**Pitzer College**

# Discrimination, Harassment, and Sexual Misconduct Policies and Procedures

## Introduction

### I. Jurisdiction

The Discrimination, Harassment, and Sexual Misconduct Policies and Procedures set forth in this Document apply to all Pitzer College (hereafter referred to as "College") faculty, staff, and students. This Document also applies to third parties (such as campus visitors or vendors) who may have contact with members of the College community either on the College's campus or at other College events and programs. If the alleged perpetrator (hereafter referred to as "Respondent") is an employee or student from one of the other Claremont Colleges or the Claremont University Consortium, the College will investigate the matter and take steps to stop the conduct and remedy its effects to the extent reasonably possible. However, the complaint or other relevant procedures for any disciplinary action against the Respondent will be those of the Respondent's home institution. If the Complainant is an employee or student from one of the other Claremont Colleges or the Claremont University Consortium, the complaint procedures set forth in this Document will prevail.

The complaint procedures set forth in this Document are administrative in nature and are separate and distinct from the criminal, civil, and administrative legal systems. Pursuing resolution through these procedures does not preclude someone from pursuing legal action at the same time or in the future. If the conduct in question is alleged to be a violation of both College policy and State or Federal law, the College will proceed with its normal process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these or other College procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent. Throughout the complaint, investigatory, hearing, appeal, and/or disciplinary process, the College will maintain its authority to take action to ensure campus safety.

### II. Authority

The disciplinary authority of Pitzer College originates in the Board of Trustees and has been delegated to the President. The President has designated the Senior Director of Discrimination, Harassment, Sexual Misconduct (DHSM) & Title IX to oversee the administration of the policies outlined in this Document, including Discrimination, Harassment, and Sexual Misconduct and the complaint procedures for resolving complaints of violations of the Civil Rights Policies, detailed below. Changes to the policies and procedures in this Document may be made with the approval of the Board of Trustees and/or the President.

**Complaint Officers**

**Senior Director of Discrimination, Harassment, Sexual Misconduct & Title IX Coordination:**

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**Staff and Third Parties:**
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## III. General Policy Statement

Pitzer College seeks to maintain an environment of mutual respect among all members of its community. All forms of harassment and discrimination on the basis of sex, gender identity, and expression, pregnancy, religion, creed, color, race, national or ethnic origin, ancestry, sexual orientation, medical condition, physical or mental disability, age, marital status, veteran status, family care leave status, or any other basis described in this Document or otherwise prohibited by state or federal law destroy the foundation for such respect and violate the sense of community vital to the College's educational enterprise. Sexual misconduct offenses are a form of sexual harassment and are strictly prohibited by the College. Retaliation against a person who reports, complains about, or participates in the investigation of a complaint of discrimination, harassment, and/or sexual misconduct is likewise prohibited.

This policy strictly prohibits discrimination against, or the harassment of, any individual at the College or at college activities occurring away from campus, including but not limited to all individuals regularly or temporarily employed, studying, or with an official capacity at Pitzer College (such as Trustees, guest lecturers, volunteers, and contractors). Persons violating this policy will be subject to disciplinary action up to and including discharge from employment or expulsion from the College.

It is the responsibility of all faculty, staff, and students at the College to ensure compliance with this policy. Accordingly, faculty, staff or students who believe they are being harassed, discriminated, or retaliated against, have observed harassment of, discrimination, or retaliation against, another person at the College in violation of this policy, or believe such conduct has occurred, should immediately report the incident following the complaint reporting procedures below.

Because harassment, discrimination, and retaliation can also constitute violations of federal and state law (Title VI, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and/or the California Fair Employment and Housing Act ("FEHA") Section 12940, et seq. of the California Government Code), individuals who feel that they have been subjected to harassment or discrimination may, in addition to notifying the College by using the complaint reporting procedures below, file a complaint with the appropriate state or federal agencies. Such complaints may be filed with the California Department of Fair Employment and Housing ("DFEH") or the comparable federal agency, the Equal Employment Opportunity Commission ("EEOC"). Complaints may also be filed with the federal government's Office of Civil Rights ("OCR").

The faculty and other academic appointees, staff, and students of Pitzer College enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This policy is intended to protect members of the College community from discrimination, not to regulate protected speech. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression. The College also has a compelling interest in unfettered inquiry, the collective search for knowledge, and ensuring that faculty base their decisions about teaching, both inside and beyond the classroom, on their knowledge and best professional judgment. The College thus affirms, and indeed embraces, principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or of the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom do not protect conduct (inclusive of speech) that violates federal or state anti-discrimination laws.

In addition, consistent with California Education Code Section 94367, this policy's definition of harassment and its application to student speech shall be subject to the limitations of the First Amendment to the United States Constitution and Article 1, Section 2 of the California Constitution.

Last updated 9/18/18

# Civil Rights Related Policies

## I. Statement on Non-Discrimination, Equal Opportunity, and Related Laws

Pitzer College does not discriminate on any illegal basis in the administration of its admission, educational, or employment policies and practices, nor in the recruitment, training, promotion, financial support, or compensation of its faculty, students, or staff. The College complies with all applicable state and federal laws, including, but not limited to:

1. Title IX of the Higher Education Amendments of 1972;
2. Title VI of the Civil Rights Act of 1964
3. Title VII of the Civil Rights Act of 1964;
4. California Fair Employment and Housing Act ("FEHA");
5. California Unruh Civil Rights Act;
6. Family Educational Rights and Privacy Act of 1974;
7. Section 504 of the Rehabilitation Act of 1973;
8. Americans with Disabilities Act (the "ADA");
9. Age Discrimination in Employment Act of 1967, as amended by the Older Worker's Benefit Protection Act ("ADEA");
10. Any other applicable federal, state, or local law addressing nondiscrimination and/or equal employment opportunity.

Inquiries about applying Title VI and Title IX to this institution should be referred to Christine Guzman, Sr. Director DHSM & TIX (chrisg@pitzer.edu; 909-607-2958). Inquiries about the application of all other laws referenced in this section should be referred to the Associate Vice President for Human Resources and Payroll Services, Deanna Caballero (Deanna_Caballero@pitzer.edu; 311 McConnell, 909-607-8533).

Students: For specific inquiries concerning potential accommodation of disabilities, pursuant to the ADA, Section 504 of the Rehabilitation Act of 1973, and/or the FEHA, please contact academicsupport@pitzer.edu.

Faculty and Staff: For specific inquiries concerning potential accommodations of disabilities, pursuant to the ADA, Section 504 of the Rehabilitation Act of 1973, and/or the FEHA, please contact Deanna Caballero, Associate Vice President for Human Resources and Payroll Services (Deanna_Caballero@pitzer.edu, 311 McConnell, 909-607-8533).

## II. Equal Employment Opportunity

Pitzer College prides itself on being an open, competitive, and equal-opportunity employer. The College is committed to a policy of equal employment opportunities for all applicants and employees and complies with all applicable state and federal laws on the matter. The College does not unlawfully discriminate on the basis of race, color, creed, religion, national or ethnic origin, ancestry, sex, age, sexual orientation, gender identity and expression, marital status, pregnancy, physical or mental disability, medical condition, family care leave status, veteran's status, or any other category described in this Document or protected by law. The College also prohibits the harassment of any employee on any of these basis and retaliation for the exercise of rights protected herein. The College also

makes reasonable accommodations for disabled employees. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, and social and recreational programs. It is the responsibility of every manager and employee to follow this policy conscientiously. Employees with questions regarding this policy should discuss them with the Associate Vice President for Human Resources and Payroll Services or their supervisor.

# III. Harassment Policy

## A. Policy Statement

> It is the policy of Pitzer College to maintain an environment for students, faculty, and staff that is free of sexual, racial, and other unlawful harassment. All members of the community should be aware that the College is concerned about such harassment and is prepared to take prompt remedial action to prevent and correct such behavior. Individuals who engage in sexual harassment as well as other unlawful harassment based on such factors as religion, color, race, national or ethnic origin, ancestry, sex (which includes harassment based on gender, pregnancy, childbirth, or related medical conditions), sexual orientation, gender identity and expression, physical or mental disability, age, marital status, family care leave status or veteran status, will be subject to discipline, up to and including expulsion or termination. Retaliation against a person who reports, complains about, or participates in the investigation of such harassment is likewise prohibited.

## B. Unlawful Harassment Defined

1. *Title VI and Race, Color, and National Origin Discrimination*

Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color, or national origin in programs or activities that receive Federal financial assistance. Title VI states that:

> No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance - Department of Education, Civil Rights Act of 1964.

Unlawful harassment is conduct that creates an intimidating, offensive, or hostile working or academic environment or that interferes with work or academic performance based on a person's protected status, including race, color, national origin, ancestry, sex (which includes harassment based on gender, pregnancy, childbirth, or related medical conditions), sexual orientation, gender identity and expression, age, religion, physical or mental disability, medical condition, marital status, veteran status, family care leave status or other status protected by anti-discrimination and anti-harassment statutes, such as Titles VI, VII or IX of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act. Such harassment can be physical, verbal, or visual. Harassment can be committed by employers, coworkers, fellow students, and third parties. Generally, statements and/or conduct legitimately and reasonably related to the College's mission of education do not constitute harassment.

To count as harassment under this policy, such conduct must: be based upon one or more of the categories mentioned above;

- be offensive to the individual complaining of harassment and offensive to a reasonable person; and
- be so persistent, repetitive, pervasive, or severe that it has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, abusive or hostile educational, employment or living environment at the College.

Harassment may also occur when submission to conduct described above is made either explicitly or implicitly a term or condition of an individual's employment, education, living environment at the College, or participation in a College activity.

2. *Sexual Harassment*

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

Examples of sexual harassment may include such conduct as:

a. Physical assault or other unwelcome touching;

b. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendations;

c. Direct propositions of a sexual nature;

d. Subtle pressure for sexual activity, an element of which may be repeated requests for private meetings without an academic and employment purpose. A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following: (1) unnecessary touching, patting, hugging, or brushing against a person's body; (2) remarks of a sexual nature about a person's clothing or body, whether or not intended to be complimentary; (3) remarks about sexual activity or speculations about previous sexual experience; or (4) other comments of a sexual nature, including sexually explicit statements, questions, jokes or anecdotes;

e. Certain visual displays of sexually oriented images outside the educational context;

f. Letters, notes, or electronic mail containing comments, words or images as described in (e) above;

g. Sexual harassment includes harassment of women by men, of men by women, and same gender gender-based harassment. Sexual misconduct offenses are specific forms of sexual harassment and are strictly prohibited by the College. Due to the unique nature of sexual misconduct the College has a separate Sexual Misconduct Policy which is outlined below.

C. **Other Campus Assistance**

In addition to offering counseling and academic support, the College provides assistance to students who believe they have been sexually harassed by:

- Separating the individual who engaged in the harassment and the target of the harassment, provided that such steps avoid or minimize to the extent possible any burden on the target;
- Informing the target of the harassment how to report any subsequent problems, including retaliation;
- Conducting follow-up inquiries to determine whether there have been any new incidents of harassment or any instances of retaliation against the harassed student or any witnesses, and responding promptly and appropriately to address continuing or new instances; and
- Providing training, or other interventions for the larger College community to ensure that all students, and College staff can recognize harassment if it recurs and know how to respond.

D. **Bullying and Intimidation**

Bullying includes any intentional electronic, written, verbal, or physical act or a series of acts of physical, social, or emotional domination that cause physical or emotional harm to another student or group of students. Bullying conduct may not only cause a negative effect on individuals targeted but also others who observe the conduct. Conduct constitutes bullying in violation of this policy when it is severe, persistent, or pervasive; and when it: 1) has the effect of substantially interfering with a community member's education, employment, or full enjoyment of the college; 2) creating a threatening or intimidating environment; or 3) substantially disrupting the orderly operation of the College. Intimidation is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person(s) in the group to fear for their physical well-being. Intimidation is prohibited and will result in disciplinary action.

## IV. Sexual Misconduct Policy

A. **Consent:** The expectations of our community regarding sexual consent can be summarized as follows: For individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable and clear permission regarding willingness to engage in (and the conditions of) sexual activity. To give effective consent, one must be of legal age and have the capacity to give consent. The legal age of consent in the state of California is 18 years.

- Consent to any one form of sexual activity does not imply consent to any other form(s) of sexual activity.
- A previous relationship or prior consent does not imply consent to future sexual acts.
- Consent can be withdrawn. Thus, even if a person agreed to sexual interaction or continued sexual interaction, that person has the right to change their mind, irrespective of how much sexual interaction may have already taken place.

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

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

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

   i. **Incapacitation due to alcohol or other drugs**: Because alcohol or other drug use can place an individual's capacity to consent in question, sober sex is less likely to raise such questions. Being under the influence of alcohol or other drugs does not in and of itself indicate incapacitation. When alcohol or other drugs, including date rape drugs (such as

Rohypnol, Ketamine, GHB, etc.), are involved, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (the who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Administering a date rape drug to another individual is a violation of this policy. More information on these drugs can be found at **www.911rape.org.**

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

B. **Sexual Misconduct:** Sexual misconduct is a specific form of sexual harassment and is prohibited by the College. Sexual misconduct is defined as:

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

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object or body part,
- by a person upon a person,
- that is without consent, regardless of whether force used.

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

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

Non-Consensual Sexual Intercourse is:

- any sexual intercourse however slight,
- with any object or body part,
- by a person upon a person,
- that is without consent, regardless of whether force used.

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

Nonconsensual sexual contact and nonconsensual sexual intercourse are often referred to as “sexual assault.” As defined by the federal Violence Against Women Act, sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the

Federal Bureau of Investigation. Generally, a sexual assault has been committed when an individual engages in sexual activity without the effective consent of the other individual involved, including when the individual lacks capacity to consent. Sexual activity is any touching of a sexual or other intimate part of a person either for the purpose of asserting power or gratifying sexual desire of either party. This includes coerced touching of the Respondent by the Complainant as well as the touching of the Complainant by the Respondent, whether directly or through clothing.

3. **Sexual Exploitation:** Sexual Exploitation is a form of sexual misconduct which occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
   a. Invasion of sexual privacy;
   b. Prostituting another person;
   c. Non-consensual video or audio-taping of sexual activity;
   d. Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
   e. Engaging in voyeurism;
   f. Knowingly transmitting a sexually transmitted infection, a sexually transmitted disease, or HIV to another person;
   g. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
   h. Sexually based stalking.

4. **Intimate Partner Violence:** Intimate-partner violence includes dating violence, domestic violence, and relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. It may involve one act or an ongoing pattern of behavior.

   Intimate-partner violence can encompass a broad range of behavior, including, but not limited to, physical violence and sexual violence. Intimate-partner violence may take the form of threats, assault, property damage, violence, or threat of violence to oneself, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner.

   <u>Dating Violence</u>: Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such a relationship will be determined based on assessment of statements of the parties and witnesses, taking into consideration the following factors: a) the length of the relationship, b) the type of relationship, and c) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Domestic Violence: Domestic violence is violence committed by a current or former spouse, or sexual or intimate partner of the alleged victim, a person who is living as a spouse or who lived as a spouse with the alleged victim, parents and children, other persons related by blood or marriage, or by a person with whom the alleged victim shares a child in common. Under the criminal laws of California certain offenses, including but not limited to, rape, aggravated assault, and stalking, can be deemed domestic violence depending on the relationship of the parties involved.

The College recognizes that sexual harassment, sexual assault, sexual exploitation, stalking, and retaliation all may be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating, or other social relationship of a romantic or intimate nature with the Complainant.

## V. Stalking Policy

Stalking will be addressed through the Complaint Procedures outlined in this Document when the conduct is sex-based or is related to an intimate partner relationship.

### A. Policy Statement

Pitzer College strives to maintain a campus environment free of violence. Stalking can affect every aspect of an individual's life, often beginning with phone calls, emails, social networking posts, and/or letters, and can sometimes escalate to violence. Individuals of all genders, gender identities, races and ethnicities, religions, age, abilities, and sexual orientation can be the subject of stalking. Individuals who engage in stalking behaviors are subject to disciplinary action. Violations of this policy will result in disciplinary action up to and including expulsion for students and up to and including termination for employees. Stalking is a crime in California and is subject to criminal prosecution. Pursuing a complaint through the College does not preclude an individual from pursuing legal action as well.

### B. Definition

Stalking is a course of conduct directed at a specific person knowingly or consciously disregarding a substantial and unjustifiable risk that the course of conduct that would cause a reasonable person to: (1) feel fear for their safety or the safety of others, or (2) suffer substantial emotional distress. Stalking includes behaviors or activities occurring on more than one occasion that collectively and consciously disregard and recklessly instill fear in a victim, and/or threaten their safety, mental health, or physical health. Such behaviors and activities may include, but are not limited to, the following:

A. Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, texts, letters, notes, gifts, or any other communications that are undesired and place another person in fear;

B. Use of online, electronic, or digital technologies, including:

- Unauthorized posting of pictures, messages, and/or information about the complainant on websites, Internet sites, social networking sites, and/or bulletin boards or in chat rooms
- Sending unwanted/unsolicited email, texts or talk requests
- Posting private or public messages on Internet sites, social networking sites, and/or bulletin boards
- Installing spyware on a victim's computer
- Using Global Positioning Systems (GPS) to monitor a victim

C. Pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the victim

D. Surveillance or other types of observation, including staring or "peeping"

E. Trespassing

F. Vandalism

G. Non-consensual touching

H. Direct verbal or physical threats

I. Gathering information about an individual from friends, family, and/or co-workers

J. Threats to harm self or others

K. Defamation - lying to others about the victim.

C. **Reporting Information**

1. **Off-Campus**

Pitzer College encourages individuals to report incidents of stalking to law enforcement authorities, and respects that whether to do so is a personal decision of the individual. Members of the Dean of Students staff are available to assist individuals in contacting the Claremont Police or other appropriate law enforcement agency. In some circumstances, a victim may wish to seek a legal order of protection against the alleged perpetrator. Victims may also request that the College restrict someone's access to the College campus who is not a member of the Pitzer College community.

In certain instances, Pitzer College may need to report conduct to law enforcement authorities even when the subject of the conduct has not decided to do so. Such circumstances include incidents that warrant the undertaking of additional safety and security measures for the protection of the victim and the campus community or other situations in which there is clear and imminent danger, and when a weapon may be involved. The decision to report an incident to law enforcement will be shared with the victim and will take into account the safety concerns of the individual.

2. **To the College**

The College encourages individuals to report incidents of stalking to the College. Prompt reporting is encouraged because facts often become more difficult to establish as time passes. However, the College will investigate and take appropriate action in response to all reports of stalking behavior regardless of when the alleged conduct occurred. The ability of the College to respond to the conduct is limited if the Respondent is no longer a member of the College community. If a College staff member, faculty member, or student leaves the College with a pending complaint, they will not be permitted to return to the College until the complaint is resolved through the College's appropriate complaint or discipline process.

An individual who believes they have been the subject of stalking and who wishes for the details to remain completely confidential should speak with certain College officials who may maintain confidentiality and may not disclose information shared with them, except where required by law. These officials include: Monsour Counseling and Psychological Services staff, Student Health Services staff and members of the clergy including the McAlister Center chaplains.

3. **Safety and Support Resources**

Pitzer College is committed to supporting victims of stalking by providing safety and support services. Due to the complex nature of stalking, an individual who has been a victim of stalking may need assistance in obtaining one or more of the following:

- College no-contact order
- Counseling support through Monsour Counseling and Psychological Services
- Change in an academic schedule
- Provision of alternative housing opportunities
- The imposition of an interim suspension on the alleged perpetrator

For more information, please contact the Sr. Director DHSM & TIX, (chrisg@pitzer.edu; 909-607-2958). If safety is an immediate concern, contact Campus Safety at 909-607-2000 if you are on campus or the Claremont Police Department at 911 if you are off-campus.

# VI. Hazing Policy

## A. Policy Statement

Hazing can be psychologically and/or physically harmful to individuals, can damage organizations and teams, and undermine the educational mission and values of Pitzer College. Hazing is strictly prohibited by Pitzer College policy and California state law (Sections 32050 (245.6) and 32051 of the California Education Code and Section 48900 q of the California Penal Code). No student, College employee or volunteer, student organization, or athletic team shall conduct or condone hazing activities. Violations of this policy will result in disciplinary

action. Hazing may also include violations of the College's Discrimination, Harassment, and Sexual Misconduct Policy. If you have knowledge of hazing or potential hazing activities you should contact the Dean of Students Office who will investigate and take action to stop the conduct.

B. **Definition**

Any act or the creation of a situation that tends to endanger the mental or physical health or safety of a student; an act or the creation of a situation which tends to humiliate or degrade a student; or an act or creation of a situation which destroys or removes public or private property when these are part of initiation, admission into, affiliation with or continued membership in a group or organization. An act or a situation becomes hazing when an organization creates the dangerous, illegal, or humiliating situation and exposes students to it.

A level of coercion is often involved in hazing; an individual being hazed may not feel they can opt out of participation because of peer pressure or a desire to belong or "fit in" to the group. Because of the socially coercive nature of hazing, this definition of hazing applies whether or not the participants consent to such activity or perceive the activity as "voluntary."

Hazing does not include actions or situations that are part of officially sanctioned and supervised College activities such as athletic training and conditioning.

An individual can be responsible for violating this policy for soliciting, directing, aiding, or otherwise participating actively or passively in activities which violate this policy.

C. **Examples**

Hazing activities often involve alcohol; however, activities need not involve alcohol to violate this policy. Common examples of behaviors that can be hazing include, but are not limited to, the following:

- Shaving, tattooing, piercing or branding
- Engaging in or simulating sexual acts
- Threatening to physically restrain someone or actually restraining them
- Assigning unreasonable chores or acts of servitude
- Causing excessive exercise, sleep deprivation or excessive fatigue
- Interfering with an individual's personal hygiene
- Requiring the wearing of specific apparel or acting in a way that is conspicuous and may cause the individual embarrassment or ridicule
- Degrading or humiliating games and activities, including paddling
- Activities that would unreasonably interfere with students' other activities or obligations (academic, extracurricular, family, religious, etc.)
- Physical threats or abuse of any kind including throwing objects or substances at an individual
- Encouraging or requiring a person to consume alcohol, drugs, or foreign or unusual substances, including consumption of large quantities
- Encouraging the use of alcohol or illegal drugs
- Forcing a student into a violation of the law or College policy such as indecent exposure, theft, or trespassing

The College will use a "reasonable person" standard when evaluating such conduct and its potential effects. The determination of whether a particular activity constitutes hazing will depend on the circumstances and context in which that activity is occurring. Some key questions which are used to evaluate whether an activity is hazing include:

- Was a person or group being singled out because of their status with the group or team?
- Was there a risk of physical or psychological discomfort or harm as a result of the activity? Was the activity demeaning, abusive or dangerous?
- Was there a level of coercion and/or peer pressure involved? How easily was someone able to opt out of the activity?
- Did the current members refuse to do what the new members were asked to do?
- Did the activity or activities interfere with the participants' other activities or obligations (academic, extracurricular, family, religious, etc.)?
- Was alcohol involved?
- Was there a sexual element to the activity?
- Did any of the activities violate College policy or federal, state or local law?

D. **How to Avoid Hazing**

There are many positive ways to welcome new members into a group or team. Team coaches or the Dean of Students staff can assist you in identifying such activities which can help build cohesiveness and foster teamwork. When you are considering an activity associated with membership in an organization or team ask yourself: Would you feel comfortable describing the activity to others (parents, grandparents, College official, law enforcement, etc.)? If you would be hesitant to describe the activity to others, then the activity may constitute hazing and the group would be best served in participating in a different activity.

## VII. Discrimination Policy

Discrimination refers to the disparate treatment of a person or group because of that person's or group's protected status, including race, color, national origin, ancestry, sex (which includes harassment based on gender, pregnancy, childbirth, or related medical conditions), sexual orientation, gender identity and expression, age, religion, physical or mental disability, medical condition, marital status, veteran status, family care leave status, or other status protected by anti-discrimination and anti-harassment statutes, such as Titles VII or IX of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act. This policy also prohibits discrimination based on the perception that any person has any of the foregoing characteristics or is associated with a person who has or is perceived as having, any of those characteristics. All such discrimination is unlawful and constitutes Prohibited Conduct. Contact the Sr. Director of DHSM & TIX (chrisg@pitzer.edu; 909-607-2958) for relevant questions and information.

## VIII. Retaliation Policy

Retaliation is defined as the taking of an adverse action by any student, faculty, or staff member against another individual as a result of that individual's exercise of a right under the Discrimination, Harassment, and Sexual Misconduct Policies and Procedures, including participation in the reporting, investigation or hearing as provided in this Policy. Retaliation includes adverse actions intended to improperly deter the involvement of another in these procedures set forth in this Policy and may involve actions intended either to intimidate or to penalize individuals for their participation. Retaliation is strictly prohibited by law and this Policy. Any person who is found to have engaged in retaliation related to a complaint under this Policy shall be subject to disciplinary action under this Policy. Persons who believe that they have been retaliated against for making a complaint/report or for cooperating in an investigation or hearing should immediately contact the Sr. Director of DHSM & TIX (chrisg@pitzer.edu) or relevant Complaint Officer. A complaint filed in good faith under this Policy shall not constitute retaliation.

Retaliation against persons for opposing practices prohibited by the Fair Employment and Housing Act and Title IX, or for filing a complaint with, or otherwise participating in an investigation, proceeding, or hearing conducted by, the Department of Fair Employment and Housing, the Fair Employment and Housing Commission, the U.S. Equal Employment Opportunity Commission, or the Office of Civil Rights, is prohibited by law.

## IX. Consensual Relations Policy

The College recognizes that individuals should be aware that consensual sexual relationships can result in claims of sexual harassment because the degree to which consent is voluntary may be questioned when a power differential exists. If a sexual harassment claim is filed following what one or both of the parties may have initially viewed as a consensual relationship, the consent is evaluated considering this power differential.

Sexual relationships between employees and their supervisors or students and faculty members with whom they also have an academic or evaluative relationship are fraught with the potential for exploitation. The respect and trust accorded a professor by a student or a supervisor by an employee, as well as the power exercised in an academic or evaluative role, make voluntary consent suspect. Even when both parties initially have consented, the development of a sexual relationship renders both parties and the College vulnerable to possible later allegations of sexual harassment, considering the significant power differential that exists between them. In their relationships with students and staff members, faculty and supervisors are expected to be aware of their professional responsibilities and avoid apparent or actual conflicts of interest, favoritism, or bias.

Sexual relationships that involve a faculty member who exercises active and immediate authority over a student, as in the case of a faculty member and a student currently studying with the faculty member and/or an adviser and advisee relationship, are prohibited whether the relationships are consensual. The same is true of a supervisor/ employee relationship. A supervisor and faculty member must remove themselves from positions of active and immediate authority over the employee or student

before a sexual relationship begins. The College has the right to take disciplinary action, up to and including dismissal, against a faculty member or supervisor for participation in a relationship which involves such a conflict.

In the case of a sexual relationship in which the parties believe that the restrictions of the preceding paragraph do not apply, it is the obligation of the supervisor or faculty member, because of their position of authority, to take all necessary steps to remove themselves from professional or institutional actions, such as providing recommendations or participating in the awarding of departmental prizes, performance reviews or promotions, which affect the student and/or employee. Before a sexual relationship develops, effective steps must be taken to ensure unbiased evaluation and supervision of the student or employee. Faculty members, students, supervisors, and staff members are encouraged to seek assistance and guidance from the Dean of Faculty, Dean of Students, or Associate Vice President for Human Resources and Payroll Services to ensure compliance with this policy.

## X. False Reporting Policy

It is a violation of College policy to file a false or malicious complaint of alleged discrimination, harassment and/or sexual misconduct. Any complainant who knowingly makes false charges alleging a policy violation, the College may pursue such conduct using the steps followed for discrimination, harassment, and sexual misconduct related complaints as outlined in this Document. A complaint filed in good faith under this provision shall not constitute retaliation. A finding of no responsibility is not, by itself, evidence of a false report.

# Complaint Procedures

## I. Introduction

These complaint procedures have been adopted by the College to provide a prompt and equitable method for reporting, investigating, and resolving complaints of alleged violations of the College's discrimination, harassment, and sexual misconduct policies when they involve Pitzer College faculty, staff, students, and/or third parties.

Anyone who believes they have been subjected to discrimination, harassment, retaliation and/or sexual misconduct is encouraged to report such conduct pursuant to the procedures set forth below. The College is obligated to act on any report of alleged discrimination, harassment, or sexual misconduct and will do so pursuant to these complaint procedures. Any College official (e.g., faculty member, administrative staff members, coaches, resident assistant, etc.) who receives information of an alleged discrimination, harassment, retaliation and/or sexual misconduct is required to file a report with one of the College representatives set forth below.

## II. Reporting an Alleged Violation

### A. Reporting to the College

1. Individuals who believe they have been the subject of or have witnessed alleged discrimination, harassment, retaliation, and/or sexual misconduct are encouraged to contact the appropriate College representative listed below. A report may be made to any one of the individuals listed regardless of if you are a student, faculty member, staff member, or third party. Under no circumstances is an individual required to report discrimination, harassment, retaliation, and/or sexual misconduct to a supervisor or academic instructor who is the alleged perpetrator.

**For reports or complaints, contact:**
Christine R. Guzman, PhD, LCSW, Sr. Director of
Discrimination, Harassment Sexual
Phone: 909-607-2958
E-mail: christine_guzman@pitzer.edu

**For reports or complaints against a student, contact:**
Andres Fernandez, Vice President of Student Affairs and Dean of Students
Scott Hall 123
Phone: 909-607-7356
**Andres_Fernandez@pitzer.edu**

**For reports or complaints against a faculty member, contact:**

Allen Omoto, Vice President for Academic Affairs and Dean of Faculty
Phone: 909-621-8218
E-mail: dean_faculty@pitzer.edu

**For reports or complaints against a staff member or third party, contact:**
Deanna Caballero, Associate Vice President for Human Resources and Payroll Services
Phone: 909-607-8533
E-mail: deanna_caballero@pitzer.edu

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

Upon receipt of a report, the College will activate these complaint procedures. Prompt reporting is encouraged, because facts often become more difficult to establish as time passes. However, the College will investigate and take appropriate action in response to all reports regardless of when the alleged conduct occurred. The ability of the College to respond to the conduct is limited if the Respondent is no longer a member of the College community. If a College staff member, faculty member or student leaves the College with a pending complaint against them they will not be permitted to return to the College until the case is resolved through these complaint procedures. Pitzer College shall respond to the greatest extent possible to reports of sexual misconduct brought anonymously or brought by third parties not directly involved in the misconduct. However, the response to such reports may be limited if information contained in the report cannot be verified by independent facts.

2. **Confidentiality of Reports to the College**

The College will make all reasonable efforts to maintain the confidentiality and privacy of the parties involved in an investigation and/or hearing for a complaint as well as the confidentiality of the details of an investigation, any hearing, and except where permitted by law, the sanctions imposed. The College will inform all individuals involved in the complaint process of the critical importance and expectation that they maintain the confidentiality of the process and any information shared with them because of their participation. Complainants and Respondents are not prohibited from sharing details of complaints with family, counsel, or a support person/advisor as defined in paragraph V below.

If at any point the Complainant requests confidentiality with respect to the Respondent and/or decides not to pursue action by the College, the College will make all reasonable attempts to comply with this request. A Complainant is the student, faculty, or staff member who files a report on their own behalf or the person on whose behalf a report is filed by a third party. In these situations, the College's ability to investigate and respond to the conduct may be limited. The College is required to weigh the Complainant's request for confidentiality with the College's commitment to provide a reasonably safe and non-discriminatory environment. Moreover, the College may have an independent legal obligation to investigate a complaint once it has been made and in those circumstances the investigation will continue through completion and appropriate action. If the College cannot maintain a Complainant's confidentiality, or determines to continue with the investigation, the Complainant will be notified by the Sr. Director DHSM & TIX.

3. **Confidential Resources at the College and in the Community**

An individual who wishes for the details of the incident to remain completely confidential may speak with certain College officials who, by law, may maintain confidentiality and may not disclose the details of an incident. These officials include:

**EmPower Center**
1030 Dartmouth Avenue
909-607-2689

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

**Student Health Services Staff**
Tranquada Student Services Center, 1st floor
757 College Way
909-621-8222, 909-607-2000 (after-hours emergency)
Members of the clergy including the McAlister Center chaplains.

**McAlister Center for Religious Activities**
919 North Columbia Avenue
909-621-8685

Pitzer Advocates for Survivors of Sexual Assault, 909-607-1778, are available to assist students, including Pitzer Students, who have experienced sexual misconduct, including sexual assault. The Advocates can be contacted at any stage of the processes discussed herein. http://pitzeradvocates.squarespace.com

Individuals who have experienced sexual misconduct, including sexual assault may also seek confidential support from a local or national rape crisis hotline, including:

**Project Sister Sexual Assault 24/7 Crisis Hotline** (Claremont, CA):
800-656-4673
909-626-HELP (909-626-4357)

**National Sexual Assault 24/7 Crisis Hotline (RAINN):**
800-656-HOPE

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

a. The College's complaint procedures are administrative and separate from the state and federal criminal, civil, and administrative legal systems. Pursuing resolution through these procedures does not preclude someone from pursuing legal action now or in the future.

b. **Reporting Potential Criminal Violations to Claremont Police Department ("CPD"):** In cases involving potential criminal misconduct, individuals are encouraged to file a report with the CPD. For assistance with or accompaniment to make a police report, please contact the Sr. Director DHSM & TIX (909-607-

2958; titleix@pitzer.edu); for confidential accompaniment, contact Project Sister (909-626-4357)

The College's complaint procedures and the legal system work independently from one another and the College will proceed with its process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these complaint procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.

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

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

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

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

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

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

## III. Truthfulness

All participants in an investigation and/or hearing are expected to cooperate fully and provide truthful information in all meetings and/or hearings related to these complaint procedures. Individuals may be hesitant to report conduct that they have experienced or witnessed or participate in an investigation and/or hearing because they fear that they themselves may be charged with a policy violation, such as underage drinking at the time of the incident. To encourage truthfulness and reporting, the College pursues a policy of offering Complainants, Respondents, and witnesses limited immunity from being charged for policy violations related to an alleged incident (such as policies prohibiting the use of alcohol or drugs) which is reported in good faith. While violations cannot be completely overlooked, the College will provide educational rather than punitive responses, in such cases. Employees can be disciplined, up to and including termination, for not being truthful during an investigation. Students who are untruthful in an investigation and/or hearing will be subject to procedures and penalties in the Student Code of Conduct.

## IV. Specific Complaint Procedures when the Respondent is a Student, Staff, or Faculty Member

The College has adopted three parallel procedures for investigating and hearing complaints, depending upon whether the Respondent (or accused) is a student, a staff member (including administrators and third parties), or a faculty member. Because the relationship of students, staff, and faculty to the College differ in nature, the procedures that apply when seeking disciplinary action necessarily differ as well. Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this Policy. The College will provide a prompt, fair, and impartial process from the initial assessment to the outcome.

Any student, faculty, or staff member who wants to learn more about reporting options, the complaint procedure and investigative process, support resources, or related information is encouraged to contact the Sr. Director DHSM & TIX (909-607-2958) or go to: www.pitzer.edu/about/title-ix/

### A. Procedures if a Student is the Respondent:

**Initial Assessment:** Following the report of an incident or conduct that may be a violation of this policy, the Sr. Director DHSM & TIX shall conduct an initial

assessment of the report. The assessment shall include a preliminary interview of the reporting party and, if possible, the subject of the conduct if different. The assessment shall also include a determination by the Sr. Director DHSM & TIX as to whether there is sufficient information that a violation of the policy may have occurred.

The Sr. Director DHSM & TIX may, after speaking with the Complainant, determine that the conduct complained about would not constitute harassment, discrimination, or sexual misconduct and so inform the Complainant. The Sr. Director DHSM & TIX may also determine that, although the conduct does not constitute harassment, discrimination, or sexual misconduct, if left unchecked it could develop into such conduct. In this case the Sr. Director DHSM & TIX, after speaking with the Complainant and weighing any request for confidentiality, may take appropriate steps to prevent such conduct from occurring. Finally, if the Sr. Director DHSM & TIX determines that the alleged conduct may instead be a violation of the Code of Student Conduct, the Sr. Director DHSM & TIX will forward the allegations to the Office of Student Affairs.

Individuals bringing reports of violations of this policy shall be informed about the range of possible outcomes of the report, including interim measures, remedies for harmed individuals and disciplinary actions that might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

If the Complainant requests confidentiality or requests that the complaint not be pursued, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality. However, such a request for confidentiality may limit the College's ability to respond to the complaint. The College may also weigh the Complainant's request for confidentiality against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same individual, the Respondent's rights to receive information about allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act ("FERPA"), and other factors otherwise required by applicable law.

The Sr. Director DHSM & TIX will meet with the Respondent and provide the student(s) who is (are) being investigated or charged with access to the Discrimination, Harassment, and Sexual Misconduct Policies and Procedures. The respondent will be provided with information about the alleged violation(s) including the specific circumstances or behaviors alleged to have violated this policy. Any student against whom there might be a charge of a violation has all the rights enumerated in this policy.

**Interim measures:** Interim measures are temporary measures taken by the College in response to a formal complaint of discrimination, harassment, and/or sexual misconduct in violation of these Policies. Interim measures shall consider and balance an individual's rights as well as the personal safety of the parties and witnesses and the safety of the College community. Interim measures will be assessed and provided as appropriate to both Complainants and Respondents.

Interim measures can include individualized services offered as appropriate to either or both the reporting and responding parties prior to an investigation or while an investigation is pending. Examples of interim measures are counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar accommodations or safety measures.

Because the measures needed by each student involved in a Title IX investigation or process may change over time, the Sr. Director DHSM & TIX will communicate with each student throughout the investigation and any proceedings to ensure that any interim measures are necessary and effective based on each student's evolving needs.

Interim measures may include geographical or social restrictions where necessary to protect the safety of the community or an individual party. In cases where there is credible information of an immediate risk or threat to an individual or the College community, interim measures may include removal from campus housing or interim suspension. In such cases of removal from campus housing or interim suspension, the student conduct process will occur as expeditiously as possible, and the restricted party has a right to appeal the interim restriction to the Vice President of Student Affairs.

Failure to comply with interim measures that impose a restriction on a party (such as no contact orders, geographical restrictions, etc.) is a violation of this Policy and may result in additional charges under this Policy.

**Resolution options:** Potential options for resolution of a complaint include Alternate Resolution (set out in Section IX below), as well as the formal Administrative Review and Judicial Council processes described below. No party is required to participate in any alternative resolution process with respect to any complaint, and mediation is not an available alternative resolution process for complaints that include allegations of sexual assault.

Where a report includes alleged violations of the Code of Student Conduct in addition to alleged violations of this Policy, The Sr. Director DHSM & TIX in consultation with the Dean of Students will determine whether the matters should be handled together under this policy or separately, taking into account how the allegations are related.

**Investigation Procedures:** The Sr. Director DHSM & TIX will assign the investigation to one or more trained investigators. Investigators are chosen from a pool of internal trained investigators and/or outside professionals with experience in conducting investigations. In cases with only internal investigators, two will be assigned. If the Complainant is a student, faculty member, or staff member from one of the other Claremont Colleges, the Sr. Director DHSM & TIX shall assign the investigation to one or more outside investigators.

The investigator will conduct a thorough, impartial, and unbiased investigation. The Investigator(s) will provide the Investigation Report to the Sr. Director DHSM & TIX who will review the Report. The Sr. Director DHSM & TIX may refer to the Investigator(s) any questions that the Sr. Director DHSM & TIX has concerning the Report's content and completeness. After the Investigator(s) successfully answer or resolve the Sr. Director DHSM & TIX's questions or concerns, if any, the Investigator(s) shall submit a final Report to the Sr. Director DHSM & TIX. Upon receipt of the completed investigative report, the Sr. Director DHSM & TIX will notify all parties that the investigation is complete and provide information about next steps in the process.

The Sr. Director DHSM & TIX, in consultation with the Dean of Students or designee, will review the investigative report and make a threshold determination as to whether the allegations, if proven, would provide sufficient information upon which a violation of this Policy could be found. If the Sr. Director DHSM & TIX determines that this threshold has been reached, the Dean of Students Office will issue a written notice of charge in order for a student conduct process to proceed. If the Sr. Director DHSM & TIX determines that this threshold has not been reached, the complainant and respondent will be notified in writing.

**Resolution:** Both the respondent and the complainant have the right to have the charge heard by the Judicial Council. In cases where the potential sanction would not usually be suspension or expulsion, there is the choice of either an Administrative Review within the Dean of Students Office or a Judicial Council hearing. If both the respondent and the complainant agree to an Administrative Review and the Dean of Students or designee concurs, an Administrative Review is commenced. If not, the Dean of Students Office will forward the written charge to the Judicial Council. Once an administrative review is chosen; there is no longer the right to a hearing before Judicial Council for the same alleged violation(s).

1. **Administrative Review**

   The review will include individual interview(s) with the respondent, the complainant, any witnesses and the review of the investigation report and other documentation or materials relevant to the case. Both the respondent and the complainant have the right to an advisor of their choosing, which may include an advisor who is not a member of the Claremont Colleges. Advisors may not serve as a representative for or speak for the respondent or complainant; the sole responsibility of the advisor is to provide support and guidance to the student for whom they advise. The official who conducts the review will make a decision based on a preponderance of the evidence. That is, is it more likely than not that the respondent(s) is responsible for violating the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures.

   a. **Finding of Responsibility**
   When a student is found responsible for a violation through an Administrative Review, the Dean of Students Office may impose sanctions. The range of

sanctions that may be imposed includes but is not limited to educational and/or restorative activities, loss of privileges, warning, conduct probation, residential adjustments, and restitution, but does not include expulsion or suspension from the College. The respondent and the complainant will be notified in writing of the results of the review. Both the respondent and the complainant have the right to appeal the finding and/or sanction(s). Grounds of appeal include violations of the student's rights as set forth in Discrimination, Harassment, and Sexual Misconduct Policy and Procedures, insufficient or compelling new evidence, and/or severity of the sanction. The appeal must be made in writing and must be submitted to the Vice President of Student Affairs within five class days of written notification of the decision. The Vice President of Student Affairs will notify and provide a copy of the appeal to the other party within three class days upon receipt of an appeal. That party shall then have an opportunity to respond in writing to the appeal; any response must be submitted within five class days from receipt of the appeal. (See Section VII. E.)

b. **Admitted Violations**

When the respondent admits to the charge and to responsibility for a violation of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures in the case of Administrative Review, the Dean of Students Office may impose sanctions. Both the respondent and the complainant can appeal to the Judicial Council for review of the appropriateness of the sanctions only. The appeal must be made in writing and must be submitted to the Dean of Students Office within five class days of written notification of the decision. The Dean of Students Office will notify and provide a copy of the appeal to the other party within three class days upon receipt of an appeal. That party shall then have an opportunity to respond in writing to the appeal; any response must be submitted within five class days from receipt of the appeal. The Dean of Students Office will then forward any appeal and any response to the Judicial Council.

All appeal cases brought before and heard by the Judicial Council shall be final and not subject to further appeal.

2. **Judicial Council**

Cases in which the possible sanction could be suspension or expulsion from the College, cases in which Administrative Review was not agreed upon, and appeals of sanction in cases of admitted violations under Administrative Review will be referred to the Judicial Council by the Dean of Students Office.

A. **Composition**

The College Judicial Council shall consist of at least five student members, at least five faculty members, and at least five members of the staff. For a hearing panel, a quorum shall consist of five members, including at least one faculty

member, one staff member, and one student member. Student members must be in good academic and disciplinary standing, not subject to recall (who shall be elected by the student body). Faculty members will be selected by the Faculty Executive Committee. Members of the staff will be selected by Staff Council Representatives in consultation with the Office of Student Affairs. As much as possible, faculty, staff, and student members should represent the diversity of the student population. To that effect, Student Senate should make every effort to seek appropriate gender balance and ethnic and other forms of diversity in the slate of student candidates for Judicial Council. Similarly, faculty and staff members should be chosen with the goal of ensuring approximate gender balance and ethnic diversity. The Chair and Alternate Chair shall be elected from among the voting members of the Council. If the Chair and Alternate Chair are unable to serve due to a conflict of interest, Judicial Council may elect an ad hoc Chair for the purposes of a particular hearing. A Dean from the Office of Student Affairs will sit with the Council as an advisor on process and to represent the views of the College. The Sr. Director DHSM & TIX shall design and be responsible for providing ongoing comprehensive training, in consultation with appropriate professional external agencies, in sexual misconduct, hate crimes, and other relevant topics to members of the Judicial Council.

B. **Pre-Hearing Procedures**

i. **Notification**

Complaints of alleged violations that are being referred to Judicial Council for a hearing shall be written and delivered to the respondent, the complainant, and Judicial Council Chair by the Dean of Students Office. The copy to the respondent will constitute the student's formal notification of the charge(s) against themselves and the intent to hold a Judicial Council hearing. This written notification will include the complaint(s) against the respondent; the specific policies and portions of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures the respondent has allegedly violated; the student's rights as guaranteed in Article VII. Section 7.7. Pitzer College Bylaws; the nature of the information which will be presented against the student, as well as any written or recorded statements obtained during the investigation, and the sanctions which could be applied if the student were found in violation of this Policy.

ii. **Assembly Notice**

Prior to the hearing, the respondent and the complainant will be notified of the names of those members of the Judicial Council who will be hearing the case. If either object to any member or members of the board, the student may write to the Dean of Students requesting that those members be replaced. The letter must include an explanation for the objections. Removal from the hearing board will occur if and only if the Dean is convinced after investigating that absence of impartiality would result in an unfair hearing by allowing that member/those members of the Judicial Council to adjudicate the

incident. Requests for removal shall not be revealed to members of the Judicial Council. If there are insufficient numbers of faculty or students to reach a quorum, the Dean of Faculty and the Dean of Students shall appoint an ad hoc replacement from among the faculty or students who have received Judicial Council training before the hearing.

iii. **Advisers**

Both the respondent and the complainant have the right to an advisor of their choosing, which may include an advisor who is not a member of the Claremont Colleges. If the charges are serious enough that sanctions might result in suspension or expulsion from the College, the respondent is particularly advised to select an advisor to be present during the Judicial Council hearing. Advisors may not address the Judicial Council or pose questions to any participants in the hearing process. The sole responsibility of the advisor is to provide support and guidance to the student for whom they have chosen to advise. Advisors may not, at any time during the hearing, serve as a representative for or speak for the respondent or complainant.

iv. **Scheduling**

With the assistance of the Dean of Students Office, the Judicial Council Chair sets a date for the hearing. Under normal circumstances the hearing should be scheduled for a date not fewer than five and no more than twenty-five class days from the time the respondent was first formally notified of the charge(s) against themselves. The Dean of Students Office will inform both the respondent and the complainant(s) of the time, place and date of the hearing. It is the responsibility of each party to inform their respective advisors of this information. The complainant(s) will have available to them all information sent to the respondent by the Judicial Council Chair at the same time as the respondent is notified.

v. **Time Limit Exception**

Under extreme circumstances, either the respondent or the complainant may request waiver of the time limit for a hearing in writing to the Judicial Council Chair. A decision on the request will be made by the Judicial Council. All parties will then be notified of the date, time and location of the rescheduled hearing.

C. **Hearing Procedures**

i. **Admissible Information**

The Judicial Council shall consider only information introduced at the hearing before Council. Normally this will include a written statement from the complainant, from the respondent, and from any witnesses; it may also include responses to questions given during the hearing. Written statements will be considered only when the witness making the statement appears before the Judicial Council to answer questions about the statement. Character witnesses, if any, may state their knowledge of the character of the student for whom they are serving as a witness, and must refrain from comments on the character of other parties in the case.

ii. **Hearing Attendance**

The person(s) bringing the complaint and the respondent has the right to be present during presentation of evidence and questioning of witnesses. The respondent and complainant shall both have the right to be accompanied by an advisor of their choice.

a. **Respondent**

The respondent will be informed of their rights and shall have an opportunity to speak and to present information on their own behalf. Should the respondent, having been properly notified of the date, time and place of the hearing, fail to appear at the time and place specified, the hearing shall proceed in the same manner as if the respondent were present, unless the Judicial Council decides by majority vote to postpone the hearing.

b. **Complainant**

The complainant will be offered the opportunity to participate in the hearing without directly facing the respondent. If so requested, the Judicial Council Chair will make appropriate arrangements. For example, the room may be partitioned so that the complainant and the respondent do not see each other, or arrangements may be made for the Complainant to participate by video conference or other means. The respondent and the complainant shall have the opportunity to hear the testimony, have questions asked of the other party during the hearing process, and to hear responses.

c. **Judicial Council Members**

No member of Judicial Council shall join or rejoin deliberations after a hearing has begun. No member may be excused from a hearing once it has begun except for good cause and by a majority vote of the other members present, and then only if such action does not violate the quorum provisions. No member of Judicial Council who has not been present for the entire hearing shall participate in the decision or in subsequent discussion of sanctions.

d. **Witnesses**

Witnesses may participate in a hearing by physical presence, telephone conference, or video conference. Only one witness will be allowed in a Judicial Council hearing at any one time. Advisors may also be called as a witness during a hearing. Witnesses, unless they are also serving as an advisor, may only be present during the hearing when they are called to testify.

iii. **Disruptive Behavior**

No actions shall be taken in a Judicial Council hearing which would impede the orderly conduct of the hearing. Disruption of the Judicial Council is a violation of this Policy. The Chair may call for a recess of the hearing in the case of disruptive conduct, and the Chair may remove from the hearing witnesses, advisors, respondents, and complainants, for repeated disruptive behavior. The hearing may proceed if parties to the hearing are removed for repeated disruptive behavior.

iv. **General Hearing Process**

Normally, the hearing conforms to the following order of procedure:

a. Presentation of the written charge from the Dean of Students Office, questions from Judicial Council members to the Dean of Students designee and/or the complainant(s) regarding the complaint.\
b. Statements of witnesses on behalf of the complainant(s); questions from Council members to the witnesses.
c. Statement of the respondent; questions from Council members to the respondent.
d. Statements of witnesses on behalf of the respondent; questions from Judicial Council members to the witnesses.
e. At the option of the Council, a second round of questioning of the complainant(s) and any supporting witnesses, you . majority of the Council wishes to hear in rebuttal.
f. At the option of the Council, a second round of questioning of the respondent and any supporting witnesses, a majority of the Council wishes to hear in rebuttal.
g. Close of the hearing.
h. Judicial Council hearing deliberations shall be closed to all parties of the hearing and shall include only Council members participating in the present hearing and the Dean of Students staff representative.

v. **Recess**

The Chair may at any time recess a hearing to provide for gathering additional information or simply to provide a break in the hearing or deliberation. A recess may be called to suspend a hearing to resume later.

vi. **Record Keeping**

A verbatim record (such as a digital recording) will be made of every Judicial Council hearing for the purposes of appeal review only. This verbatim record shall be kept in the Dean of Students Office and remain confidential. The digital record is destroyed after the deadline for appeal has passed, or after the final decision is made in the case of an appeal.

vii. **Questioning**

All questions during the hearing will be asked by or to Judicial Council members. The purpose of the hearing is not to conduct a trial but to gain as full and fair an account as possible about the alleged violation and to determine whether a violation of this Policy has occurred. The respondent and the complainant(s) shall have the right to suggest questions to the Chair to be asked by Judicial Council members, but only Judicial Council members shall directly question the respondent, complainant, or the witnesses. The Chair, in consultation with the Judicial Council, may modify the question process to facilitate the proceedings. The Chair may exclude irrelevant and unduly repetitious information.

viii. **Closed Hearings**
The hearing is closed to the public and outside spectators.

**1. Decisions and Sanctions**

i. **Standard of Proof**
All questions during the hearing shall be asked by or to Judicial Council members. The purpose of the hearing is not to conduct a trial but to gain as full and fair an account as possible about the alleged violation and to determine whether a violation of this Policy has occurred. The respondent and the complainant(s) shall have the right to suggest questions to the Chair to be asked by Judicial Council members, but only Judicial Council members shall directly question the respondent, complainant, or the witnesses. The Chair, in consultation with the Judicial Council, may modify the question process to facilitate the proceedings. The Chair may exclude irrelevant and unduly repetitious information.

ii. **Consideration of Information**
The decisions of the Judicial Council shall be based solely upon information introduced at the hearing before the Council. The direct statement of a witness, including the complainant, the alleged victim, and the respondent may be taken as evidence of any act. Statements made by any witness must be evaluated for bias, plausibility, credibility, and consistency along with other available information. Any relevant information may be admitted if it is the type on which reasonable persons are accustomed to relying in the conduct of serious affairs. Unruly, irrelevant, or unduly repetitious information may be ruled out of order by the Chair.

iii. **Sanctions**
If the Judicial Council finds that a violation of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures has occurred, the Judicial Council will determine the appropriate sanctions.

The sanctions may include remedial or corrective actions as warranted. In determining appropriate sanctions when violations of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures are addressed, the College attempts to take an educational response. Students found responsible for misconduct under the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures are assigned educational sanctions appropriate to the situation. Sanctions are fashioned in such a manner that will redirect behavior that is incongruent with the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures, encourage responsible judgment and ethical reasoning, protect the community's rights and property, and discourage similar misconduct as deemed appropriate based upon the nature of the violation. The following list of sanctions is illustrative rather than exhaustive, and the College reserves the right to impose other sanctions or to combine sanctions as it deems appropriate:

- Warning - A written notification that a violation of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures occurred and that any further responsible finding of misconduct may result in more severe disciplinary action. Warnings are for a designated period, typically one calendar year. Warnings are recorded for internal purposes. A student who receives a warning is still considered in good standing at the College, with the warning being disclosed only with the student's written consent.

- Conduct Probation - A written notification that indicates a serious and active response to a violation of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures. Probation is for a designated period of time and includes the probability of more severe sanctions, including suspension or expulsion from the College, if found responsible for additional violations of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures or Code of Student Conduct.

- Educational and/or Restorative Activities - Imposition of one or more restorative remedies to encourage a Respondent to develop insight about the prohibited conduct, learn about the impact of that prohibited conduct on the Complainant and the College community, and identify how to prevent that prohibited conduct in the future. This may include community service, mandatory participation in training, education and/or prevention programs related to the prohibited conduct, and/or educational program engagement regarding relevant behavior such as substance use.

- Loss of privileges - Denial of the use of certain College facilities or the right to participate in certain activities, events, and programs or to exercise certain privileges for a designated period of time. This includes contact restrictions, access to certain areas of campus, and College-sponsored events.

- Residential Adjustments - Relocation or removal from campus residence halls for a specified duration of time. This can include room reassignment, restrictions on access to specific halls, and removal of a student from all College operated housing. The College may take such action for remedial rather than disciplinary purposes.

- College Suspension - The separation of a student from the College for a specified period of time, after which the student is eligible to return. Conditions for re-enrollment may be required and will be included in the notification of suspension.

  During the suspension, the student may not participate in

College academic, co-curricular or extracurricular activities and may be barred from all property owned jointly or individually by any of The Claremont Colleges. Students who are suspended may not be on campus without specific, written permission of the Dean of Students.

Suspension is for a designated period of time and includes the probability of more severe sanctions, including expulsion, if found responsible for additional violations of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures or Code of Student Conduct. A Student Affairs hold is placed on the student's record during the period of suspension. The hold will be lifted once the period of suspension has expired and the Dean of Students has confirmed that other conditions of sanctions have been met. When the hold is lifted, the complainant and respondent will be notified by the Sr. Director DHSM & TIX.

- Expulsion - Expulsion is the permanent separation of the student from the College. Students who have been expelled may not be on campus without specific, written permission from the Dean of Students.

  In considering the appropriate sanction(s), Judicial Council should be guided by several considerations, including:

  (1) the severity, persistence or pervasiveness of the prohibited conduct;

  (2) the respondent's prior discipline history including any prior determination of responsibility for the same or similar conduct;

  (3) how the College has sanctioned similar incidents in the past;

  (4) the nature and violence (if applicable) of the conduct at issue;

  (5) the impact of the conduct on the complainant, and their desired sanctions, if known;

  (6) the impact of the conduct on the community, its members, or its property;

  (7) whether the respondent has accepted responsibility;

  (8) whether the respondent is reasonably likely to engage in the conduct in the future;

  (9) The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and

  (10) any other mitigating or aggravating circumstances, including the College's core values.

  Judicial Council should also consider other remedial actions that may be taken to address and resolve any incident of discrimination or

harassment and to prevent the recurrence of any discrimination, including strategies to protect the complainant and any witnesses from retaliation; other steps to address any impact on the complainant, any witnesses, and the broader student body; and any other necessary steps reasonably calculated to prevent future occurrences of harassment.

At this phase of deliberation only, the Office of Student Affairs will provide the Council with historical information on the past conduct record of the respondent and the history of sanctions in similar cases. No information regarding prior disciplinary action (with the exceptions noted in VII.E of this policy) may be disclosed by the Dean of Students or designee during a hearing process, until and if the Council makes a decision that the student violated College policy.

v. **Voting**
The decisions of the Judicial Council and its imposition of sanctions shall be reached in closed session by a majority vote. The Chair shall vote only in case of a tie.

vi. **Notification of Decision**
The respondent shall be notified in writing, within five class days following the hearing, of the Judicial Council's decision and recommended sanctions, if any. Written notification shall include a summary of the reasons for the decision, an explanation of any sanctions imposed, and notification of appeal options. In cases of sexual misconduct, the complainant will be provided a copy of the same simultaneously. In cases of sexual harassment other than sexual misconduct and harassment or discrimination not based on gender, the complainant will be notified of the outcome and any sanctions that directly relate to the complainant. Furthermore, the College will offer counseling services and academic support to all parties involved.

vii. **Completion of Sanction**
When a sanction requires a time for completion, the deadline for completion will be specified. The respondent must report to a designee of the Dean of Students when the student has completed the sanction. The case is not complete until the sanction has been completed and cleared by the Dean of Students Office. The Judicial Council will not monitor or reconsider a sanction once it is imposed. It is the responsibility of the respondent to communicate to the Dean of Students Office when the sanction is completed; failure to complete required sanctions is a violation of this Policy and may result in additional sanctions under this Policy.

### e. Appeals Procedure

All appeal cases brought before and heard by the Judicial Council are final and not subject to appeal. Cases heard by the Judicial Council that are not appeal cases, and Administrative Review cases with a finding on responsibility, are subject to the following appeal procedures. On specific grounds, both the respondent and complainant may appeal the determination

of responsibility or sanctions(s). Appeals must be made in writing and must be submitted to the Vice President of Student Affairs within five class days of written notification to the student of the Judicial Council's decision. The Vice President of Student Affairs will notify and provide a copy of the appeal to the other party within three class days upon receipt of an appeal. That party shall then have an opportunity to respond in writing to the appeal; any response must be submitted within five class days from receipt of the appeal.

i. **Grounds of Appeal**
Grounds of appeal include violations of the student's rights as set forth in this Policy, insufficient or compelling new evidence, and/or severity of the sanction.

ii. **Determinations**
The appeal consideration will be conducted in an impartial manner by the Vice President for Student Affairs and the Associate Dean of Faculty with the responsibility for diversity in Academic Affairs. Except as required to explain the basis of new evidence, an appeal shall be limited to a review of the verbatim record of the initial hearing, copies of documents submitted during the hearing, and the written appeal and written response (if any). Review of these materials shall be for one or more of the following purposes:

a. **New evidence**
To consider whether there is sufficient new evidence that could affect the finding of the hearing and that was unavailable and could not have been made available through the appellant's diligent efforts at the time of the original hearing.

b. **Fairness**
To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, was in conformity with prescribed procedures, and gave the complainant a reasonable opportunity to prepare and present evidence that a violation occurred and the respondent reasonable opportunity to prepare and present a rebuttal of these allegations.

c. **Sufficient evidence**
To determine whether the decision reached regarding the charged student was based on a preponderance of the evidence.

d. **Appropriateness of sanctions**
To determine whether the sanction(s) imposed was appropriate for the violation.

The Vice President of Student Affairs and the Associate Dean of Faculty shall confer in making a decision on appeal. To modify a decision, modify sanctions, or return the case to Judicial Council, the Vice President of Student Affairs and the Associate Dean of Faculty must concur. If not, the original decision and sanction(s) stands.

In the case of new evidence, they can return the case to Judicial Council to assess the weight and effect of the new information and render a determination after considering the new facts.

In the case of procedural error that materially affected the outcome of the hearing (related to Fairness or Sufficient Evidence above), the Vice President of Student Affairs and the Associate Dean of Faculty will return the case to Judicial Council for additional review or forward the case for a new hearing, which may be heard by an alternate hearing panel if they find that to be appropriate.

**iii. Decision Notification**

No more than ten class days from the date the response is submitted or the final date for submission of the response (whichever is earlier), the Vice President of Student Affairs shall communicate the decision on the appeal to the respondent, the complainant, and the Judicial Council Chair. If the imposed sanction is modified in any way, the Vice President of Student Affairs shall communicate that fact and the reasons for making such a modification to the respondent, the complainant, and the Judicial Council Chair. The decision on the appeal shall be final.

f. **Confidentiality**

All information pertaining to investigations and hearing proceedings is confidential and shall comply with the Family Educational Rights and Privacy Act.

g. **Community Notification**

Within five class days after completion of a judicial hearing and appeal (if any), the Judicial Council may publicly inform the Pitzer community (and, in cases involving complainants from the other Claremont Colleges, the home colleges of said complainants) of its decision, sanctions imposed, and the action on appeal (if any). In cases in which the respondent has been found in violation of the Discrimination, Harassment, and Sexual Misconduct Policy and Procedures, publicity (including the name of the student) shall be at the discretion of the President. In cases in which the respondent was found not to have violated this Policy, such publicity shall be at the discretion of the respondent.

**h. Records and Enforcement of Disciplinary Action**

i. Records of Judicial Council decisions and sanctions shall become part of the student's disciplinary files (those maintained in the Dean of Students Office) and shall be kept for a period of seven (7) years after the student's graduation or separation from the College.

ii. Judicial Council proceedings shall continue against an accused student if the student withdraws from the College after being notified of a conduct complaint.

iii. No student shall be graduated while a complaint brought against the student is pending before Judicial Council. No student shall be graduated without first fulfilling the terms of a disciplinary sanction.

iv. The Dean of Students Office shall be responsible for enforcing disciplinary sanctions.

v. Any student on whom a sanction has been imposed may include in their student record a written response concerning the decision and sanction.

vi. Notification of expulsion from the College for disciplinary reasons will be noted on the academic transcript.

B. **Procedures if a Faculty Member is the Respondent:**

Upon receipt of a complaint, the Complaint Officer will consult with the Complainant. If the Complainant requests confidentiality or requests that the complaint not be pursued, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality. However, such a request for confidentiality may limit the College's ability to respond to the complaint. The College may also weigh the Complainant's request for confidentiality against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same individual, the Respondent's rights to receive information about allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act ("FERPA"), and other factors otherwise required by applicable law. The College thus may decide to begin an investigation despite a request from the Complainant not to pursue the complaint, in cases where either issue of campus safety, or independent legal obligations to investigate or to protect the rights of other members of the community, pertain. The investigators (collectively the "Investigators") will meet with the Complainant to review the complaint, related policies, and these complaint procedures. The Investigators will also identify support resources and interventions or interim measures available to the Complainant.

1. **Complaints of Sexual Harassment:** The Sr. Director DHSM & TIX shall be advised of any complaints of Sexual Harassment received by Complaint Officers. The Sr. Director DHSM & TIX will, with the advice and consent of FEC, select three faculty investigators from the pool of trained investigators.

2. **Complaints of Harassment and Discrimination, other than Sexual Harassment**: The Complaint Officer will consult with both the Sr. Director DHSM & TIX and FEC, and will, with the consent of FEC, select three faculty investigators from the pool of trained investigators. The investigators (collectively the "Investigators") will meet with the Complainant to review the complaint, related policies, and these complaint procedures. The Investigators will also identify support resources and interventions or interim measures available to the Complainant.

   a. The Complaint Officer may, after speaking with Complainant, determine that the conduct complained about clearly does not constitute harassment or discrimination and so inform the Complainant. The Complaint Officer may also determine that although the conduct does not constitute harassment or

discrimination, if left unchecked it could develop into harassment or discrimination. In this case the Complaint Officer will speak with the individual(s) engaging in this conduct and/or take other steps to prevent such harassment or discrimination from occurring. In either case, FEC will be informed, in writing, of the judgment of the Complaint Officer, and FEC will make the final determination in regard to any remedies for conduct that is judged by the Complaint Officer not to have been harassment or discrimination.

3. The pool of trained investigators will include six faculty members jointly appointed by the Dean of Faculty and FEC. Faculty who enter the pool will remain in the pool for up to five years or until they serve on a case. Faculty will temporarily leave the pool when they take a leave from the College, whether a sabbatical leave or an unpaid leave. Faculty will not serve as investigators for a case between graduation and August 15 without financial compensation commensurate with the time required of them in this period.

4. The Complainant and Respondent will each have the opportunity to dismiss at least one of the investigators, and can submit, to FEC, reasons for dismissing more than one. If FEC finds the case for dismissing more investigators compelling, and insufficient investigators are available in the pool, the Dean and FEC will add faculty to the pool, providing them the training they need on a timely basis.

5. Every complaint will be investigated promptly and thoroughly. In conducting an investigation, the Investigators will be sensitive to the possibility of retaliation by the Respondent as the result of the initiation of an investigation. The Investigators will conduct interviews as needed with all appropriate individuals, including the Complainant and Respondent, and will gather any pertinent evidentiary materials.

6. The Investigators will normally complete their investigation within 60 calendar days, except in instances where there are a great number of witnesses, the investigation commences in close proximity to a holiday, break, or the end of an academic term, or other circumstances compel a longer timeframe for the investigation. After concluding their investigation, the Investigators will write an Investigation Report summarizing witnesses interviewed, evidentiary materials gathered, determination concerning any potential violations of College policies, and recommendations for remedies.

7. For all Sexual Harassment complaints, the Investigators will submit for review the Investigation Report to the Sr. Director DHSM & TIX and the Vice President for Academic Affairs. For all other complaints, the Investigators will submit for review the Investigation Report to the Associate Vice President for Human Resources and Payroll Services and the Vice President for Academic Affairs. The Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services or Vice President for Academic Affairs may refer to the Investigators any questions concerning the report's contents or conclusions. After the Investigators successfully answer or resolve pertinent questions or concerns, or if the area Vice President agrees with the Investigators' conclusions, the Vice President for Academic Affairs will prepare a Statement of Alleged Violation which will summarize if the alleged conduct did or did not occur and if the Respondent is or is

not responsible for violating College policy. The Vice President for Academic Affairs will also propose the remedies and/or sanctions to be imposed and include them in the Statement of Alleged Violation.

8. The Vice President of Academic Affairs will meet with the Complainant and Respondent, separately, to discuss the content of the Statement of Alleged Violation, and to provide them with copies of the document along with copies of the Investigators' report. The Vice President will be responsible for redacting, or providing summaries of portions of the report, to the extent needed to maintain the identity of witnesses about specific testimony, to the extent that is not otherwise publicly visible; any such alterations will be the minimum needed to preclude the identification of a witness. To protect the integrity of the investigation and potential hearing process, these documents should be kept confidential by the parties involved and not shared with witnesses or persons not involved in the matter. However, complainants and respondents are not prohibited from sharing these documents with family, counsel, or a support person/advisor as defined in paragraph 14, below. Neither the Complainant nor the Respondent are required to meet with the Vice President of Academic Affairs and may decline to do so.

9. The Complainant and Respondent have the opportunity to respond, in writing, to the Statement of Alleged Violation within a set time period. The parties will have ten (10) business days after meeting with the Vice President of Academic Affairs, or after the Statement is provided in instances where they decline to meet with the Vice President of Academic Affairs, to submit a written response to both the Vice President of Academic Affairs and Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services.

10. After that period of 10 business days, all of the relevant documents will be forwarded to FEC. FEC will then determine which aspects of the Statement of Alleged Violation, inclusive of the proposed remedies and/or sanctions.

11. Either the Complainant or Respondent may appeal adverse rulings of FEC to the President, based on one of two reasons: improper procedural issues or new evidence (defined in section IV. D). Sanction(s) or other interim measures may be imposed pending the outcome of any appeal filed as well as during the ten (10) day period in which an appeal may be filed. The Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services will be notified by the President of any such response.

12. **President's Actions on Appeal**

    a. If a determination is made by the President that an appeal is warranted due to "improper procedural issues," then the initial investigative panel will be dismissed and a new one will be convened.

    b. If a determination is made by the President than an appeal is warranted due to "new evidence," then the case will be returned to the initial investigative panel for further investigation, building on the initial investigation as appropriate.

13. **Interim Measures:** The College may take interim measures deemed necessary in response to an allegation in order to protect an individual's rights and personal safety and the safety of the College community. All such interim measures against a faculty member will be proposed to FEC, which will determine whether to implement them before they began, except in cases in which the President and Vice President for Academic Affairs determine that there is a clear and present danger to safety of community members or an immediate need to protect an individual's rights. In cases, where the President and Vice President for Academic Affairs act without prior approval of FEC, they will refer their decisions to FEC, within one week, for FEC to review and either confirm, modify, or overturn.

    Such measures include, but are not limited to, an interim suspension (immediate, temporary suspension pending the outcome of complaint process), a no contact order (an order that an individual refrain from direct or indirect contact with another person or persons), restrictions on access to campus or areas of campus, and/or appropriate changes in academic schedule. Interim measures may include reporting the matter to the local police. Failure by the Respondent to adhere to the parameters of any interim measure is a violation of College policy and may lead to additional disciplinary action.

    Such interim measures may be imposed:
    - In instances where it is determined that the Respondent poses a potential threat to another;
    - To ensure the safety and well-being of members of the College community and/or preservation of College property;
    - To ensure the Respondent's own physical or emotional safety and well-being; or
    - If the Respondent poses a threat of disruption or interference with the normal operations of the College.

14. **Support Person/Adviser:** The Complainant and Respondent may each have a support person present with them at all meetings and any hearing associated with a complaint and in which the respective individual is participating. The support person must be a current member of the Claremont Colleges community and shall not be involved in the underlying case. The support person may attend, but shall not participate in, meetings or the hearing. Because this is an administrative process, legal counsel will not be permitted, except when required by applicable law. In such cases an attorney will only be permitted in a non-participatory advisory role for the Complainant and/or Respondent at that individual's expense.

**C. Procedures if a Staff member or third party is a Respondent:**

1. Upon receipt of a complaint, the Complaint Officer will consult with the Complainant. If the Complainant requests confidentiality or requests that the complaint not be pursued, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality. However, such a request for confidentiality may limit the College's ability to respond to the complaint. The College may also weigh

the Complainant's request for confidentiality against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same individual, the Respondent's rights to receive information about allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act ("FERPA"), and other factors otherwise required by applicable law. The investigators (collectively the "Investigators") will meet with the Complainant to review the complaint, related policies, and these complaint procedures. The Investigators will also identify support resources and interventions or interim measures available to the Complainant.

a. **Complaints of Sexual Harassment:** The Sr. Director DHSM & TIX shall be advised of any complaints of Sexual Harassment received by Complaint Officers. The Title IX Coordinator will select two investigators from a pool of trained investigators.

b. **Complaints of Harassment and Discrimination, other than Sexual Harassment:** The Complaint Officer will consult with the Sr. Director DHSM & TIX regarding the selection of the appropriate investigators. The investigators (collectively the "Investigators") will meet with the Complainant to review the complaint, related policies, and these complaint procedures. The Investigators will also identify support resources and interventions or interim measures available to the Complainant.

    i. The Complaint Officer may, after speaking with Complainant, determine that the conduct complained about does not constitute harassment, discrimination, or retaliation and so inform the Complainant. The Complaint Officer may also determine that although the conduct does not constitute harassment, discrimination, or retaliation, if left unchecked it could develop into such conduct. In this case, the Complaint Officer will speak with the individual(s) engaging in this conduct and/or take other steps to prevent such harassment or discrimination from occurring and may be remanded to the area Vice President and Human Resources for disciplinary action.

c. The pool of Investigators will include:

    ii. Two Staff members from the Human Resources Office
    iii. Two staff members from the Office of the Dean of Faculty
    iv. One staff member from Staff Council
    v. Two staff members from the Office of Student Affairs

2. Every complaint will be investigated promptly and thoroughly. In conducting an investigation, the Investigators will be sensitive to the possibility of retaliation by the Respondent as the result of the initiation of an investigation. The Investigators will conduct interviews as needed with all appropriate individuals, including the Complainant and Respondent, and will gather any pertinent evidentiary materials.

3. The Investigators will normally complete their investigation within 60 calendar days, except in instances where there are a large number of witnesses, the investigation commences in close proximity to a holiday, break, or the end of an academic term, or other circumstances compel a longer timeframe for the investigation. After concluding their investigation, the Investigators will write an Investigation Report summarizing witnesses interviewed, evidentiary materials gathered, a determination concerning any potential violations of College policies, and recommendations for remedies.

4. For all Sexual Harassment complaints, the Investigators will submit for review the Investigation Report to the Sr. Director DHSM & TIX and the Vice President corresponding to the Respondent's area. For all other complaints, the Investigators will submit for review the Investigation Report to the Associate Vice President for Human Resources and Payroll Services and the Vice President corresponding to the Respondent's area. If the Vice President is the subject of the complaint, the Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services will appoint a Vice President from a different office to perform these duties. The Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services or Vice President may refer back to the Investigators any questions concerning the report's contents or conclusions. After the Investigators successfully answer or resolve pertinent questions or concerns, or if the area Vice President agrees with the Investigators' conclusions, the area Vice President will prepare a Statement of Alleged Violation which will summarize if the alleged conduct did or did not occur and if the Respondent is or is not responsible for violating College policy. The Vice President will determine the remedies and/or sanctions to be imposed and include them in the Statement of Alleged Violation.

5. The area Vice President will meet with the Complainant and Respondent, separately, to discuss the content of the Statement of Alleged Violation, and to provide them with copies of the document along with copies of the Investigators' report. To protect the integrity of the investigation and potential hearing process, these documents should be kept confidential by the parties involved and not shared with witnesses or persons not involved in the matter. However, Complainants and respondents are not prohibited from sharing these documents with family, counsel, or a support person/advisor as defined in section 10 below. Neither the Complainant nor the Respondent are required to meet with the Vice President, and may decline to do so.

6. The Complainant and Respondent have the opportunity to respond, in writing, to the Statement of Alleged Violation within a set time period. The parties will have ten (10) business days after meeting with the area Vice President, or after the Statement is provided in instances where they decline to meet with the area Vice President, to submit a written response to both the area Vice President and Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services. If the written response is a request for an appeal of the determination, it must be forwarded within the same ten (10) day period to both the President and Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services. The ten (10) day period may be extended if the delivery of the Statement occurs in close proximity to a holiday, break, or the end of an academic term, or if exigent circumstances interfere with a party's ability to complete their response.

7. Either the Complainant or Respondent may appeal an adverse decision of the appropriate Vice President to the President of the College based on the two reasons: improper procedural issues or new evidence (defined in Reason for Appeals section below). Sanction(s) or other interim measures may be implemented pending the outcome of any appeal filed. The Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services will be notified by the area Vice President of any such response.

    a. For any complaints that are not considered Harassment, Discrimination, and/or Retaliation, staff will follow the Appeal of Disciplinary Action Policy (available on the HR web page or through the HR office).

8. **Hearing Panel (Appeals Only)**

    a. If a determination has been made by the President that the appeal meets the criteria defined above, a three-person Hearing Panel will be convened by the President from a pool of available panelists within seven (7) business days from the receipt of the request for appeal. All members of the Hearing Panel will receive training on an annual basis at the beginning of each academic year. The composition of the Hearing Panel will be appointed by the President from the following pool and will be based on the status of the Complainant and the Respondent. The Hearing Panel pool will consist of:

        i. A staff member appointed by the Staff Council Representatives;

        ii. Up to three members of the investigator pool who were not involved in the investigation of the Complainant's claim

        iii. A student appointee from Judicial Council, in cases where a student is the Complainant

        iv. A member of the faculty appointed by the Faculty Executive Committee, in cases where a member of the faculty is the Complainant

        v. A student Complainant and/or Respondent may request that a student be placed on the panel. A Complaint Officer not involved in the initial investigation shall chair hearings before the Hearing Panel, but shall not vote. The Sr. Director DHSM & TIX will serve as a non-voting advisor to the Chair.

    b. The Complainant and Respondent will be informed of the composition of the panel and have the opportunity to request and/or challenge the student member (as discussed above). The Complainant and Respondent may also indicate at this point if they think any members of the panel have a conflict of interest. A conflict of interest occurs where an individual's personal objectives or interests are at odds with their judicial responsibilities. For example, if a member has also served as an advisor for a party to a complaint or has a close personal relationship with one of the parties, there may be a conflict of interest. The Chair will make the final determination as to whether or not such a conflict of interest exists, and may consult with the Sr. Director DHSM & TIX in making its determination. Individuals

removed from the panel as a result of a challenge based on an allegation of a conflict of interest will be replaced by another member of the pool by the President.

c. The Hearing Panel will review the Investigators' Report, the Statement of Alleged Policy Violation, and the request for an appeal within ten (10) days of their selection to the Hearing Panel. The Hearing Panel may refer back to the Investigators or the area Vice President any questions concerning the contents or conclusions of the investigation materials or may ask additional questions of the Complainant and/or Respondent as part of the hearing.

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

d. An appeal is not intended to be a new investigation of the complaint. In most cases, an appeal is confined to a review of the written documentation and/or record of the investigation and pertinent documentation regarding the grounds for appeal. In the cases where additional questioning is needed, the hearings will be closed, except to the Respondents and Claimants, and the attendance of lawyers will not be permitted. Both the Respondent and the Claimant may have an advisor/support person from within the Claremont Colleges community, approved by the panel, at the hearing. The advisor may consult with the party but may not address the hearing panel. Once the hearings have ended and the process of deliberation has begun, meetings of the panel will be closed to all but panel members and the Sr. Director DHSM & TIX. All proceedings will be confidential and will not be discussed outside the process. Any witnesses and advisors must keep the hearing proceedings strictly confidential. To protect the integrity of the investigation and hearing process, the parties should also keep the hearing proceedings confidential. However, Complainants and Respondents are not prohibited from sharing details of the hearing proceedings with family, counsel, advisor/support person, or other advisors of their choosing. The Hearing Panel may only find responsibility for claims or pieces of claims that appear on the Statement of Alleged Policy Violations prepared by the Area Vice President.

e. The Hearing Panel will prepare a Final Determination Report and submit it to the President within ten (10) business days of completing deliberations. The determination of the Hearing Panel will be the College's final and binding document for the resolution of the complaint.

f. The President will meet with the Complainant and Respondent, separately, within ten (10) business days of receiving the Final Determination Report from the Hearing Panel, to communicate the final determination of the College. Neither the Complainant nor the Respondent are required to meet with the President and may

decline to do so. The area Vice President will proceed with enacting or retracting any remedies and/or sanctions identified in the Final Determination Report immediately following the meetings with the President or within five (5) days if either the Complainant or Respondent refuses to meet.

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

    a. Such interim measures may be imposed:

        i. In instances where it is determined that the Respondent poses a potential threat to another;

        ii. To ensure the safety and well-being of members of the college community and/or preservation of College property;

        iii. To ensure the Respondent's own physical or emotional safety and well-being; or

        iv. If the Respondent poses a threat of disruption or interference with the normal operations of the College.

10. **Support Person/Advisor:** The Complainant and Respondent may each have a support person present with them at all meetings and any hearing associated with a complaint and in which the respective individual is participating. The support person must be a current member of the Claremont Colleges community and shall not have involvement in the underlying case. The support person may attend, but shall not participate in, meetings or the hearing. Because this is an administrative process, legal counsel will not be permitted except when required by applicable law. In such cases an attorney will only be permitted in a non-participatory advisory role for the Complainant and/or Respondent at that individual's expense.

D. **Reason for Possible Appeal - Faculty and Staff Respondents**

**From Decisions of the Appropriate Vice President Concerning Cases of Harassment, including Sexual Harassment, Discrimination and Retaliation**

Either the Complainant or Respondent may appeal an adverse ruling of the appropriate Vice President to the President of the College. An appeal is not intended to be a new investigation of the complaint. In most cases, an appeal is confined to a review of the written documentation and/or record of the investigation and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the President to substitute their judgment for that of the Investigators or the appropriate Vice President merely because the President disagrees with the finding and/or sanction(s). Appeal decisions are to be deferential to the Investigators, and the Vice Presidents, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

Complaints that are not considered Harassment and/or Discrimination (as defined in section 1.b.1), staff will follow the Appeal of Disciplinary Action Policy.

Written notice of intention to appeal and written reasons for the appeal shall be provided within ten (10) business days of the Vice President's decision.

The decisions made by an appropriate Vice President are generally final. Appeal of the decisions may be made on only two grounds. Either or both may be cited in the appeal.

1. **Improper Judicial Procedure.** The party may appeal if the procedures outlined in the Discrimination and Harassment policies are violated. The President shall consider:

    a. Whether provisions of the policies were violated in such a clear manner as to deny the respondent consideration of their position during the hearing.

    b. Whether the panel, through negligence or lack of impartiality, overlooked or flagrantly ignored information which would have led to a different finding concerning the alleged violation of the Discrimination and Harassment policies.

    If the President accepts an appeal made on the grounds of improper judicial procedure, the President shall order the creation of a new hearing panel. The President may provide specific directives or explanations for the guidance of the hearing panel.

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

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

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

If the President answers in the affirmative to both of these questions, the President will grant the appeal and send the case to a hearing panel for reconsideration and may provide specific directions or explanations for the guidance of the hearing panel.
In certain extraordinary circumstances and in consultation with the appropriate Vice President, the Sr. Director DHSM & TIX may request the President to review a case on the grounds of fairness and precedent. If such an appeal is granted, the case shall be heard by a hearing panel.

Written notice of any appeal decision shall be provided to both parties, the Sr. Director DHSM & TIX/Associate Vice President for Human Resources and Payroll Services, and the appropriate Vice President, normally within 30 days after the appeal request has been submitted by a party, unless unforeseen events or unusual circumstances compel a longer review period. Sanction(s) or other interim measures may be implemented pending the outcome of any appeal filed. The Hearing Panel's decisions concerning all appeals are final.

Sanction(s) or other interim measures may be implemented pending the outcome of any appeal filed. A request may be made to the President for special consideration in exigent circumstances, but the presumptive stance of Pitzer College is that the sanctions will stand. In cases where the appeal results in reinstatement to the College or of privileges, all reasonable attempts will be made to restore the individual to their prior status, recognizing that some opportunities lost may be irretrievable.

## V. Appointment and Duties of a College Complaint Officer

The office responsible for the category of the Respondent (i.e., student, faculty, or staff) normally will be in charge of the investigation. It will be the responsibility of each Complaint Officer to:

a. Administer and conduct discrimination and harassment investigations (not involving allegations of sexual misconduct) pursuant to this policy;

b. Maintain and monitor confidential records relating to complaints brought under this policy;

c. Initiate formal or informal resolution procedures as appropriate.

The Complaint Officers shall also have the authority to:

a. Coordinate with the other Complaint Officers an on-going, campus-wide educational program designed to help all members of the Pitzer College community understand, prevent, and combat harassment and discrimination;

b. Oversee the dissemination of this policy;

c. Suggest training courses and seminars as part of the informal resolution process;

d. Initiate follow-up with respect to cases that have been resolved; and

e. Provide annual reports to the President and to the whole Pitzer College community on efforts against harassment and discrimination at the College

## VI. Record Retention

Records of investigations and hearings are maintained by the College as indicated below.

1. **Students:** For Complainants and Respondents, who are students, the records will be maintained for five (5) years past the student's graduation or if the student leaves the College before graduation, for five (5) years past their original expected graduation date.
2. **Faculty or Staff:** For Complainants and Respondents who are faculty or staff, the records will be maintained for five (5) years past the conclusion of the investigation and any hearing, or the end of employment with the College, whichever of these is later.

## VII. Special Provisions

A. **Attempted Violations:** In most circumstances, the College will treat attempted conduct as if that conduct had been completed.
B. **College as Complainant:** As necessary, the College reserves the right to initiate a complaint, to serve as Complainant, and to initiate complaint proceedings without a formal complaint by the subject of the alleged misconduct.
C. **Alcohol and substance use:** The use of alcohol or other drugs will never function as a defense for any behavior that violates College policy.
D. **Past Sexual History:** The past sexual history of a party will generally not be admissible by the other party in an investigation or hearing unless such information is determined to be highly relevant by the Sr. Director DHSM & TIX. If the party believes the past sexual history of the other party is relevant to the investigation and/or hearing they must submit a written request to the Sr. Director DHSM & TIX explaining the nature of the information and why the information is relevant to the investigation and/or hearing. The Sr. Director DHSM & TIX will review the request and render a decision within two (2) business days.
E. **Respondent's Prior Conduct History:** Any previous College policy violation(s) by the Respondent are generally not admissible as relevant evidence about the present allegation. However, the Sr. Director DHSM & TIX Coordinator or Complaint Officer may supply information about previous behavior and/or complaints to the Investigator(s), and appropriate hearing officers or panels:

   1. The Respondent was previously found to be responsible for a similar violation; or
   2. The information indicates a pattern of behavior by the Respondent and substantial conformity with the present allegation.

   However, a Respondent's prior conduct will be taken into consideration by the appropriate Vice President, President, and a panel (when applicable) when determining what sanction(s) to recommend or impose.

## VIII. Rights of Parties Involved in a Proceeding Under These Policies

A. **Complainants** are afforded the following rights:

1. To be treated with respect, dignity, and sensitivity throughout the process.
2. To seek support services from the College, including those provided by Monsour Counseling and Psychological Services.
3. For student Complainants, to confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). For all Complainants, the College will make all reasonable efforts to ensure the preservation of privacy, restricting access to information to those with a legitimate need to know.
4. To be informed of the College's policies and complaint procedures related to discrimination, harassment, sexual misconduct, and retaliation.
5. To a prompt and thorough investigation of the allegation(s).
6. To challenge the appointment of the Investigator or a Board member or request an alternate Vice President if a conflict of interest is present.
7. To participate or decline to participate in the complaint process related to a discrimination, harassment, sexual misconduct, and/or retaliation complaint with the understanding that the process may continue without their involvement and that the Investigator and/or Board will determine an outcome with the information available to it.
8. To appeal the decision made by the Investigator, Sr. Director DHSM & TIX or Board and sanction(s) determined by the appropriate Vice President in accordance with the procedures set forth above.
9. To be notified, in writing, of the case resolution - including the outcome of any appeal.
10. To report the incident to law enforcement and/or civil authorities if one wishes to do so.
11. To understand that information collected in this process may/could be subpoenaed for a criminal or civil proceeding.
12. To have a support person/advisor by the student, faculty or staff complaint procedures.

B. **Respondents are afforded the following rights:**

1. To be treated with respect, dignity, and sensitivity throughout the process.
2. To seek support services through the College, including through Monsour Counseling and Psychological Services.

3. For student Respondents, to confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). For all Respondents, the College will make all reasonable efforts to ensure the preservation of privacy, restricting access to information to those with a legitimate need to know.
4. To be informed of the College's policies and complaint procedures related to discrimination, harassment, sexual misconduct, and retaliation.
5. To a prompt and thorough investigation of the allegation(s).
6. To challenge the appointment of the Investigator, a member of the Board or request an alternate Vice President if a conflict of interest is present.
7. To participate or decline to participate in the review procedure, with the understanding that the process will continue regardless and the Investigator and/or Board will determine an outcome with the information available to it.
8. To appeal either the decision or sanctions of the appropriate Vice President in accordance with the procedures set forth above.
9. To be notified, in writing, of the case resolution - including the outcome of the appeal.
10. To report the incident to law enforcement and/or civil authorities if one wishes to do so.
11. To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.
12. To have a support person/advisor as defined by the student, faculty or staff complaint procedures.

## IX. Alternative Resolution Options

In some circumstances, in addition to the resolution procedures discussed above in Section IV, the College may choose an alternative form of resolution to the one provided in this Document. In these instances, the College will attempt to gain approval from both parties whenever possible. This alternative process will adhere to Title IX standards.

A. **Mediation:** This informal procedure is intended to resolve actual or perceived instances of harassment and discrimination through agreement and mutual understanding between the parties involved without the need for more formal action by the College. Informal resolution will normally be completed within four weeks although mediation, if required, may take longer.

After the Complaint Officer or other investigator completes an investigation, both parties may agree to attempt an informal resolution of a charge of harassment or discrimination. If the Complaint Officer determines that such an informal process is appropriate under the facts and circumstances of the case, one or more of the following, or similar, methods may be utilized:

a. A meeting of the Complaint Officer, the Complainant, and the Respondent; and/or

b. A meeting between the Complaint Officer and the Respondent; and/or

c. A recommendation of training courses or seminars for either principal; and/or

d. Referral of the case to a mediator who has both legal and/or personnel relations experience. The mediator will discuss the issues with both principals and seek appropriate actions by the principals involved to reach an acceptable resolution. Mediation must be agreed to by both parties. Mediation is not an option for resolution in cases involving allegations of sexual assault.

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

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

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

## X. The College's External Reporting Obligations

### A. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The "Clery Act")

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

the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

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

B. **FERPA**

1. The outcome of a campus hearing is part of the educational record of the Respondent, if they are a student, and the employee record if they are a faculty or staff member. The educational records of students are protected from release under a federal law, FERPA. The College complies with FERPA regulations regarding the privacy of student records and observes the following exceptions to FERPA, as mandated by the Clery Act:
2. The Complainant(s) in a non-consensual sexual contact/intercourse incident have the right to be informed of the finding, and sanction(s) of the investigation or hearing, in writing, without condition or limitation.
3. The Complainant(s) in sexual exploitation, sexual harassment, stalking, relationship violence and any other gender-based offense have the right to be informed of the finding, in writing, and to be informed of any sanction(s) that directly relate to them, and to essential facts supporting the outcome when the outcome is "responsible" (and the underlying offense is a crime of violence as defined below and in 34 C.F.R. 99.39) and/or it is equitable to share the essential findings with all parties.
4. The Clery Act permits the College to release publicly the name, nature of the violation, and the sanction(s) for any student who is found in violation of a College policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass stalking and/or bullying), hazing, destruction/damage/vandalism of property and kidnapping/abduction. The College will release this information to the Complainant in any of these offenses regardless of the outcome.

## Appendix A: Sexual Misconduct Prevention and Risk Reduction

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

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly communicate their intentions to you.
2. Understand and respect personal boundaries. Do not pressure a potential partner.
3. DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent and you should stop.
4. If you think you are receiving unclear or conflicting messages from your partner, this is a clear indication that you should stop, defuse any sexual tension, and communicate better.

5. Don't take advantage of someone's drunken, drugged, or otherwise incapacitated state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. If you are not sure, stop.

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

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

## Appendix B: Frequently Asked Questions: Sexual Assault and Misconduct

Below are commonly asked student questions regarding sexual misconduct.

**1. Does information about a complaint remain confidential?**

The confidentiality of all parties to a complaint of sexual misconduct must be respected, insofar as it does not interfere with the College's obligation to fully investigate allegations of sexual misconduct. Where confidentiality is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant or the Respondent may lead to disciplinary action by the College. In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the College may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable

information of the alleged victim. Certain College administrators are informed of the outcome within the bounds of student privacy (e.g., the President, Dean of Students, Director of Campus Safety, Sr. Director DHSM & TIX). If there is a report of alleged sexual misconduct to the College and there is evidence that a felony has occurred, local police will be notified if the Complainant consents. This does not mean charges will be automatically filed or that a Complainant must speak with the police. The College also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

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

   Students can access CUC Counseling Service, and the Counseling Service also hosts a support group for survivors of sexual assault. If you are accessing community and non-institutional services, payment for these services may be covered by your health insurance plan; please check your coverage. If you have elected coverage under the Claremont College's Student Health Insurance Plan ("SHIP"), payment for these services may also be covered under this insurance plan. SHIP documentation is available. at: https://services.claremont.edu/student-health-services/

3. **Will my parents or guardian be told?**

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

4. **Do I have to name the alleged perpetrator?**

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

5. **Will the alleged perpetrator know my identity?**

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

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

   DO NOT contact the Complainant. You may want to speak with someone in the campus community who can act as your support person/advisor. The Sr. Director DHSM & TIX can explain the College's complaint procedures for addressing sexual misconduct

complaints and offer you supportive resources. You may also want to seek confidential counseling through the counseling center or seek support through off campus services in the community. See below regarding legal representation.

**7. What about legal advice?**

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

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

The Complainant and Respondent may request a room change through the Sr. Director DHSM & TIX who will facilitate with a Dean of Campus Life room change to the first available, suitable room. If a Complainant wants the Respondent to move, Complainant must be willing to pursue a formal complaint. No contact orders can be imposed.

Other accommodations available to Complaints might include:

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

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

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 72 hours (although the sooner the better for collection of evidence), though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the emergency room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner, a nurse who is specially trained to collect evidence in cases of alleged sexual assault, at Pomona Valley Hospital Medical Center (1798 N. Garey Avenue, Pomona, CA 91767, 909-865-9500) is usually on call 24 hours a day, 7 days a week. If you decide to seek medical attention and wish to have evidence collected, contact the emergency room and request that they call a SANE nurse.

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

you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence.

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

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

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

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

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

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

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

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

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

If you believe that you have experienced sexual misconduct but are unsure of whether it was a violation of the College policy, you should contact the College's Sr. Director DHSM & TIX who can explain the policy and resolution options. If you would like to speak with someone in strict confidence to explore the incident, you may want to first speak with a counselor at Monsour Counseling and Psychological Services, a chaplain from the McAlister Center, an Advocate for Survivors of Sexual Assault, or a rape crisis hotline.

Advocates for Survivors of Sexual Assault are a trained student group who are available through a pager system to assist students who have experienced sexual assault or misconduct on a 24/7 basis (909-607-1778). While the Advocates do not enjoy a legal confidentiality privilege as the other College officials listed above, they are confidential resources and not mandated reporters.

## Appendix C: What to Do if You Have Experienced Sexual Misconduct, Including Sexual Assault

If you have been a victim of sexual misconduct, the sooner you seek help the more options you have available to you. The following steps are important to take as soon as possible.

1. **Get away from your attacker and to a safe place as soon as possible.** Call 911 or Campus Safety (909-607-2000).

2. **Seek medical attention** to assess and treat any injuries, screen for pregnancy and any sexually transmitted infections, and collect evidence (if you consent to do so). If you decide to seek medical attention, contact the emergency room at **Pomona Valley Hospital Medical Center** (1798 N. Garey Avenue, Pomona, CA 91767, 909-865-9500) in advance and request that they call a Sexual Assault Nurse Examiner (SANE), a nurse who is specially trained to collect evidence. A SANE nurse is usually on call 24 hours a day, 7 days a week. Evidence can be collected up to 96 hours after the incident. If you have changed clothing since the incident, bring the clothing you had on at the time with you to the hospital in a clean paper bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital.

   You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. If you would like someone from the College staff to accompany you to the hospital, contact Campus Safety at 909-607-2000 and ask them to contact the On-Call Dean.

   Advocates for Survivors of Sexual Assault are a trained student group who are available through a pager system to assist students who have experienced sexual assault or misconduct on a 24/7 basis (909-607-1778). While the Advocates do not enjoy a legal confidentiality privilege as the other College officials listed above, they are confidential resources and not mandated reporters.

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

3. **Seek support:** Don't be afraid to ask for help and support; feelings of shame, guilt, fear, and shock are normal. Call a trusted friend or family member or one of the on and off campus resources listed below:

   **Sr. Director of Discrimination, Harassment, Sexual Misconduct, and Title IX:** Christine R. Guzman, PhD, LCSW, (christine_guzman@pitzer.edu / 909-607-2958).

**On-Call Deans** (For assistance after business hours and weekends): Contact the On-Call Dean through Campus Safety at 909-607-2000.

**Advocates for Survivors of Sexual Assault:** 909-607-1778 (See above).

**EmPower Center:** 909-607-2689; 1030 Dartmouth Ave

**Monsour Counseling and Psychological Services:** 909-621-8202 during normal business hours. For assistance after hours, contact the on-call therapist through Campus Safety at 909-607-2000.

**Student Health Services:** 909-621-8222 during normal business hours. For assistance after hours, contact the on-call doctor through Campus Safety at 909-607-2000.

**Crisis Hotlines:**

**Project Sister Sexual Assault 24/7 Crisis Hotline** (Claremont, CA):
800-656-4673
909-626-HELP (909-626-4357)

**National Sexual Assault 24/7 Crisis Hotline (RAINN):**
800-656-HOPE

4. **Please talk with the Sr. Director DHSM & TIX about your options.** This will be your opportunity to review your options and discuss all available resources both on and off campus. Regardless of when the incident occurred, it is never too late to have a conversation about your experience and to explore supportive resources that are available to you.

Last updated 5/24/2023