

## POLICY REGARDING SEXUAL MISCONDUCT (TITLE IX)

WCUI is committed to providing a work and school environment free of unlawful harassment, sexual violence (including dating violence, domestic violence, sexual assault and stalking) and discrimination. College policy prohibits harassment or discrimination based on race, religion, creed, color, national origin, ancestry, sex, military or veteran status, physical or mental disability, medical condition, age, sexual orientation, gender, gender identity or expression, genetic information or any other basis protected by the federal, state or local law. In accordance with Title IX of the Education Amendments of 1972, the College prohibits discrimination based on sex, which includes sexual harassment and sexual violence (collectively referred to as “sexual misconduct”) and the College has jurisdiction over Title IX complaints. In furtherance of this commitment, all students and employees are required to take our mandatory Title IX training. Upon starting with the College, students are provided Title IX training during new student orientation and generally every year thereafter. New employees are provided with Title IX training upon hire and generally every year thereafter.

This policy applies to all persons involved in the operation of the College, and prohibits sexual misconduct by any employee of the College, as well as students, customers, vendors or anyone who does business with the College. It further extends to prohibit sexual misconduct by or against students. Any employee, student or contract worker who violates this policy will be subject to disciplinary action. To the extent a customer, vendor or other person with whom the College does business engages in sexual misconduct, the College will take appropriate corrective action.

As part of the College’s commitment to providing a working and learning environment free from sexual misconduct, this policy shall be disseminated to the College community through publications, the College website, new employee orientations, new 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 quickly to all reports, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

If you believe that you have experienced or witnessed harassment or discrimination on the basis of a protected category other than sex, please follow the procedure outlined in the Non-Discrimination/Anti-Harassment policy located in the Student Catalog.

### Key Definitions

- **Sexual Harassment** is defined as unwelcomed conduct of a sexual nature. It includes unwelcomed sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person’s employment or education or interferes with a person’s work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or

offensive. A hostile environment is created when the alleged conduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the recipient's education program and activities.

Sexual harassment is conduct based on sex, whether directed towards a person of the opposite or same sex, and may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing", practical jokes, jokes about or displays of obscene printed or visual material, questions about sexual fantasies, preferences or history, and physical contact such as patting, pinching, or intentionally brushing against another person's body. Gender-based harassment, including acts of verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping are strictly prohibited, even if those acts do not involve conduct of a sexual nature.

- **Sexual Violence** is defined as physical sexual acts engaged in without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.
- **Sexual Assault occurs** when a physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, and taking advantage of the other person's incapacitation (including voluntary intoxication). Non-stranger sexual assaults, someone known to the victim, are much more common than stranger sexual assaults. Non-stranger sexual assaults are no less a crime than those committed by strangers. The same definition and policies herein applies regardless of whether the responding party is a stranger or a non-stranger.
- **Domestic Violence** is defined as a felony or misdemeanor crime of violence committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, or someone with whom the abuser has a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship.
- **Dating Violence** is defined as 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 purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- **Stalking** is defined as 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.
- **Consent** is informed, voluntary and revocable. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. It must be given without coercion, force, threats or intimidation. Lack of protest or resistance does not mean consent, nor does silence mean consent. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately. Lack of affirmative consent shall not be a valid excuse to the responding party

that they believed that the reporting party consented to the sexual activity under either of the following circumstances: (a) the responding party's belief that affirmative consent arose from the intoxication or recklessness of the responding party; (b) the responding party did not take reasonable steps, in the circumstances known to the responding party at the time, to ascertain whether the reporting party affirmatively consented. Additionally, it shall not be a valid excuse that the responding party believed that the reporting party affirmatively consented to the sexual activity if the responding party knew or reasonable should have known that the reporting party was unable to consent to the sexual activity under any of the following circumstances: (a) the reporting party was asleep or unconscious; (b) the reporting party was incapacitated due to the influence of drugs, alcohol, or medication, so that the reporting party could not understand the fact, nature, or extent of the sexually activity; (c) the reporting party was unable to communicate due to a mental or physical condition.

### **Victims of Assault/Violence**

If you are a victim of a sexual violence, your first priority should be to get to a place of safety. You should then obtain any necessary medical treatment. Information about the alleged offense should be provided to the Title IX Coordinator as soon as possible. Time is a critical factor for evidence collection and preservation. If you are a victim of sexual violence or a sexual assault and you do not want to report it to the police, it is still important to preserve evidence, through a forensic examination, in case you would like to file a police report at a later time. Completing a forensic examination does not require someone to file a police report. To find a location near you that performs free forensic examinations, call the National Sexual Assault Hotline at (800) 656-4673. WCUI also utilizes the resources available through the Rape Abuse & Incest National Network (RAINN) to aid victims. Victims can obtain help directly through RAINN by visiting their website, [www.RAINN.org](http://www.RAINN.org).

WCUI strongly advocates that a victim of sexual assault or violence report the incident to police in a timely manner and, if requested by the victim, the College will assist the victim in contacting the police. However, the victim is not required to contact the police in order to pursue the procedure contained in this policy or for WCUI to conduct an independent investigation under this section.

Filing a police report with the local law enforcement agency will not obligate the victim to prosecute.

Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests at no expense to the victim;
- 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); and
- Assure the victim has access to free confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention.

### **Procedure for Reporting Sexual Misconduct**

If you believe that you have experienced or witnessed sexual misconduct, notify someone as soon as

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possible after the incident. Students should notify the Title IX Coordinator, or the Campus Director and employees should notify the Title IX Coordinator, their supervisor, or the Campus Director. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the situation. No employee, contract worker, student, vendor or other person who does business with the College is exempt from the prohibitions in this policy. All complaints involving a student will be referred to the Title IX Coordinator and to the Campus Director if the complaint involves an employee. In order to facilitate the investigation, your complaint should include details of the incident or incidents, names of the individuals involved, and names and locations of any witnesses.

In a situation deemed to be an emergency by the Title IX Coordinator, or the Campus Director, the College will issue a Timely Warning and the individual alleged to have caused the complaint may be temporarily transferred or put on leave pending the outcome of the complaint. The Title IX Coordinator need not wait for the conclusion of a criminal investigation or criminal proceeding to begin an investigation where warranted.

The College ensures that its employee(s) designated to serve as Title IX Coordinator(s) have adequate training on what constitutes sexual misconduct (including issues related to dating violence, domestic violence, sexual assault, and stalking), they understand how this policy operates, and understand how to conduct an investigation that protects the safety of victims and promotes accountability. Because complaints can also be filed with an employee's supervisor or the Campus Director, these employees also receive training on the College's procedures and any other procedures used for investigating reports of sexual misconduct.

A report may be made to either or both the police and the Title IX Coordinator. In order to ensure availability of witnesses and fresh memories of the alleged sexual misconduct, all reports should be made as promptly as possible after the alleged conduct. Where there is any question about whether an incident of sexual misconduct, a report should be made to the College for assistance in determining the nature of the incident.

The Title IX Coordinators are listed below. He/she oversees all Title IX complaints and is also responsible for identifying and addressing any patterns or systemic problems that arise during the review of such complaints.

<b>Title IX Coordinators</b>	<b>Local Phone Number</b>	<b>E-mail Address</b>
Carla Dominguez (Los Angeles)	(310)289-5123	Carla.Dominguez@wcui.edu
Bryn Logan (Ontario)	(909)483-3808	Bryn.Logan@wcui.edu
Terri Simons (Phoenix)	(602)954-3834	Terri.Simons@wcui.edu

The Title IX Coordinator has primary responsibility for receiving, evaluating and investigating sexual misconduct complaints and for maintaining accurate Clery Act crime statistics. Students, faculty and staff who believe they are the victim of sexual misconduct should report the incident to the Title IX Coordinator

or the Campus Director. Upon receipt of the complaint, the Title IX Coordinator has the following responsibilities:

1. Provide the reporting party with a copy of this policy, information on the availability of the College's investigatory procedures (see below), and written information about local victim support resources for victims including existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available to victims. Victims of sexual violence will be provided information about evidence preservation.
2. WCUI does not provide on-campus or off-campus counseling services. However, WCUI can and will refer the victim to a non-related, outside counseling service such as a local rape counseling center.
3. Make reasonable accommodations to facilitate changes to transportation, working, academic and/or living situations, if requested, prior to or while an investigation is pending, including the option to aid in issuing a no-contact order (see Interim Measures below). The College will seek to maintain the confidentiality of the identity of the victim and any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodations or protective measures. These steps will be taken by the College regardless of whether the victim chooses to file a complaint to the College or local law enforcement.
4. Inform the reporting party that the College investigates all reports to the fullest extent possible based on the reporting party and/or victim's request for confidentiality (see Requests for Confidentiality section below). The College does not utilize an informal resolution process.
5. Inform the reporting party of the right to file a separate criminal complaint for allegations relating to sexual violence and that the College can assist the victim in doing so, if requested.

The Title IX Coordinator will then evaluate the report and determine whether further action is warranted. If the Title IX Coordinator determines that the report does involve an instance of sexual misconduct, he/she will initiate an investigation in accordance with the investigation procedure described below.

### **Requests for Confidentiality**

Reports regarding sexual misconduct do not have to be formal signed complaints. The College is committed to protecting the confidentiality of victims, and will work closely with individuals who wish to obtain confidential assistance regarding an incident of sexual misconduct and will maintain the privacy of information to the extent permitted or required by law, even if the victim does not specifically request confidentiality. A victim's personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as this Annual Security Report. Memoranda describing any formal reprimand or disciplinary action for violating this policy will be placed in a student's permanent academic file and an employee's permanent personnel file. These documents are maintained in a locked filing cabinet that only applicable administrative staff has access to.

Reporting party(s) should be aware that in an investigation, due process generally requires that the identity of the charging party and the substance of the complaint be revealed to the person charged with the alleged

sexual misconduct. Generally, once the College decides to open an investigation that may lead to disciplinary action against the responding party, the College will provide written notice to the responding party of the allegations constituting the potential violation, and the date and location of the alleged incident.

In some cases, the College may need to disclose some information about a victim to a third party to provide necessary accommodations or protective measures. The Title IX Coordinator and Campus Director/Assistant Campus Director will meet to weigh the victim's confidentiality against the impact on the College being able to provide these necessary accommodations or protective measures. Should it be deemed necessary, they will determine what information about the victim needs to be disclosed and to whom it needs to be disclosed to. The victim will be notified regarding which information will be shared, with whom it will be shared and why prior to the College sharing the information. The College will strive to share as limited information as possible in an effort to protect the victim's identity.

### **Investigation of Complaints**

In response to all reports, the College promises prompt and equitable resolution through a reliable and impartial investigation. The Title IX Coordinator will maintain regular communications with both the reporting party and responding party and provide both parties with equal opportunity to provide information, witness statements, evidence, and other information that may be necessary for the Title IX Coordinator to fully evaluate the alleged offense. Both the reporting party and the responding party will be afforded equitable rights and access during the investigative process. The College may not require a reporting party to participate in a formal investigation that it has initiated.

Generally, an investigation will consist of interviewing the reporting party, the responding party, and any witnesses to the conflict. Additionally, the College will investigate allegations that alcohol or drugs were involved in the incident. As applicable, the College will provide each party with written notice in advance of any interview allowing the party sufficient time to prepare for meaningful participation. The Title IX Coordinator will, barring extenuating circumstance, complete the investigation and make a determination regarding any necessary discipline of the responding party and remedies to the reporting party within sixty (60) days of the date that the report is first received by the Title IX Coordinator. Each party will be presented with the investigative report before the Title IX Coordinator finalizes disciplinary action - giving the parties the opportunity to respond to the investigative report in writing in advance of a decision. In the event of a delay, the Title IX Coordinator will provide written notice to the reporting party and the responding party explaining the reason for the delay. If there is a conflict of interest between the Title IX Coordinator and the reporting party/responding party, an alternative trained official will conduct the investigation and determination (including disciplinary sanctions).

No party may have their lawyer present at any stage of the investigation but may be assisted in the process by a support person of their choice including someone who is an attorney. The "preponderance of the evidence" standard will apply to investigations, meaning the College will evaluate whether it is more likely than not that the alleged conduct occurred.

Both parties will receive simultaneous written notification of the outcome of the determination and disciplinary proceeding, including notification that the investigation results are final. If the complaint presented more than a single allegation of sexual misconduct, a decision will be reached separately as to each allegation of sexual misconduct. Determination notices will be placed into the files of any student or employee. The Title IX Coordinator will determine if the incident is indicative of a systemic issue and, if so, work with the College staff to recommend changes to College policies, procedures or training to prevent re-occurrence.

To initiate a criminal investigation, reports of sexual violence should be made to “911” or local law enforcement. The criminal process is separate from the College’s disciplinary process.

Reporting parties and witnesses participating in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution’s student conduct policy at or near the time of the incident, unless the institution 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.

### **Interim Measures**

Prior to or during an investigation, the College will provide interim measures, as necessary. Interim measures are individualized services offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual misconduct and include: counseling, extensions of time or other course-related adjustments, modifications to work or class schedules, campus escort services, restrictions on contact between the parties, leave of absence, increased security and monitoring of certain areas on campus, and other similar accommodation.

### **Disciplinary Actions**

Through the investigation process, if the College determines that unlawful sexual misconduct has occurred (including acts of dating violence, domestic violence, sexual assault or stalking), immediate, appropriate corrective action will be taken in accordance with the circumstances involved, and the College will take steps to prevent recurrence. Any employee determined by the College to be responsible for an act of sexual misconduct will be subject to appropriate disciplinary action, up to and including termination. Remedies for student-related claims may include, but are not limited to, additional training, a restriction on contact, suspension, or termination. In addition, reporting parties who make accusations in bad faith may be subject to equivalent disciplinary action.

Disciplinary actions taken will be determined on a case-by-case basis and may include all or some of the following actions. In general, if WCUI has determined that unlawful sexual misconduct has occurred, the responding party will receive additional Title IX training. If WCUI determines that a restriction on contact is an appropriate disciplinary action, the responding party will be required to stay away from the reporting party for the duration of the reporting party’s program, unless the reporting party is comfortable with a lesser amount of time. If such a restriction on contact is not feasible, the responding party will be

suspended from WCUI until the reporting party and the responding party can be separated. For example, if the reporting party and the responding party are in the same class, the responding party may be suspended until he/she can be placed in a separate class. WCUI may also determine, based on the act of sexual misconduct, that the responding party should be terminated from WCUI. Termination is generally reserved for instances of sexual violence.

### **Retaliation Prohibited**

The College will not retaliate against you for filing a report and will not tolerate retaliation by students or employees. If you believe you have been retaliated against, you should promptly notify the Campus Director, your supervisor, or the Title IX Coordinator.

### **Reporting Requirements**

Victims of sexual misconduct should be aware that College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to other members of the campus community. The College will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, or a change in student status.

The Title IX Coordinator is responsible for informing the Campus Security Survey Administrator within 24 hours after receiving a sex offense report for purposes of maintaining accurate Clery Act crime statistics.

### **Additional Information**

Students and employees may contact the Title IX Coordinator with any questions related to this policy. In addition, the U.S. Department of Education Office for Civil Rights ("OCR") investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the parties. For more information, visit the OCR website at: <http://www.hhs.gov/ocr/>. To the extent that an employee or contract worker is not satisfied with the College's handling of a complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.

### **Education and Training**

In an effort to promote a safe environment and to prevent acts of sexual misconduct, the College engages in primary prevention, awareness, bystander intervention and risk reduction training regarding sexual violence, including dating violence, domestic violence, sexual assault and stalking. The College educates the student community about this policy, sexual violence prevention and related College policies during all orientations held for new students upon the onset of a class. The Title IX Coordinator and other designated persons will receive annual training on issues related to sexual violence. The Title IX Coordinator is responsible for training current students and all College faculty and staff about the College's Title IX policies and conducting the new student training. The College also provides ongoing prevention and awareness training for current students and staff at least annually.



## **Bystander Intervention and Risk Reduction**

Sexual violence prevention training includes bystander strategies to intervene and prevent possible dating violence, domestic violence, sexual assault, or stalking before it occurs. Under the Clery Act, Bystander Intervention means safe and positive options that may be carried out by an individual or individuals to intervene and prevent harm

*when there is a risk of dating violence, domestic violence, sexual assault or stalking.* As a bystander it is important to recognize a situation that could lead to a crime, be aware of cultural differences that may lead to violence, identify safe and positive intervention options and take action to intervene. Suggestions for bystander intervention include:

- If you suspect that an individual is intent on having sexual intercourse with an unwilling partner, try to redirect one or both individuals.
- If you know someone who is intent on having sexual intercourse with a partner who is intoxicated, try to redirect them.
- Don't condone sexual bantering in group settings.
- Approach everyone as a friend, avoid using violence.
- Recruit help if necessary and if a situation becomes serious contact the police.

If someone tells you they have been sexually assaulted; believe the person, tell them it is not their fault, get the victim to a safe place, help them notify the Title IX coordinator and encourage them to make a police report (remember it is the victim's choice to report the crime or not).

All crimes, including crimes of sexual violence, can be prevented through steps by the campus community to reduce risk of being a victim of a crime and by intervening before a crime has occurred where there is a reasonable belief that a crime may occur. The College urges members of the campus community to take steps to reduce their chances of being a victim of a crime including by: locking doors, securing items of value, walking in pairs at night, avoiding impairment caused by alcohol or drugs and other self-protective steps. In addition, if you witness what you believe to be a situation that may lead to the commission of a crime, the College urges all members of the campus community to call 911 or to contact a College employee immediately. In addition, members of the campus community may be able to interrupt the commission of a crime of sexual violence by intervening in the situation on a potential victim's behalf where the intervention is not likely to pose harm to the intervener. The College urges all members of the campus community work together to promote a safe campus environment for everyone. The College includes training on bystander intervention and risk reduction in all primary and ongoing training for students and staff. The College includes bystander intervention and risk reduction awareness in its student and employee sexual violence prevention training.