and other information.

The College's process for responding to, investigating and adjudicating sexual misconduct reports will continue during any law enforcement proceeding. The investigator may need to temporarily delay an investigation while the police are gathering evidence but will resume the investigation after learning that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.

The investigator will interview the complainant, respondent and any witnesses. They will also gather pertinent documentary materials (if any) and other information.

#### **Time Frame for Investigation**

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation and resolution, the Title IX Coordinator seeks to resolve all reports in a timely manner. In general, an investigation may last up to 30 days, from the date that written notice of the investigation was sent to the complainant and respondent. Adjudication through the hearing panel (see below), if applicable, will generally take up to 30 days from the date the investigative report is provided to both the complainant and the respondent. The Title IX Coordinator may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for College breaks or vacations, or address other legitimate reasons, including the complexity of the investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where necessary, the College will take immediate steps to protect complainants pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include the ability to change class schedules; withdraw from/retake a class without penalty; access academic support such as tutoring; and no contact orders. Interim measures will be individualized and appropriate based on the information gathered by the Title IX Coordinator, making every effort to avoid depriving any student of his or her education. The measures needed by each student may change over time, and the Title IX Coordinator will communicate with each student throughout the investigation to ensure that any interim measures are necessary and effective based on the students' evolving needs.

#### **Investigation Report**

The investigator will prepare a report that includes a statement of the allegations and issues, the positions of the complainant and respondent, a summary of the evidence (including from interviews and documentation gathered), an explanation why any proffered evidence was not investigated, assessment of individual credibility, and findings of fact and an analysis of whether a violation of the Policy has occurred. The investigator will use "preponderance of the evidence" as the standard of proof to determine whether a violation of the Policy occurred. Preponderance of the evidence means that the investigator must be convinced based on the information it considers that the respondent was more likely than not to have engaged in the conduct at issue in order to find the respondent responsible for violating the Policy. The complainant and respondent will be simultaneously notified of the completion of the investigation and provided with the investigator's report.

Upon receipt of the investigative report, the complainant and respondent shall each have the opportunity to request a hearing be conducted pursuant to the procedures set forth in Section 10, below. If neither party requests a hearing within 10 calendar days from their receipt of the investigative report, then the recommended findings of responsibility set forth in the investigative report shall be final. The Title IX Coordinator shall rely on the recommended findings of responsibility in the investigative report for purposes of imposing sanctions in accordance with Section 11, below.

### **10. Grievance/Adjudication Procedures**

## **Hearing Panel**

If requested by either complainant or respondent following the distribution of the investigative report, the College will convene a hearing panel following the end of the investigation. The hearing panel determines whether the respondent is responsible or not responsible for a violation of the Policy. If the respondent is determined to be responsible, the matter proceeds to the sanctions stage.

The hearing panel will consist of three members who will be individuals associated with the College. The hearing panel may include the Title IX Coordinator unless the Title IX Coordinator was designated as the investigator of the complaint pursuant to Section 9, above. The hearing panel members may include administrators, officers, lawyers or other individuals with relevant experience and special training. Panel members may participate remotely so long as the hearing room is equipped with telephone equipment that allows the panel member to hear all the participants and to be heard by all the participants throughout the hearing proceedings. All panelists will receive training from experts in the field at least once a year. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual misconduct. The complainant and respondent will be informed of the panel's membership before the hearing process begins. A complainant and/or respondent may challenge the participation of a panel member because of perceived conflict of interest, bias, or prejudice. Such challenges, including rationale, must be made to the Title IX Coordinator, or the President if the challenge is against the Title IX Coordinator, at least 48 hours prior to the commencement of the hearing. At its discretion, the Title IX Coordinator, or the President if applicable, will determine whether such a conflict of interest exists and whether a panel member should be replaced. Postponement of a hearing may occur if a replacement panelist cannot be immediately identified.

## **Advisors**

Both the complainant and the respondent are entitled to be accompanied to any meeting or proceeding relating to the allegation of sexual misconduct by an advisor or support person of their choice, provided the involvement of such advisor or support person does not result in the unreasonable postponement or delay of such meeting as scheduled.

## **Written Submissions**

Both the complainant and respondent will have the opportunity to submit written responses to the investigation report and other relevant information to the hearing panel. Each of the complainant and respondent will have the opportunity to review any written submissions by the other. The hearing panel may set reasonable parameters for these written submissions. The hearing panel will review the investigation report and written submissions.

## **Hearing Procedures**

The Title IX Coordinator will, whenever possible, give the complainant and respondent at least five days' advance notice of the hearing. Both the complainant and the respondent shall be provided with an opportunity to review any information gathered by the investigator during the investigation process prior to the hearing. The names and other identifying information of other students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purpose of Title IX to eliminate sex-based discrimination. The Title IX Coordinator may arrange to hold the hearing at an off-campus location. The hearing is a closed proceeding, meaning that no one other than the panel members, the complainant and respondent, their respective advisors, witnesses (when called), and necessary College personnel may be present during the proceeding. The Campus President will work with College staff so that any student whose presence is required may participate in the hearing.

In general, hearings will proceed as follows:

- The Title IX Coordinator may set reasonable time limits for any part of the hearing. Each of the complainant and respondent will have the opportunity to present witnesses and other information consistent with the Policy. The panel may determine the relevance of, place restrictions on, or exclude any witnesses or information. When the complainant and respondent are not able to be present for the hearing panel, arrangements will be made for participation via alternate means. The panel will ensure an adequate, reliable, and impartial investigation of the complaint.
- In cases where either the complainant or respondent opts not to participate in the hearing, the panel may still hear from the other.
- Additional hearing rules include:
  - Questioning. Only the panel may ask questions of the complainant and respondent and any witnesses. Both the complainant and respondent will have the opportunity to suggest questions of the other and of witnesses by submitting suggested questions to the panel in writing. The panel may revise or not ask

- any submitted questions that it deems are inappropriate or irrelevant to the proceedings. The hearing panel will inform the party that submits an inappropriate or irrelevant question of the reason(s) why the question was revised or not asked.
- Information Regarding Romantic or Sexual History. The panel will not consider the romantic or sexual history of either the complainant or respondent in cases involving allegations of sexual misconduct, except for testimony offered by one or the other about the complainant's and respondent's shared sexual history that the panel deems relevant. If such information is offered by the complainant or respondent, the other has the right to respond. The existence of a prior consensual dating or sexual relationship between the complainant and respondent by itself does not support an inference of consent to alleged sexual misconduct.
  - Prior Conduct Violations. The hearing panel will not consider the respondent's prior conduct violations, unless the investigator provided that information to the hearing panel because the respondent was previously found to be responsible, and the previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.

The College will keep an audio recording of the hearing for the use of the panel, for sanctioning, and for purposes of appeal. Cell phones and recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

#### **Panel Determinations/Standard of Proof**

The panel will use "preponderance of the evidence" as the standard of proof to determine whether a violation of the Policy occurred. Preponderance of the evidence means that a panel must be convinced based on the information it considers that the respondent was more likely than not to have engaged in the conduct at issue in order to find the respondent responsible for violating the Policy. The panel will find a student responsible, or not responsible, based on a majority vote. The panel will generally render a decision within 10 days after the conclusion of a hearing. The panel's decision will include an explanation of the basis for the decision. If the panel finds the respondent responsible, the matter will proceed to the sanctions stage.

The parties will be informed of the results of the adjudication hearing by simultaneous written notice to both parties of the outcome of the complaint. As set forth in Section 12, below, both parties shall have the option to appeal the hearing panel's determination.

#### **11. Sanctions and Other Remedies**

The Title IX Coordinator, with the advice and counsel of the other hearing panel members, shall be responsible for imposing sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the College's handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of sexual misconduct.

The Title IX Coordinator will consider relevant factors, including if applicable: (1) the specific sexual misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.); (3) the respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the complainant; (5) the respondent's prior disciplinary history; (6) the safety of the College community; and (7) the respondent's conduct during the disciplinary process.

The Title IX Coordinator will render a sanctioning decision within five days following the receipt of the panel's determination. The sanctioning decision will be communicated in writing to the complainant and the respondent.

The College may impose any one or more of the following sanctions on a student determined to have violated the Policy:

- Reprimand/warning
- Changing the respondent's academic schedule
- Disciplinary probation
- Restricting access to College facilities or activities
- Community service

- Issuing a “no contact” order to the respondent or requiring that such an order remain in place
- Dismissal or restriction from College employment
- Suspension (limited time or indefinite)
- Expulsion

In addition to any other sanction (except where the sanction is expulsion), the College may require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the sexual misconduct violation at issue. The College may also recommend counseling or other support services for the student.

Whatever the outcome of the hearing process, a complainant may request ongoing or additional accommodations and the Title IX Coordinator will determine whether such measures are appropriate. Potential ongoing accommodations include:

- Providing an escort for the complainant
- Changing the complainant’s academic schedule
- Allowing the complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class

The College may also determine that additional measures are appropriate to respond to the effects of the incident on the College community. Additional responses for the benefit of the College community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Additional training and educational materials for students and employees
- Revision of the College’s policies relating to sexual misconduct
- Climate surveys regarding sexual misconduct

## **12. Appeals**

Either the respondent or the complainant or both may appeal the determination of the hearing panel and/or the sanctions. Appeals are decided by the President of InterCoast Colleges. The three grounds for appeal are:

1. A procedural error affecting the determination or sanction;
2. New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; and
3. Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The appealing student must submit the appeal in writing to the President of InterCoast Colleges within five business days after receiving the sanctioning notice. If either the complainant or respondent submits an appeal, the Title IX Coordinator will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing student may submit a written response within five business days after notice of an appeal.

If the President concludes that a change in the hearing panel’s determination is warranted based on the three grounds for appeal described above, the President may enter a revised determination, reconvene the panel to reconsider the determination, or return the matter for additional investigation. After consultation with the Title IX Coordinator, the President may also change the sanction. If both the complainant and respondent appeal, the appeals will be considered concurrently.

The President will notify the complainant and respondent of the final decision in writing. Appeals decisions will be rendered within 15 days after the receipt of the written appeal. All appeal decisions are final.

## **13. Records Disclosure**

Disciplinary proceedings conducted by the College are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the College without the student’s consent, but it does provide for release of student disciplinary information without a student’s consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct, or required to be produced through other compulsory legal process.

Additional information about FERPA can be found on the College's website at [www.intercoast.edu](http://www.intercoast.edu).

The College will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the College against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

#### **14. Education and Prevention Programs**

As set forth in Section 3 of this Policy statement, Sexual Assault, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking are all forms of Prohibited Conduct.

The College is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the College's policies and procedures; relevant definitions, including prohibited conduct; discussion of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. The Title IX Coordinator maintains an education and prevention calendar and tailors programming to campus needs and climate.

The College provides education through community resources about sexual assaults and date rape. Students and employees can call the **California Coalition on Domestic Violence at 1-800-524-4765** for additional referrals, or **RAINN at 1-800-656-HOPE** to find a rape crisis center in their area. This organization also offers sexual assault education and information programs to College students and employees upon request. Literature on date rape education and sexual assault materials are available through the President's Office at 818-727-1212.

As part of the College's commitment to provide an educational and work environment free from Prohibited Conduct, this Policy will be disseminated widely to the College community through e-mail communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication.

The Title IX Coordinator, hearing panel members, and anyone else who is involved in responding to, investigating, or adjudicating sexual misconduct will receive annual training from experts in the field. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual misconduct.

#### **Definitions of Sexual Misconduct under California Law**

Sexual Assault is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely. Non-consensual sexual intercourse is any form of sexual intercourse (vaginal, anal or oral) with any object without consent. Non-consensual sexual contact is any intentional sexual touching, however slight, with any object without a person's consent.

California law provides the following definitions with respect to incidents of sexual assault:

The California Education Code states that "sexual assault" includes, but is not limited to: rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these. (Ed. Code, § 67380(c)(3).)

Cal. Pen. Code § 261(a) defines Rape as an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

- Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent
- Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another
- Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance
- Where a person is at the time unconscious of the nature of the act

- Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief
- Where the act is accomplished against the victim's will by threat

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

Under California law, Cal. Pen. Code § 13700(b), "Domestic violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. Factors that may determine whether persons are cohabiting include, but are not limited to,

- sexual relations between the parties while sharing the same living quarters,
- sharing of income or expenses,
- joint use or ownership of property,
- whether the parties hold themselves out as husband and wife,
- the continuity of the relationship, and
- the length of the relationship.

The California Penal Code does not define "Dating Violence." However, the California Department of Public Health provides the following definition of Teen Dating Violence:

Teen Dating Violence (TDV), also known as Adolescent Relationship Abuse (ARA), can be defined as violence and/or abuse among two adolescents, ages 10-24 in a current, past and/or potential romantic relationship, including physical, verbal, emotional, sexual, economic, technological, and stalking, where there is an imbalance of power and a pattern of coercion over time. (<https://www.cdph.ca.gov/Pages/TeenDatingViolence.aspx>, accessed 8-25-16)

Under California Education Code, Cal. Ed. Code § 67386, "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity.

- It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity.
- Lack of protest or resistance does not mean consent, nor does silence mean consent.
- Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.
- The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

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

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- The complainant was unable to communicate due to a mental or physical condition

## **Bystander Intervention**

The College's primary prevention and awareness program includes a description of safe and positive options for bystander intervention. Active bystanders take the initiative to help someone who may be targeted for a sexual assault. They do this in ways that are intended to avoid verbal or physical conflict. Active bystanders also take the initiative to help friends, who are not thinking clearly, from becoming offenders of crime. Intervention does not mean that you directly intervene to stop a crime in progress; rather, these steps are "early intervention" – before a crime begins to occur. There are three important components to consider before taking action that we refer to as the ABCs:

- **Assess for safety.** Ensure that all parties are safe, and whether the situation requires calling authorities. When deciding to intervene, your personal safety should be the #1 priority. When in doubt, call for help.
- **Be with others.** If it is safe to intervene, you are likely to have a greater influence on the parties involved when you work together with someone or several people. Your safety is increased when you stay with a group of friends that you know well.
- **Care for the person.** Ask if the target of the unwanted sexual advance/attention/behavior is okay – does he or she need medical care? Ask if someone they trust can help them get safely home.

Information on Bystander Intervention was provided by the Department of Defense Sexual Assault Prevention and Response Office from: [www.sapr.mil](http://www.sapr.mil)

### **Risk Reduction**

The College's primary prevention and awareness program includes information on risk reduction. This includes:

*Avoiding Dangerous Situations.* While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted.

- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure your cell phone is with you and charged and that you have cash money.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.

*Safety Planning.* Things to think about:

- How to get away if there is an emergency? Be conscious of exits or other escape routes. Think about options for transportation (car, bus, subway, etc.).
- Who can help? Friends and/or family, or support centers in your area. Please see Section 4 of this Policy for a list of support organizations.
- Where to go? Options may include a friend's house or relative's house, or you may consider going to a domestic violence or homeless shelter. You may also go to the police. **Important Safety Note:** If the dangerous situation involves a partner, go to the police or a shelter first.
- What to bring? This may include important papers and documents such birth certificate, social security card, license, passport, medical records, lease, bills, etc. This will also include house keys, car keys, cash, credit cards, medicine, important numbers, and your cell phone. If you are bringing children with you, remember to bring their important papers and legal documents. You can keep all of these things in an emergency bag. You should hide the bag—it is best if it is not in your house or car. If the bag is discovered, you can call it a "tornado" or "fire" bag.

*Protecting Your Friends.* You have a crucial role to play in keeping your friends safe. No matter what the setting, if you see something that doesn't feel quite right or see someone who might be in trouble, there are some simple things you can do to help out a friend.

- **Distract.** If you see a friend in a situation that doesn't feel quite right, create a distraction to get your friend to safety. This can be as simple as joining or redirecting the conversation: suggest to your friend that you leave the party, or ask them to walk you home. Try asking questions like: "Do you want to head to the bathroom with me?" or "Do you want to head to another party – or grab pizza?"
- **Step in.** If you see someone who looks uncomfortable or is at risk, step in. If you feel safe, find a way to de-escalate the situation and separate all parties involved. Don't be shy about directly asking the person if they need help or if they feel uncomfortable.
- **Enlist others.** You don't have to go it alone. Call in friends or other people in the area as reinforcements to help defuse a dangerous situation and get the at-risk person home safely. There is safety in numbers.



Keep an eye out. Use your eyes and ears to observe your surroundings. If you see someone who has had too much to drink or could be vulnerable, try to get them to a safe place. Enlist friends to help you. Even if you weren't around when the assault occurred, you can still support a friend in the aftermath.

*Social Situations.* While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted in social situations.

- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately.
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).

*Information on Risk Reduction was provided by RAINN: Rape, Abuse & Incest National Network: [www.rainn.org](http://www.rainn.org).*

#### **15. Amendments**

The College may amend the Policy or the Procedures from time to time. Nothing in the Policy or Procedures shall affect the inherent authority of the College to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the College community.