



NOORDA COLLEGE
of OSTEOPATHIC MEDICINE

Policy Name:	Non-Discrimination and Anti-Harassment
Approval Authority:	Board of Trustees
Responsible Executive:	President
Responsible Office(s):	Presidents Council Title IX Officer
Effective:	March 2019
Expires:	January 2024
Last Revised:	N/A
Next Review Date:	N/A

Non-Discrimination and Anti-Harassment

Policy Statement

Consistent with all federal and state laws, rules, regulations, and/or local ordinances (e.g., Title VII, Title VI, Title 111, Title 11, Rehab Act, ADA, Title IX, and the Utah Antidiscrimination Act) the Noorda College of Osteopathic Medicine (collectively "the College") is committed to providing a learning and working (administrative personnel, faculty and staff) environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of age, color, creed, marital status, medical condition, national or ethnic origin, race, color, religion, cultural heritage, gender, sex, sexual orientation, gender identity, political beliefs or affiliation, non-disqualifying disability, genetic information, amnesty, military status or status as a covered veteran in accordance with applicable federal, state and local nondiscrimination, equal opportunity and affirmative action laws, orders, and regulations.

The College considers Sex Discrimination (see Definitions) in all its forms to be a serious offense. Sex Discrimination constitutes a violation of this policy, is unacceptable, and will not be tolerated. Sex Discrimination includes discrimination on the basis of pregnancy, childbirth, or pregnancy-related conditions, gender identity, and failure to conform to stereotypical notions of femininity and masculinity.

Sexual Harassment (see Definitions), whether verbal, physical, or visual, is always inconsistent with the mission and expectations of the College, and may constitute a form Sex Discrimination in violation of this policy. Sexual Harassment also includes Sexual Violence (see Definitions). Examples of specific conduct that constitutes Sexual Harassment and Sexual Violence are set forth below.

This policy prohibits Sex Discrimination, Sexual Harassment, and Sexual Violence when the complainant and alleged perpetrator are members of the same or opposite sex, and it applies regardless of national origin, immigration status, or citizenship status. The College's prohibition on Sex Discrimination, Sexual Harassment, and Sexual Violence extends to all aspects of its educational programs and activities, including, but not limited to, admissions, employment, academics, and student services.

TITLE IX STATEMENT

It is the policy of the College to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit Sex Discrimination in the College's educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of Sex Discrimination.

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

The College has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of Sex Discrimination:

Title IX Coordinator

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

Entities Affected by the Policy

- Administrative personnel
- Faculty
- Staff
- Other College employees
- Students
- Applicants for employment
- Customers
- Third-party contractors
- Third-party visitors on campus
- All other persons that participate in the College's educational programs and activities

Policy Procedures

Making a Complaint

The College encourages persons to make initial complaints of Sexual Misconduct as soon as possible to the Title IX Coordinator via email or in-person. All efforts will be made to follow up with complainant as soon as reasonably possible not to exceed two business days.

1. **Employees.** All College employees, have a duty to file a complaint with the Title IX Coordinator when they believe or receive information indicating that a member of the College Community may have been subjected to conduct that constitutes prohibited Sexual Misconduct. This includes employees who may have a professional license requiring confidentiality if they are not employed by the College in that professional role. An employee not making a report as required by this policy may be disciplined accordingly, up to and including termination.
2. **Students.** Students who believe they or another member of the College Community may have been subjected to conduct that constitutes prohibited Sexual Misconduct are encouraged to file a complaint with the Title IX Coordinator. Students should also be aware that all employees at the College, have an obligation to report information about Sexual Misconduct that they become aware of or witness. Students may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth in Section III above.
3. **Other Persons.** Any other persons who are involved in the College's programs and activities, including visitors on campus, who wish to report Sexual Misconduct should file a complaint with the Title IX Coordinator. They may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth above.
4. **Confidential Discussions.** If a victim desires to talk confidentially about his or her situation, there are resources available. The following resources are available to assist you and will not further disclose the information you provide, unless otherwise required to do so by law (e.g., if the victim is a minor): TBD
5. **Content of the Complaint.** So that the College has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged Sexual Misconduct; (2) the names of all person(s) involved in the alleged Sexual Misconduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the College may follow up appropriately.
6. **Information Provided to Complainant and Respondent.** A complainant who makes a claim of Sexual Misconduct to the College will be given a copy of the document titled "Explanation of Rights and Options After Filing a Complaint Under the Title IX Policy." This document provides information about this policy and the Complaint Resolution Procedures used to investigate and resolve complaints of Sexual Misconduct, options for filing complaints with the local police, resources that are available on campus and in the community, etc. A person against whom a complaint has been filed will also be given information about the process.

7. **Conduct that Constitutes a Crime.** Any person who believes they have been subject to Sexual Misconduct that also constitutes a crime-including Sexual Violence, Domestic Assault, Dating Violence, or Stalking-is encouraged to make a complaint to local law enforcement, as well as to the College's Title IX Coordinator. If requested, the College will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A victim may decline to notify such authorities.
8. **Special Guidance Concerning Complaints of Sexual Violence, Domestic Violence, Dating Violence, or Stalking.** If you are the victim of Sexual Violence, Domestic Violence, Dating Violence, or Stalking, do not blame yourself. These crimes are never the victim's fault. The College recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this policy.

If you are the victim of Sexual Violence, Domestic Violence, or Dating Violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of Sexual Violence, Domestic Violence, or Dating Violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed.

When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination. It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. In cases of Stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

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

- Contacting parents or a relative
- Seeking legal advice
- Seeking personal counseling (always recommended)
- Pursuing legal action against the perpetrator
- Pursuing disciplinary action
- Requesting that no further action be taken
- Requesting further information about the College's policy and procedures for addressing Sexual Misconduct
- Requesting further information about available resources

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

10. **Retaliation** is prohibited by this policy. Retaliation is defined as material, adverse action taken against a person because the person reported or assisted in making a complaint of Sexual Misconduct or otherwise participated in the investigation of complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint in the manner set forth in this section.

11. **Protecting the Complainant.** Pending final outcome of an investigation in accordance with the Title IX Complaint Resolution Procedures, the College will take steps to protect the complainant from further Sexual Misconduct or retaliation. This may include assisting and allowing the complainant to change his or her academic, transportation, or work situation, to the extent that the College has control over these environments, if options to do so are reasonably available and upon request of the complainant.

Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Requests to change an academic, transportation, or work situation, or for any other protective measure, should be made to the Title IX Coordinator.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator. The College will take all reasonable and legal action to implement the order.

12. **Amnesty.** The College recognizes that an individual who has been drinking alcohol or using drugs may be hesitant to report Sexual Misconduct. To encourage reporting, the College will not take disciplinary action for drug or alcohol use against an individual reporting Sexual Misconduct, either as the complainant or as a witness, provided that these conduct violations did not and do not place the health or safety of any other person at risk. The College may, however, require the reporting individual to attend a course or pursue other educational interventions related to alcohol and drugs.

The College's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

Timing of Complaints

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

Investigation and Confidentiality

All complaints of Sexual Misconduct will be promptly and thoroughly investigated in accordance with the Title IX Complaint Resolution Procedures (see below), and the College will take disciplinary and remedial action where appropriate. The College will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint.

However, because of laws relating to reporting and other state and federal laws, the College cannot guarantee confidentiality to those who make complaints. In the event that the complainant's confidentiality cannot be ensured, the College will notify the complainant.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the College's ability to respond may be limited.

The College reserves the right to initiate and proceed with an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community.

Resolution

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

Bad Faith Complaints

While the College encourages all good faith complaints of Sexual Misconduct, the College has the responsibility to balance the rights of all parties. Therefore, if the College's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

Academic Freedom

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

TITLE IX: Complaint Resolution Procedures

General Principles

Administration

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

Promptness, Fairness and Impartiality

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

Training

Because the College recognizes that the prevention of Sexual Misconduct, as well as Domestic Violence, Dating Violence, and Stalking, is an important issue, it offers educational programming to a variety of groups such as:

- Campus personnel
- Incoming students
- New employees participating in orientation
- Members of student organizations

Among other items, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Title IX Coordinator.

Investigation and Resolution of the Complaint

Commencement of the Investigation

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

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

Content of the Investigation

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

Support Person

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

Interim Measures

At any time during the investigation, the Investigating Officer may determine that interim remedies or protections for the parties involved or witnesses are appropriate.

These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Title IX: Non-Discrimination and Anti-Harassment Policy.

Pending Criminal Investigation

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

Other Policy and Standards Violations

In the course of conducting an investigation under these procedures, the Investigating Officer may identify evidence establishing that College policies and standards, other than the Title IX: Non-Discrimination and Anti-Harassment Policy, were violated. The College reserves the right to take immediate action to address such other violations of policies and standards, irrespective of whether the investigation determines that Sexual Misconduct occurred. In addition, in cases involving a visitor or contractor as a respondent, the College reserves the right to take summary action to permanently prohibit such person from entering onto College property and/or to terminate the respondent's relationship with the College, irrespective of whether the investigation determines that Sexual Misconduct occurred.

Resolution

At the conclusion of the investigation, the Investigating Officer will prepare a preliminary written report. The preliminary written report will identify the relevant evidence collected during the investigation, identify findings of fact, and state whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence. The parties shall be given three (3) days to review a copy of the preliminary written report in a proctored setting. After review of the preliminary written report, each party will be given three (3) days to submit any comments or response, in writing, to the Investigating Officer. Thereafter, the Investigating Officer will consider the parties' submissions, if any, and will finalize the written report and transmit a copy to the Title IX Coordinator.

If the written report determines that Sexual Misconduct occurred, the Title IX Coordinator will confer with administrators with supervisory authority over the respondent and identify those steps necessary to maintain an environment free from Sexual Misconduct and to protect the safety and well-being of the complainant and other members of the College community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of Sexual Misconduct and retaliation. Examples of such action include: no-contact orders, academic reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

Thereafter, the Title IX Coordinator will provide the parties with a brief, written determination of the investigation. If necessary, the version of the determination provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures is disclosed in a manner consistent with Title IX, the Family Educational Rights and Privacy Act ("FERPA"), and the Clery Act, as explained by the April 4, 2011 Dear Colleague Letter issued by the U.S. Department of Education, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>. The written determination shall be final subject only to the right of appeal set forth in Section IV below.

Special Procedure Concerning Complaints Against the President and Executives

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

Informal Resolution

Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. However, informal means may only be used with the complainant's voluntary cooperation and the involvement of the Title IX Coordinator. The complainant, however, will not be required to work out the problem directly with the respondent. Moreover, either party may terminate any such informal means at any time and elevate the complaint to the formal process.

Timing of the Investigation

The College strives to complete its investigation and resolution in a reasonably prompt manner. The time it takes to complete an investigation and resolution will vary depending on all the facts and circumstances, including the nature and complexity of the allegations, the availability of witnesses, and intervening breaks in the College's calendar. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation.

Rights of the Parties

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

- Equal opportunity to identify and have considered witnesses and other relevant evidence
- Similar and timely access to evidence considered by the Investigating Officer in preparing the written report
- Equal opportunity to review any statements or evidence provided by the other party

Equal access to review and comment upon any evidence independently developed by the Investigating Officer

Appeals

Grounds of Appeal

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

- The decision was contrary to the substantial weight of the evidence.
- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigating Officer, would result in a different decision
- Bias or prejudice on the part of the investigating Officer or
- The punishment or the corrective action imposed is disproportionate to the offense

Method of Appeal

Appeals must be filed with the Dean within ten (10) days of receipt of the written determination of the outcome of the complaint. The appeal must be in writing and contain the following:

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

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

Resolution of the Appeal

The College will resolve the appeal in a reasonably prompt manner. The decision of the Dean is final. The Dean shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Investigating Officer's previous written determination and/or the sanctions and remedial measures imposed. The written statement shall be provided to the complainant, respondent, and the Title IX Coordinator within three (3) days of the resolution.

Documentation

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

Intersection with Other Procedures

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

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

Definitions

Sex Discrimination

The College prohibits discrimination on the basis of sex ("Sex Discrimination") in all the College's programs and activities. In compliance with Title IX and its implementing regulations, the College has implemented this policy to eliminate, prevent and address conduct that constitutes Sex Discrimination. Conduct, such as Sexual Harassment, constitutes Sex Discrimination when it denies or limits a person's ability to participate in or benefit from the College's programs or activities based on sex. Sexual Harassment denies or limits a person's ability to participate in or benefit from the College's programs and activities, when:

- Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of any aspect of the College's programs and activities
- Submission to or rejection of such conduct by a person is used as a basis for any decision adversely affecting such person with respect to the College's programs and activities

- Such conduct is severe or pervasive, such that, considering all relevant circumstances, the conduct denies or limits a person's ability to participate in the College's programs and activities.

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

Sexual Harassment is any unwelcome conduct of a sexual nature. Sexual Harassment constitutes Sex Discrimination when it denies or limits a person's ability to participate in or benefit from the College's programs and activities. The College encourages members of the College Community to report any and all instances of Sexual Harassment, even if they are unsure whether the Sexual Harassment constitutes Sex Discrimination.

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

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

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

Sexual Violence is a form of Sexual Harassment. Sexual Violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or because of his or her youth. A single instance of Sexual Violence may be sufficiently severe to deny or limit a person's ability to participate in or benefit from the College's programs or activities, and, therefore, constitute Sex Discrimination.

Some examples of sexual violence include:

- Rape or sexual assault: Sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent

- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another student
- Non-consensual video or audio-taping of sexual activity
- Knowingly transmitting a sexually transmitted disease to another

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

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

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent. Warning signs of when a person may be incapacitated due to drug and/or alcohol use include: slurred speech, falling down, passing out, and vomiting.
- If a person is asleep or unconscious, there is no consent.
- If a person is below the minimum age of consent in the applicable jurisdiction, there cannot be consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.
- Being in a romantic relationship with someone does not imply consent to any form of sexual activity.
- Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee)

"Sexual Misconduct" is an umbrella term covering Sex Discrimination, Sexual Harassment, and Sexual Violence and this term will be used throughout the remainder of this policy and the Complaint Resolution Procedures when collectively referring to these types of conduct.

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

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

- **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 a consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.
- **Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

Responsibilities

Title IX Coordinator

It is the responsibility of the Title IX Coordinator to coordinate dissemination of information and education and training programs to:

- Assist members of the College community in understanding that Sexual Misconduct is prohibited by this policy
- Ensure that investigators are trained to respond to and investigate complaints of Sexual Misconduct
- Ensure that employees and students are aware of the procedures for reporting and addressing complaints of Sexual Misconduct
- To implement the Title IX Complaint Resolution Procedures or to designate appropriate persons for implementing the Title IX Complaint Resolution Procedures.

Administrators, Deans, Department Chairs, and Other Managers

It is the responsibility of administrators, deans, department chairs, and other managers (i.e., those that formally supervise other employees) to:

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

All Employees

It is the responsibility of all employees to review this policy and comply with it.

Students

It is the responsibility of all students to review this policy and comply with it.

College Community

When the College is aware that a member of the College Community may have been subjected to or affected by conduct that constitutes Sexual Misconduct, the College will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the prohibited conduct.

The College will act in accordance with its Title IX Complaint Resolution Procedures

Policy Violations

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

Interpreting Authority

- Board of Trustees
- President
- Dean
- Title IX Officer

In the event there is a conflict between interpreting authorities, the President will make the final interpretation decision.

Statutory or Regulatory References

- Utah's definition of Domestic Violence can be found at Utah Code 77-36-1
- Utah's definition of Stalking can be found at Utah Code 78B-7-401
- Utah's definition of Stalking can be found at Utah Code 76-5-106.5

Relevant Links

www2.ed.gov/about/offices/list/ocr/complaintintro.html.

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

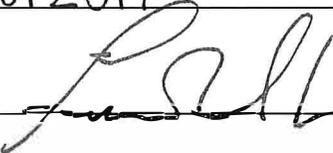
<https://le.utah.gov/xcode/Title34A/Chapter5/34A-5-S106.html>.

Policy Adoption Review and Approval

Motion to accept Policy.

Offered by: Kimball Anderson

Seconded by: Sean Curzon

Chair of the Board of Trustees: 

Date: March 25, 2019