

## **Sexual Misconduct Policy**

We pledge continuing efforts to build and strengthen a community enriched by our differences and founded upon our common humanity.

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### **I. Overview of Sexual Misconduct**

As a fundamental policy and in compliance with Title IX of the Education Amendments Act of 1972 (“Title IX”), Section 504 of the Rehabilitation Act of 1973, and all other applicable federal and state non-discrimination laws, Centre College does not discriminate on the basis of race, color, religion, national or ethnic origin, sex, sexual orientation, age, disability, veteran's status, or genetic information in its educational programs and activities, admissions, and with regard to employment. Harassment based upon an individual’s legally protected status is a form of prohibited discrimination. Centre College hires and promotes its employees and admits its students on the basis of merit, qualification, and character. This Policy addresses the College’s prohibition of sex discrimination. Sexual harassment, sexual assault, and other forms of sexual misconduct are forms of sex discrimination prohibited by Title IX.

Centre College is committed to a safe and healthy environment and, as such, will not tolerate sexual misconduct of any kind. In addition to violating this Policy, any form of sexual misconduct is also a violation of federal and state laws.

Sexual misconduct is a broad category of behaviors that includes but is not limited to sexual harassment, sexual violence, sexual exploitation, dating violence, domestic violence, stalking, cyber-stalking, bullying and cyber-bullying when based on sex or gender.

This Policy also expressly prohibits aiding or facilitating the commission of sexual misconduct, and retaliation against any individual involved in bringing a claim or supporting someone who brings a claim under this Policy. Sexual misconduct and other terms found within this Policy are defined in Section V below.

Sexual misconduct can occur between strangers or non-strangers, including people involved in a dating, intimate, or sexual relationship. Sexual misconduct can be committed by males or by females, and it can occur between people of the same or different sex.

All students, faculty, staff, volunteers, contractors and guests of the College are subject to this Policy. Sexual misconduct committed in connection with any College-sponsored activity is prohibited whether on or off campus. This Policy also applies to off campus conduct that the College has determined may cause an unacceptable disruption to the College or which may infringe on an individual's right to a non-discriminatory education and/or work environment. Individuals who violate this Policy are subject to disciplinary action deemed appropriate by the College; up to and including termination for employees, contractors, and volunteers; and up to and including no trespass orders for guests. Students are subject to sanctions up to and including suspension and expulsion. (The complete list of possible sanctions for a violation of this Policy is included below in Section IV.)

## **II. Resources**

The College offers assistance and non-judgmental support to any party involved in an incident of sexual misconduct. The College understands that individuals involved in an incident of sexual misconduct will have questions and may need the support of on- and off-campus services. All parties are encouraged to utilize both on-campus and off-campus resources for assistance.

Any member of the College community involved in an incident of sexual misconduct can expect:

- The opportunity to meet with the Title IX Coordinator, a Deputy Title IX Coordinator, or his/her designated representatives to answer questions regarding the College's Sexual Misconduct Policy and/or complaint procedures for students and employees.
- Details about available on- and off-campus confidential resources, including medical assistance and counseling services.
- Information on the option to file a complaint with law enforcement authorities and assistance, if requested from the Department of Public Safety or other College officials in notifying and communicating with such authorities.
- Immediate measures by the College to prevent unnecessary or unwelcomed contact with or proximity to the other party. Such measures may include housing relocation, the imposition of no-contact orders, and adjustments to course or work schedules to prevent contact, as determined appropriate by the Title IX Coordinator, his/her deputies or designated representatives.
- The right to be free from retaliation. Any retaliatory behavior should be immediately reported to the Department of Public Safety at 859-236-4357 or by dialing for "HELP" (4357) on a campus phone. The Department of Public Safety is available for assistance 24 hours a day, 7 days a week.

## **Title IX Coordinator and Title IX Team**

The College's Title IX Team shall consist of the Title IX Coordinator, the Deputy Title IX Coordinators, the Directors of the Office of Public Safety, the Director of Human Resources and Administrative Services, and a designated representative each from the Office of Student Life and the Office of Academic Affairs.

The Title IX Coordinator is the designated representative of the College with primary responsibility for coordinating the College's Title IX compliance efforts. The Title IX Coordinator has responsibility to lead the Team and designate members of the Team for specific tasks. The Title IX Team shall ensure that the College responds to all reports in a timely, effective, and consistent manner. The Team is charged with the review, investigation, and resolution of all reports of sexual misconduct. Any member of the Team can be contacted with questions about the College's Sexual Misconduct Policy or with concerns about sexual misconduct at the College. The Team will provide resources and will also discuss options for pursuing both informal and formal resolution of a sexual misconduct complaint.

### ***The members of the Title IX Team for 2015-2016 are:***

#### **Kay L. Drake, Title IX Coordinator**

Director of Human Resources and Administrative Services  
Horky House, first floor  
859-238-5464  
kay.drake@centre.edu

#### **Jacob Raderer, Deputy Title IX Coordinator**

Director of Residence Life  
Nevin Hall Residence Office  
859-238-5496  
jacob.raderer@centre.edu

#### **Gina Nicoletti, Deputy Title IX Coordinator**

Assistant Athletic Director  
Sutcliffe Hall, Athletics administration office  
859-238-5493  
gina.nicoletti@centre.edu

#### **Gary Bugg, Title IX Team Member**

Director of Public Safety  
Public Safety Office, West Walnut Street  
859-238-5535  
gary.bugg@centre.edu

#### **Kevin Milby, Title IX Team Member**

Director of Public Safety

Public Safety Office, West Walnut Street  
859-238-5534  
kevin.milby@centre.edu

**Dr. Mary Gulley, Title IX Team Member**

Asst. Dean for Advising, Asst. Professor of Psychology  
Old Centre, Dean's Office  
859-238-5223  
mary.gulley@centre.edu

The Title IX Team oversees the resolution of reported sexual harassment and other sexual misconduct through the College's resolution processes. The appropriate process followed will be determined by the role of the Respondent:

- **Complaints against Students** will be resolved under the direction of the Vice President and Dean of Student Life: 859-238-5471.
- **Complaints against Staff** will be resolved under the direction of the Director of Human Resources and Administrative Services: 859-238-5467.
- **Complaints against Faculty** will be resolved under the direction of the Vice President for Academic Affairs: 859-238-5226 or Associate Dean: 859-238-5205.

Questions or concerns may also be directed to the Office of Civil Rights of the United States Department of Education. (The OCR Office for colleges in the state of Kentucky is in Philadelphia.)

U.S. Department of Education  
Office for Civil Rights  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323  
Telephone: 215-656-8541  
TDD: 877-521-2172  
Fax: 215-656-8605  
E-mail: OCR.Philadelphia@ed.gov

**What to Do if You Experience Sexual Violence:**

Any student, employee, or member of the College community who experiences sexual violence is encouraged to immediately notify law enforcement (911) and/or seek immediate medical assistance. Centre College's Department of Public Safety will provide transportation, upon request. They can be reached at 859-236-4357 or by dialing for "HELP" (4357) on a campus phone.

If you have experienced sexual violence, you are advised to:

1. **Go** to a safe place.
2. **Call** someone that you trust - a good friend, your family, a counselor, or a chaplain.
3. **Seek** medical care as soon as possible at any emergency medical facility, such as Ephraim McDowell Regional Medical Center's Emergency Room or the University of Kentucky Emergency Room. To preserve your legal options, it is important to have a medical exam to assess for physical injuries and to collect evidence. You may have the exam and then decide not to pursue legal action. The medical provider will address the risk of pregnancy and sexually transmitted infections. Prophylactic medications will be offered. The medical examination is free. To preserve evidence and to assist the examination:

**Be sure NOT to** bathe, douche, urinate, or defecate prior to arriving at the Emergency Room.

**Be sure NOT to** change clothes. If you have already removed clothing, place it in a paper bag and bring it with you.

**Take** extra clothes with you, as clothing will likely be held as evidence.

**Please** ask for someone you trust or a member of the Faculty or Staff to go with you.

4. **Report** the assault to campus authorities, local law enforcement and/or to one of the members of the Title IX Team (however, see below regarding confidentiality). Individuals are strongly encouraged to come forward to report an assault and to receive appropriate professional counseling. In addition to being a violation of this Policy, sexual assault is a criminal act, and the College takes sexual misconduct very seriously. Centre College is committed to ensuring a safe campus for all students and employees.

## Resources Available On and Off Campus

### Local Resources

	<u>Office</u>	<u>After Hours</u>
Bluegrass Rape Crisis Center	859-236-4445	1-800-656-HOPE or 859-253-2511
Centre College Counseling Services (Students only)	859-238-5740	859-238-5740 to receive an emergency number
Employee Assistance Program (EAP) (Faculty and Staff only)	800-865-1044 (24 Hours a day)	
Centre College Student Health	859-238-5530	

Services (Students only)	(after hours, call DPS at 238-4357 to reach a nurse)
Centre College Chaplain Services	859-238-5342
Ephraim McDowell Regional Medical Center	859-239-1000 (24 hours a day)
Centre College Dept. of Public Safety	859-236-4357 (24 hours a day)
Danville Police Dept.	859-238-1220 (24 hours a day)

Out of the Area Resources

If you experience sexual violence while you are away from the Danville-Boyle County area, you are encouraged to contact local similar resources and/ or seek guidance from a member of the Title IX Team.

Counseling Services and Other Assistance

Student Counseling Services are available to students involved in a sexual assault. Through these services, the College seeks to provide emotional and psychological support necessary to heal following an incident. Counseling services are available to every student free of charge. Offices are located in the Parson’s Student Health Center (lower level of Sutcliffe Hall) and you can reach the office by calling 859-238-5530. Counseling sessions are confidential within the limits of the law. Legal exceptions to confidentiality apply when there is a serious risk of harm to self or others, or when there is abuse that falls under mandatory reporting requirements.

Educational Programs Available

All students are educated about sexual assault and personal safety in first year orientation. Resident Assistants receive additional, specialized training on sexual assault. Additionally, educational programs on sexual misconduct are available for all residence halls, Greek organizations, and other student groups through Parsons Student Health Center ext. 5530, Student Counseling Services ext. 5740, and the Bluegrass Rape Crisis Center (859-236-4445). Programs on self-defense and personal safety are available through the Department of Public Safety ext. 4357 and the local police department.

Human Resources, ext. 5465, coordinates and provides sexual assault training for Staff and Faculty.

**III. Reporting Options and Considerations**

The College strongly encourages Complainants to report any incident of sexual misconduct as soon after the incident as possible. A Complainant has the right and can expect to have incidents of sexual misconduct taken seriously by the College when reported. Only people who need to know will be told and information will be shared only as necessary with investigators, witnesses, and the Respondent.

Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality under Title IX and College policy, depending on their roles. When consulting campus resources or speaking with someone at the College about sexual assault, you should be aware of confidentiality and mandatory reporting as required by law in order to make informed choices.

If you are unsure of someone's duties and ability to maintain the confidentiality of your conversations, ask them before you talk to them. They will be able to tell you, and help you make decisions about who can best assist and/or support you.

### **Responsible Employees**

Certain employees at the College are considered "Responsible Employees," which means that they are employees who are required to report any alleged sexual misconduct incidents to the Title IX Coordinator.

The following are Responsible Employees under this Policy:

- The President of the College;
- All Senior Staff members;
- The Title IX Team;
- All employees within the Department of Public Safety;
- The Office of Student Life;
- Residents Assistants and Resident Directors;
- The Athletics Department;
- The Human Resources Office;
- All Faculty; and
- Staff who have sufficient authority to take action to address the concern.

To formally report an incident of sexual misconduct and/or related concern, you are encouraged to contact a member of the Title IX Team (see Section II, above, for contact information).

You may also inform any of the Responsible Employees, listed above. Because the College is required by law to investigate these matters, all Responsible Employees must report any claims or incidents arising under the Sexual Misconduct Policy to the Title IX Coordinator.

### **Confidentiality**

Once a formal investigation has begun, complete confidentiality may not be possible. The College is required by law to protect the safety of its campus and its campus community. When the College receives a report of sexual misconduct, it has a legal obligation to respond in a timely and appropriate manner. Reasonable attempts will be made to preserve confidentiality. Only those within the Title IX Team with a legitimate need-to-know will be kept apprised of the investigation details. Additionally, the Complainant, the Respondent and any third-party will be advised of the need to preserve confidentiality.

However, based on information gathered, the College may determine that it has a responsibility to initiate a complaint procedure (even without the Complainant's participation). The College will balance any requests for confidentiality against the responsibility to provide a safe and nondiscriminatory environment for all students, staff, and faculty. Complete confidentiality could handicap the College representative's ability to conduct a thorough investigation of the allegations.

The Title IX Coordinator will evaluate all requests for confidentiality to determine the extent to which the College can honor the request and still satisfy its obligations under Title IX and this Policy.

When the College is obligated to provide the College community with timely warnings, names of the individuals are not used and every effort will be made to reserve identifying information.

### **Confidential Disclosure**

Despite the College's strong interest in having individuals report allegations of sexual misconduct, the College realizes that not every individual is prepared to make a report to the College.

The College has designated certain specific persons as confidential resources for individuals who prefer to speak with someone confidentially about their concerns. These confidential resources will not tell anyone else your private, personally identifiable information unless there is cause for fear for your safety, or the safety of others.

If you want details of the incident to be kept confidential, you should speak with one of the following confidential resources:

- Centre College Counselors;
- the Chaplain;
- Parsons Student Health Center staff; and/or
- Off-campus mental health providers or rape crisis providers.

Persons in these positions are not required to report any personally identifiable information given in confidence, unless given permission by the individual, the



allegations involve the physical or sexual abuse of a child or vulnerable adult, or there is an imminent threat to the life of any person. (Confidential resources may submit non-identifying, anonymous information about violations of this Policy to the Department of Public Safety for purposes of legally required statistical reporting under the Clery Act.)

### **Reports to Law Enforcement**

As noted above, Complainants are strongly encouraged to notify local law enforcement authorities of any criminal sexual misconduct. Individuals will be assisted, upon request, in notifying law enforcement by the Department of Public Safety. They can assist you with making claims, petitioning for restraining orders, and/or advising on other legal options that may be available to you.

Note that if you choose only to communicate with a confidential resource (and do not notify a Responsible Employee or law enforcement), no further action will be taken.

## **IV. Complaint Procedures**

Complaints are generally initiated by individuals who believe that their rights under this Policy have been violated, but any individual (including a representative of the College) may initiate a complaint.

As soon as the College receives sufficient information alleging a violation under this Policy, the representative receiving the concern must report the incident to the Title IX Coordinator within 5 business days. An investigation will begin within 5 business days after the Title IX Coordinator receives a formal complaint, unless unusual or complex circumstances exist. The investigation will be timely and impartial. Barring unforeseen circumstances, the investigation will be completed, including any formal proceedings that occur, within 60 calendar days from the time a formal complaint is initiated. If the investigation extends beyond 60 calendar days, the College will explain the reason for the delay to both parties and keep them apprised of the modified timeline. At the conclusion of the investigation and proceedings (if any), writing notification about the outcome of the investigation and any appeal will be delivered concurrently to the Complainant, the Respondent and any appropriate College officials.

If an individual decides to file a formal complaint, a detailed written (typed, emailed, or handwritten) statement of the alleged incident(s) must be submitted to the College. This formal statement must be signed and dated. The statement should be as specific as possible, including dates, times, locations, a description of the alleged misconduct and the name(s) of the accused person(s). Provide a list of any person(s) who may have information that would be helpful to the review and resolution process. See the Formal Resolution Process below.

## **Initial Inquiry**

An initial inquiry will be made by a member of the Title IX Team, as determined by the Title IX Coordinator, and will include interviews with the person(s) reporting misconduct and the person(s) accused of misconduct, and may include interviews of other potential witnesses. Following the initial inquiry, the Title IX Team member conducting the inquiry will determine, in conjunction with Title IX Coordinator, if the information gathered during the initial inquiry indicates that the complaint falls within the Sexual Misconduct Policy.

## **College's Responsibility**

Once a report of sexual misconduct is formally made to one of the Responsible Employees, the College is obligated by law to investigate and to take appropriate action regardless of whether the Complainant wishes to participate or considers the behavior sexual misconduct.

The College's authority to investigate, to compel cooperation, or to impose sanctions against those who are not members of the College community is limited. The informal and formal processes as described below apply to faculty, staff, and students of the College. Complaints against guest lecturers, volunteers, vendors, and visitors will be referred to the Title IX Coordinator or his/her designee for investigation and appropriate action.

## **Immediate College Action**

Upon receiving a complaint, the Title IX Coordinator or designee will take appropriate immediate actions to protect the safety and well-being of the individuals involved in a complaint of sexual misconduct. Generally, such actions include but are not limited to the following:

1. Notify the Respondent that a complaint has been made;
2. Provide a copy of the Sexual Misconduct Policy to both parties;
3. Establish an agreement between the parties that they are not to initiate contact with the other party or parties until further notice by the College. Failure to cooperate or honor the agreement could result in restricting either party's presence on campus;
4. Take such other immediate measures to prevent contact with or proximity to the other party, including housing relocation, adjustment to work or class schedules and/or other measures as deemed appropriate by the Title IX Coordinator or designee.
5. Have each of the parties and any witnesses acknowledge the expectation of confidentiality as outlined in this Policy;

6. Advise all parties and any witnesses that they may not retaliate against any party or any witness involved in any investigation under this Policy.

### **The Rights of the Parties**

The Complainant and a Respondent can expect the College to respect the rights of all involved by following the appropriate stated College sexual misconduct resolution process.

Rights of the Complainant and the Respondent:

- To options outlined as the informal process or formal process if applicable.
- To have the allegations investigated in a thorough and timely manner.
- To refrain from making self-incriminating statements. (However, the College will make a determination of whether a violation of the Sexual Misconduct Policy occurred based on the information presented.)
- To be informed of the outcome of the sexual misconduct resolution process.

Although a reported concern may come in through many sources, the College is committed to ensuring that all reports are referred to the Title IX Team which ensures consistent application of this Policy to all individuals and allows the College to respond promptly and equitably to resolving the concern.

### **Availability of Formal and Informal Resolution Options**

When a Complainant or the College chooses to move forward with a complaint, there are two avenues for resolution of an alleged policy violation; formal and informal resolution. The Complainant or the College has the option to proceed informally when permissible. If a complaint is processed informally, the Complainant, Respondent, or College has the option to move the complaint to the formal process at any time. *The Informal Process and/or mediation are never permissible in cases involving sexual violence.*

Each resolution process is guided by the same principles of fairness and respect for all parties. Resources are available for both students and employees, whether as Complainants or Respondents, to provide guidance throughout the investigation and resolution of the complaint. These resources are maintained by the Title IX Team and available through the Student Life, Human Resources, and Academic Affairs offices.

While the resolution processes for students, faculty, and staff might differ from one another, each process will include the following, essential attributes:

- The parties will have an equal opportunity to present relevant witnesses and other evidence;
- In any resolution process involving a burden of proof, the College will use the preponderance-of-the-evidence standard (that is, more likely than not that sexual misconduct occurred);
- If either party is allowed to introduce third-party expert testimony, both parties will be allowed to do so on the same basis;
- Where appeals are allowed, each party will have the same opportunity to appeal as the other; and
- Both parties will be notified, in writing at the same time, of the outcome of both the complaint and any appeal.

### **Informal Resolution Process**

#### **Purpose**

The informal process is an opportunity to bring resolution to an informal complaint through awareness, education, and/or a facilitated discussion. During an informal process, written statements are not taken from the Complainant or the Respondent, and no hearing is conducted.

#### **Step 1: Facilitate Resolution**

This process utilizes the information gathered during the initial inquiry to facilitate an appropriate resolution to the informal complaint. The following are examples of possible options, one or more of which may be used to bring resolution to an informal complaint.

#### **Potential Informal Actions:**

1. Distribute a copy of the Sexual Misconduct Policy as a reminder to the person, group, or area where behavior is being questioned;
2. Educate all parties regarding the College's Sexual Misconduct Policy;
3. Advise the person(s) how to communicate the unwelcome nature of the behavior to the alleged harasser;
4. Conduct a sexual misconduct educational workshop for the designated group or department;
5. Meet with the accused to raise awareness about alleged inappropriate behavior and provide notice about possible College consequences;
6. Facilitate discussion with the agreement of the accuser, accused, and the designated reporting office representative(s);

7. Institute alternative work/ living arrangements, class schedule, advisor/supervisor arrangements; or
8. Limit contact or impose a no-contact order between accused and accuser.

## **Step 2: Document Informal Resolution**

At the conclusion of the informal process, a letter summarizing the outcome(s) of the process will be sent by the College official leading the process to the accuser and accused and other appropriate College officials to bring closure to the matter (see Retention of Documents section in this Policy).

If the matter is not resolved to the satisfaction of the accuser or the accused utilizing the informal process, and/or the College determines the matter should be resolved through the formal process, the accuser, the accused and/or the College may pursue the formal process. In such an instance, the accuser, the accused and/or the College may pursue the formal process within 5 business days of the date on the informal outcome letter.

## **Formal Resolution Process**

The College offers a formal process leading to resolution of a complaint if: the complaint involves sexual violence; the informal resolution is not agreed upon or fails to satisfactorily resolve a concern; and/or the College determines the formal process is appropriate or necessary.

## **Investigation**

The College will strive to complete a thorough, fair, impartial, and timely investigation. The Title IX Coordinator will appoint a member (or more than one if necessary) of the Title IX Team to conduct the investigation. The Complainant and the Respondent will be notified in writing of the investigator(s) assigned to their case.

The investigator will require the Complainant or College representative making the complaint to complete Step 1. Steps 2-4 will follow.

## **Step 1-Complainant's Written Statement:**

1. Complete a written statement of the sexual misconduct complaint. The statement should be as specific as possible, including dates, times, locations, a description of the alleged misconduct and the name(s) of the Respondent(s).
2. Provide a list of any person(s) who may have information that would be helpful to the hearing process.
3. Submit the above information to the designated investigator.

## **Step 2: College's Response:**

The investigator will contact the Respondent, provide him/her with a copy of the written statement, and ask that a written response to the complaint be submitted by a specified date within a reasonable period of time necessary to keep the process moving forward. The investigator will meet with the Respondent to ask questions and to hear his or her version of the incident.

The investigator will also meet with the Complainant to hear his or her complaint and to ask any clarifying questions from the written report. The investigator will make sure that the Complainant has been adequately advised of available immediate measures (such as housing reassignments, security escorts, or class schedule changes) that are appropriate prior to a hearing on the complaint

## **Step 3: Respondent's Response:**

1. Submit a written response to the complaint to the investigator. The response will be forwarded to the Complainant or the College representative bringing the complaint, as the case may be; and
2. Provide a list of any person(s) who may have information that would be helpful to the hearing process.

## **Step 4: Witness Statements:**

The investigator will collect any witness statements he or she deems important to help assess whether sexual misconduct has occurred.

## **Administrative Hearing**

The function of this hearing is to hear from the Complainant, the Respondent, and/or any other witness the investigator deems necessary to determine whether it is more likely than not that the Respondent is responsible for the misconduct alleged, whether the conduct violated the College's Sexual Misconduct Policy, and, if so, to determine an appropriate sanction.

All administrative hearings will be conducted by the following College hearing officers:

- **Complaints against Students** will be heard by the Vice President and Dean of Student Life (or a designee). Please see below for the Hearing Procedure;
- **Complaints against Staff** will be heard by the Director of Human Resources and Administrative Services (or a designee). Please see the Staff Handbook for the Sexual Misconduct Hearing Procedure;

- **Complaints against Faculty** will be heard by the Vice-President for Academic Affairs (or a designee). Please see the Faculty Handbook for the Sexual Misconduct Hearing Procedure.

### **Hearing Procedure (Students):**

1. The Complainant and Respondent will be notified of the date, time and location of the hearing.
2. The hearing is closed and generally includes only the Complainant, the Respondent, and the College Hearing Officer and one College selected observer. (The Complainant is permitted to attend the hearing although attendance is not required.)
3. Both parties are allowed to have an advisor for the hearing. The advisor (for either party) may be an attorney, but the attorney is not allowed to participate in the hearing in any manner. They may attend and consult with their client (the Complainant or the Respondent) but may not ask questions and/or otherwise engage in the process. If a party's attorney is present, then the College may also have an attorney present.
4. The Complainant and Respondent may each submit a written statement concerning the alleged misconduct, the effect of the misconduct, and the appropriate sanction. The College Hearing Office may, in his or her discretion, limit the testimony or information offered if it is cumulative, irrelevant, or otherwise not helpful to the determination of responsibility or sanction.
5. The College Hearing Officer may ask questions of the Complainant, the Respondent and any other witnesses and will consider the statements and any relevant information received during the investigation.
6. The College Hearing Officer will determine whether the Respondent has violated the College's Sexual Misconduct Policy. If there is a determination of violation, then the College Hearing Officer will also determine, after consultation with appropriate College personnel, appropriate sanction(s) against the Respondent. The College Hearing Officer will also determine if any remedies are appropriate to provide to the Complainant following the hearing process.
7. After the hearing is concluded, the Respondent and Complainant will be informed in writing at the same time of the outcome and the rationale for the same. The sanction(s) will be communicated in writing to the Respondent, and any sanction(s) that directly relate to the Complainant will be communicated in writing to the Complainant. Also, any College administrators, faculty, or staff who require the information to carry out the sanction(s), will receive the appropriate information. The Complainant will also receive information on any remedies that are available to him or her.

## **Appeal Process (Students)**

The Respondent or the Complainant each may appeal the decision and/or sanction to the President. Appeals are only available on the bases for appeal set out below. Appeals must be submitted to the Title IX Coordinator within (5) five business days of receipt of the written decision and must specify the grounds for the appeal.

The grounds on which an appeal may be filed with the President are limited to the following:

1. New information not available to the hearing officer which, if available at the time of the hearing, may have affected the decision;
2. Evidence that established procedures were not followed in a manner that may have affected the decision, and/or;
3. The sanction was disproportionate for the violation.

Any appeal filed pursuant to this Policy shall be shared with the other party(ies) within 2 business days of the receipt of the appeal. The other party will have 3 business days to respond in writing, sending the response to the Title IX Coordinator.

The President shall review the report and sanctions to be imposed, and may review any documents, materials, or statements obtained during the investigation or presented during the hearing. In addition, the President shall review the appeal document and any response received from the non-appealing party(ies).

The President may accept, reject, or modify the finding and/or sanctions based on one of the three, above-listed grounds for appeal.

The President will, under normal circumstances, make a final decision on the appeal within 10 business days of receiving the timely-filed appeal and timely-filed responses. The President will communicate his/her decision, in writing, to the Title IX Coordinator, who will forward the decision to the Respondent, the Complainant, and the College Hearing Officer who conducted the underlying hearing in the case.

The Title IX Coordinator shall forward the President's decision to the Respondent's department chair, dean/supervisor, and appropriate vice president(s).

The President's decision shall be final.

## **Disciplinary Action**

Should disciplinary action be required, it will be taken by the following College officials, after consultation with appropriate Centre personnel:



- **Students:** Disciplinary action will be taken by the Vice President and Dean of Student Life.
- **Staff:** Disciplinary action will be taken by the supervisor and Director of Human Resources and Administrative Services.
- **Faculty:** Disciplinary action will be taken by the Vice President for Academic Affairs.

## Sanctions

The sanctions available under these processes are intended to reflect the facts and circumstances of a particular case as best they can be determined. Sanctions also are premised on the College's role as an educational institution. Sanctions may be issued individually, or a combination of sanctions may be imposed. The determination of sanctions is based upon a number of factors, including: the harm suffered by the Complainant; any ongoing risk to either the Complainant or the community posed by Respondent; the impact of the violation on the community, its members, or its property; any previous conduct violations; and any mitigating or aggravating circumstances

Depending upon the severity of the misconduct and other factors pertinent to the situation and the parties involved, for a student, the sanctions range from a warning to expulsion, and could include a requirement of counseling or education. For faculty and staff, the sanctions range from a warning to termination of appointment/employment, and could include a requirement of counseling or education.

## Final Report

Upon completion of a sexual misconduct investigation, the file containing all documentation relating to the complaint will be maintained in the Human Resources Department in a separate confidential file.

A copy of the final outcome or determination letter from any formal disciplinary action will be maintained in accordance to the following guidelines:

- **Students:** In the Student's file, maintained by the Vice President and Dean of Student Life.
- **Staff:** In the Staff member's personnel file, maintained in the Human Resources Department.
- **Faculty:** In the Faculty member's personnel file, maintained in the Human Resources Department, and within the office of the Vice President of Academic Affairs.

As required by law, Centre College Department of Public Safety collects and annually reports statistical information concerning sexual misconduct that occurs within its jurisdiction.

## **VI. Sexual Misconduct Policy Definitions**

### **Complainant**

The individual who has experienced an alleged incident of sexual misconduct.

### **Respondent**

The individual(s) who has/have been accused of sexual misconduct.

### **Sex Discrimination**

Conduct based on an individual's sex that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of, an individual's employment, education, living environment or participation in a program or activity. Sex discrimination encompasses all forms of sexual harassment, sexual misconduct, differential treatment, and gender-based harassment.

### **Sexual Harassment**

The College prohibits sexual harassment. Harassment on the basis of sex is a form of sexual misconduct. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a requirement of employment or participation in a College program or activity, (2) submission to or rejection of such conduct by an individual is used as the basis for employment or other College decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working, academic, or campus environment.

The College recognizes two types of sexual harassment: *quid pro quo* (something for something) and hostile environment misconduct. *Quid pro quo harassment* occurs where sexual activity is demanded in exchange for an actual, tangible job or academic benefit. *Hostile environment harassment* exists where the conduct creates an environment that may impair another individual's academic or professional performance, or hinder his or her ability to function within the community.

Examples of sexual harassment can include, but are not limited to: sexual exploitation; stalking with a sexual or gender based component; relationship

intimidation; sexually-charged name calling; retaliation against someone who reports sexual harassment; and use of language or the presentation of posters/banners and/or t-shirts that promotes the diminishing of a particular sex or gender.

## **Sexual Violence**

The College prohibits sexual violence. Sexual violence, a form of sexual misconduct, refers to physical acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. Sexual assault, rape, sexual battery, and sexual coercion are all acts of sexual violence. Examples include, but are not limited to:

- Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.
- Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.

## **Consent**

Consent for sexual activity is based on the mutual understanding and respect of all people involved for the desires and wishes of their partner(s). In order for individuals to engage in sexual activity of any type with each other, there must be clear consent. Consent is sexual permission. Consent:

- Is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested an understandable agreement between them to do the same thing, in the same way, at the same time and with one another;
- Is not merely the absence of a verbally stated "no", silence without actions demonstrating permission, cannot be assumed to show consent;
- Is never final or irrevocable;
- Is time-limited and situation-specific; even if someone obtained consent from a partner(s) in the past, this does not mean that consent is automatically granted again;
- Can only be given by someone who is free from verbal or physical pressure, coercion, intimidation, threat, or force; and

- Can only be given by someone in an unimpaired state of mind who is able to understand what is happening.

Consent is not valid if the person from whom consent is sought is impaired by the use of alcohol or drugs, is asleep, passed out, or unconscious. There is not consent when:

- A person is forced to submit through use of forcible compulsion.
- A person does not expressly or implicitly acquiesce in the other party's conduct under circumstances other than forcible compulsion or incapacity to consent.
- A person is deemed to be incapable of consenting because he/she is less than 16 years old, has an intellectual or other disability that prevents them from having the capacity to give consent, , or is physically helpless.
- A person is mentally incapacitated or physically helpless due to the influence of any intoxicating substance.
- A person is unconscious or for any other reason is physically unable to knowingly communicate unwillingness to act.

The use of alcohol or drugs does not minimize or excuse a person's behavior or responsibility for committing sexual misconduct. If you were assaulted while under the influence of alcohol or other drugs, your intoxicated state does not excuse the behavior of your attacker.

### **Incapacitation**

Sexual activity with someone one knows to be, or should know to be, mentally or physically incapacitated (by alcohol or other drug use, unconsciousness, sleep, blackout, or any other means). Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the: who, what, when, where, why or how of their sexual interaction.

### **Capability to Give Consent**

An objective standard will be used in determining whether a person is incapable of giving consent due to the person's use or consumption of drugs or alcohol, or if a physical or mental condition as described above is present. That is, consent is not valid when:

(a) From the standpoint of a reasonable person, the respondent knew, or reasonably should have known, that the person was incapable of giving consent due to the person's use or consumption of drugs or alcohol, or that the person's physical or mental condition would prevent knowing and voluntary consent; and (b) The person was, in fact, incapable of giving consent due to the person's use or

consumption of drugs or alcohol, or the person was incapable of providing knowing or voluntary consent due to a physical or mental condition.

### **Domestic Violence**

A felony or misdemeanor crime of violence committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under applicable domestic or family violence laws.

### **Dating Violence**

Violence committed by a person who is or has been in a social relationship or intimate nature with the victim. The existence of such a relationship will be determined based on consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

### **Stalking**

The College prohibits stalking. Stalking is defined as a course of conduct involving more than one instance of unwanted attention, misconduct, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to alarm or place that individual in fear of harm or injury, including physical, emotional, or psychological harm. This includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact are used to pursue, harass or make unwelcome contact with another person. Stalking and cyber-stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

### **Sexual Exploitation**

The College prohibits sexual exploitation. Sexual exploitation happens when:

- a person takes non-consensual, unjust, or abusive advantage of another either for his/her own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited; and
- that behavior does not otherwise constitute one of the other defined sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to, prostitution, non-consensual video or audio-taping of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe

consensual sexual activity, videotaping of a person using a bathroom), engaging in voyeurism, or engaging in consensual sexual activity with another person while knowingly transmitting an STD or HIV/AIDS without informing the other person of such infection.

### **Bullying**

The College prohibits bullying and cyber bullying. Bullying or cyber bullying is harassing conduct that may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Bullying or cyber bullying creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a person's ability to participate in or benefit from the services, activities, or opportunities offered by the College. When such harassment is based on gender, sexual orientation, or perceived gender or sexual orientation, it is considered sexual misconduct.

### **Retaliation**

It is a violation of this Policy to act or attempt to retaliate, intimidate, or seek retribution against anyone involved in or connected to reporting a concern, the investigation of, and/or the resolution of a sexual misconduct allegation. Retaliation against an individual for the purpose of interfering with any right or privilege secured by Title IX is also unlawful.

The College recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that the Respondent can also be the subject of retaliation by the Complainant or a third party. The College will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate. An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

### **Responsible Employees**

The following are Responsible Employees under this Policy: The President of the College and all members of Senior Staff; members of the Title IX Team; all Public Safety employees, the Office of Student Life (including Resident Assistants and Residence Directors), the Athletics Department, the Human Resources Office, all Faculty, and any Staff who have sufficient authority to take action to address the concern.

*Approved by Senior Staff, May 27, 2014  
Amended as of July 1, 2015*