

Sexual Misconduct (Title IX) Policy and Procedures

Statement of Purpose

CCC is committed to creating, fostering and maintaining an educational, employment, business and campus environment that is free of discrimination on the basis of sex, including sexual misconduct, as required by Title IX and other laws. CCC does not tolerate discrimination on the basis of sex, sexual orientation, and gender identity or expression and is dedicated to prohibiting such conduct in all aspects of college life consistent with the College's Mission Statement, Vision Statement, Values Statement and Strategic Plan as well as the provisions of Title IX of the Education Amendments of 1972 and all other applicable state and federal laws.

Definitions

Advisor: An advisor is an individual selected by the complainant or respondent to accompany and assist him or her throughout the College's process. The advisor will not be permitted to advocate for the complainant or respondent in the process, or to have any role in the process other than to advise and assist the complainant or respondent.

Complainant: The complainant is the victim or survivor of the alleged incident.

Consent: Consent is a freely given agreement to the act of sexual penetration or sexual conduct in question. The lack of verbal or physical resistance or submission by the victim resulting from the use of drugs, force or threat by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent. A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct. A person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person can withdraw consent at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation: – The person is incapacitated due to the use or influence of alcohol or drugs – The person is asleep or unconscious – The person is incapacitated due to a mental disability

Incapacitation: A state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (i.e. to understand the "who, what, when, where, why, or how" or their sexual interaction).

Reporting Party: The reporting party is any individual other than the complainant who reports an incident of sexual misconduct.

Respondent: The respondent is the person alleged to have perpetrated sexual harassment or sexual misconduct of the alleged incident.

Sexual Misconduct: Sexual misconduct can occur both on and off campus and take many forms. The misconduct may be subtle and indirect or blatant and overt. Such misconduct can also occur in person or via electronic, print or other media. It may consist of repeated actions or may arise from a single incident if sufficiently severe. The complainant as well as the respondent may be male or female and the complainant does not have to be of the opposite sex of the respondent.

Sexual Misconduct includes each of the specific types of conduct specifically noted in the Sexual Misconduct Violations section below.

Title IX: Title IX of the Education Amendments of 1972 (29 USC 1681-1688) provides, “No person in the United States, shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

Essentially, Title IX provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training or other education program or activity operated by the College. Title IX also provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefore, whether full-time or part-time, under any education program or activity operated by the College. The College acknowledges its obligations under Title IX and is committed to complying with all Title IX requirements.

Sexual Misconduct Violations

Intimate Partner Violence: Violence or emotional abuse between those who are in or have been in an intimate or romantic relationship to each other. Examples include: – Physical abuse by a spouse or partner such as hitting, slapping, pushing, or strangling; – Sexual violence by a spouse or partner, – Extreme verbal abuse by a spouse or partner. Other terms include interpersonal violence, relationship violence, dating violence, or domestic violence,

Non-consensual Sexual Contact: Non-consensual sexual contact is defined as: o any intentional sexual touching; however slight; with any object o by a person upon another person o that is without consent and/or by force

Sexual touching includes, but is not limited to, any bodily contact with breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner

Use of the term “sexual misconduct” throughout this policy includes non-consensual sexual contact.

Non-consensual Sexual Intercourse: Non-consensual sexual intercourse is defined as: Any sexual penetration or intercourse (anal, oral, or vaginal); however slight; with any object; by a person upon another person; that is without consent and/or by force

Sexual intercourse includes, but is not limited to, vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

Use of the term “sexual misconduct” throughout this policy includes non-consensual sexual intercourse.

Sexual Exploitation: Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own benefit or advantage, 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: o Invasion of sexual privacy; o Prostitution; o Non-consensual video or audio-taping of sexual activity; o Going beyond the boundaries of conscience, such as letting your friends hide in a closet to watch consensual intercourse; o Knowingly transmitting an STI or HIV to another individual
Use of the term “sexual misconduct” throughout this policy includes sexual exploitation.

•**Sexual Harassment:** Sexual Harassment is a form of discrimination on the basis of sex. Sexual harassment is: unwelcome, gender-based verbal or physical conduct of a sexual nature that is, sufficiently severe and persistent or pervasive that it, o unreasonably interferes with, denies or limits someone’s ability to participate in or benefit from his or her employment with the College or the College’s educational program and/or activities, and is o based on power differentials (quid pro quo/this for that), the creation of a hostile environment, or retaliation.

Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when: o Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic status; o Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting such individual; o Such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating or hostile work or educational environment.

In light of the power differential inherent in the relationship between employees and students and between a supervisor and subordinate and the potential for either intentional or unintentional misuse of that professional power differential, the College strongly advises against dating, romantic, or sexual relationships between employees

and students or between supervisors and subordinates. It should be noted that in such cases “consent” may not constitute a defense.

Use of the term “sexual misconduct” throughout this policy includes sexual harassment.

Stalking: Stalking refers to a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his/her safety or the safety of others, or (b) suffer substantial emotional distress.

Use of the term “sexual misconduct” throughout this policy includes stalking.

Procedures Handling of Complaints Covered by this Policy The Title IX Coordinator is responsible for coordinating the College’s compliance with Title IX as well as other complaints brought concerning violations of this policy. The Title IX Coordinator’s responsibilities include overseeing, recording and cataloguing all Title IX reports of sexual misconduct and identifying and addressing any patterns or systemic problems that arise during the review of such reports. To assist the Title IX Coordinator the College has designated Title IX Investigators, all of whom are authorized to conduct investigations. The Coordinator and all Investigators receive at least 8 hours of annual training. The Title IX Coordinator may perform the investigations also, but will provide supportive services to the Investigators in such aspects of the investigation process as deemed necessary and appropriate including gathering documentation, disseminating information and assuring compliance with the procedures outlined in this Policy.

The College has designated the following individual as its Title IX Coordinator:

Dr. Robert Gee
rgee@ccccollege.edu
305.434.0277 (Direct Phone)

All students, faculty, staff and external individuals, who have concerns about discrimination on the basis of sex, Title IX violations or requirements, including any concerns pertaining to sexual misconduct covered by this policy, are encouraged to seek the assistance of either the Title IX Coordinator or an Investigator. The Coordinator and Investigators are knowledgeable about, and will provide information on, all options for addressing and resolving such reports or concerns. Those options may vary depending on the nature of the incident; whether the complainant is a student or employee; the wishes of the complainant regarding confidentiality; and whether the complainant prefers to proceed formally or informally. Together, the Coordinator and Investigators play an integral role in carrying out the College’s commitment to creating, fostering and maintaining an educational, employment, business and campus environment that is free of discrimination on the basis of sex.

Reporting of Complaints Covered by this Policy Title IX Coordinator All students, faculty, staff, applicants, volunteers, vendors and agents are strongly encouraged to report any incidents of violations of this policy. Reports may be orally or in writing and such reports

should be made to the Title IX Coordinator. The Title IX Coordinator is to be made aware of all complaints made pursuant to this policy so that she may monitor compliance and direct investigation, if deemed necessary.

Confidential Employees: If you wish to report a violation of this policy but would like your information to remain confidential you may inform the Title IX Coordinator of your request and every effort within the letter of the law will be made to protect the identity. These employees have a confidentiality privilege to protect the personal identification of you and can fulfill their reporting requirements by making general reports for statistical purposes and pattern tracking, but do not divulge personally identifiable information. Please note that if you report to a confidential employee and request confidentiality, your information will not be shared with the Title IX Coordinator and an investigation will not be initiated.

Amnesty Provision: CCC provides immunity to any student who reports, in good faith, any alleged violations of this policy. The reporting student will not receive a disciplinary sanction by the College for a student conduct violation, such as underage drinking, that is revealed in the course of a report, unless the College determines that the violation was an action that places the health or safety of any other person at risk.

In addition to the foregoing, all faculty and staff who become aware of or suspect sexual abuse of a minor (under the age of 17) must report that information to the Title IX Coordinator who shall then inform local, state and/or federal law enforcement officials of such incident as required by law.

Support Services: In addition to reporting the matter to the Title IX Coordinator or an employee, persons may also need to address immediate physical and/or emotional trauma associated with the harassment or assault. Importantly, a victim should contact the following immediate care support provider:

Emergency Call 911

There are also support resources outside the College community. Contact the compliance officer:

Marilyn Hope
mhope@ccccollege.edu
909.253.7707

Preservation of Evidence: Seeking medical care is important, regardless of whether you choose to report to the police. Medical attention will provide for physical exam, treatment and collection of any evidence of the assault. It is important to remember: Sexual assault can result in injury or illness that you may not immediately see or feel. It is important that you seek appropriate medical care promptly. Resist the urge to change clothes, bathe, douche, eat, drink or brush your teeth. Bring a change of clothes with you when you go to the emergency room. Your clothing will be kept as evidence. • Do

not go to the bathroom, if possible. This is so that physical evidence can be collected and preserved. You do not need to decide immediately following an assault whether you want to pursue legal action but if you save the evidence, it offers you more options in the future when you are better able to decide. All hospitals are trained to collect and save this type of evidence for you, should you decide to use it in pursuing legal action in the future.

Investigation

Preliminary Inquiry: Upon receipt of a report of a complaint covered by this policy, the Title IX Coordinator or her designee shall inform the complainant about: Available counseling, medical and other support services; The option to avoid contact with the respondent during the pendency of the investigation; Their Title IX rights; Their grievance rights; their right to file a criminal complaint, if applicable.

The Title IX Coordinator shall provide the complainant with access to this policy and the applicable grievance procedures identified herein.

Additionally, the Title IX Coordinator or her designee may make a preliminary, non-binding assessment of the information contained in the report, and any supplement to the report, to determine whether that information, if true, would pose an imminent threat of immediate harm to the complainant or others. If there is an imminent threat of immediate harm then, consistent with the grievance procedures identified below, temporary measures may be imposed against the respondent to mitigate the threat during the pendency of the investigation. These measures may include, without limitation, changes to academic, living, dining, transportation, and working situations. The need for such temporary measures will be reevaluated on a regular basis during the pendency of the investigation to ensure that need for such temporary measures remain present.

Investigation: Upon receipt of a report of a complaint covered by this policy, the Title IX Coordinator will assign the appropriate internal or external Investigator to conduct a prompt, thorough and impartial investigation of the incident consistent with the applicable grievance procedures identified below. Such investigations shall, barring exigent circumstances, be completed within thirty (30) calendar days.

The complainant and respondent both have the right to request a substitution of the assigned investigator if the participation of this individual to make a finding or impose a sanction poses a conflict of interest. Any request to substitute the assigned investigator must be made to the Title IX Coordinator within one (1) business day to allow for prompt investigation.

The complainant and respondent are both entitled to one advisor of his/her choosing to accompany and assist him/her throughout Illinois College's investigation process. The advisor can be a friend, parent, faculty mentor, attorney, or any person the complainant or respondent wish.

In all investigations the Title IX Coordinator shall monitor compliance to ensure the parties are provided with a parity of protections. Additionally, all investigations shall utilize a preponderance of the evidence (more likely than not) standard in determining whether or not sexual harassment occurred.

Investigation Report: Upon completion of the investigation the investigator will prepare a comprehensive written report summarizing all relevant information that will be used to make a final determination. The complainant and respondent will both have access to the investigation notes and investigation report and will have the opportunity to respond to the report in writing to the Title IX Coordinator before a final decision and sanctioning is made. Students will be allowed to review the investigation report by scheduling a meeting of up to 8 hours in length through the Title IX Coordinator. A meeting to review the report must be scheduled within 5 calendar days of receiving notice the report is available for review. The 8-hour review can be completed in one meeting or divided between two meetings. Both the complainant and respondent have the right to choose one advisor to accompany them to review the report. The advisor can be a friend, parent, faculty mentor, attorney, or any person the complainant or respondent wish. o To protect the privacy of any participants in the investigation, review will take place in person with the TIX Coordinator or her designee present; copies of the investigation report will not be distributed; photos, copies, and any other means of duplicating the materials will not be allowed. Any effort to duplicate the investigation report will result in the immediate conclusion of the review meeting. o Upon review of the report materials, both the complainant and respondent should continue to maintain confidentiality throughout the process. o Any written responses must be submitted to the Title IX Coordinator within 5 calendar days of review of the report.

Decision-Making and Sanctioning: Upon completion of the investigation report and review of any written responses to the report, the Investigator, in consultation with the Title IX Coordinator, will make a determination as to whether sexual misconduct occurred and recommend any sanctions to be imposed, if any are deemed necessary.

The final decision on sanctioning and enforcement will be the responsibility of the President of the College.

Outcome of Investigation: The Title IX Coordinator, or the designee, shall provide the complainant and respondent with written notice of the outcome of the investigation (i.e. whether misconduct was found to have occurred) within five (5) calendar days of such a finding being made. If the Coordinator, or the designee, has determined that misconduct has occurred, the Coordinator, or the designee, shall immediately take reasonably effective action to eliminate the misconduct, prevent its recurrence, and address its effects. When allowed for by applicable State and Federal law the Coordinator shall also notify the complainant of any sanction(s) imposed upon the respondent.

If resolution of the complaint is reached following the investigation, the Investigator will file a summary report to be kept on file.

Appeal of the Decision: If a resolution is not reached and either party wishes to appeal the decision, the complainant or the respondent may appeal the decision to the Title IX Coordinator. The appeal must be made in writing within five (5) calendar days of receipt of notification of the outcome.

If either party chooses to appeal the decision pursuant to this policy procedure the appeal shall be conducted as follows: Appeals can have three grounds: 1. That a procedural error or omission occurred that significantly impacted the outcome of the hearing. Examples: The investigation and related actions did not correctly follow the college's policies and procedures, or there was substantial bias. 2. To consider new evidence, unknown or unavailable during the original investigation, that could substantially impact the original finding and sanction(s) a. A summary of this new evidence and its potential impact must be included in the appeal letter. b. Failure to participate at the time of the investigation cannot constitute an appeal on new evidence. 3. That the sanctions imposed are substantially disproportionate to the severity of the violation, or the sanctions fall outside the range of sanctions the College has designated for this offense.

If there is an appeal, the Title IX Coordinator will call together the appeal committee consisting of: Three members selected from the faculty and/or staff with preference given to those who have been trained in Title IX investigation. Those trained investigators who participated in the initial investigation cannot be selected to serve on the appeal committee. The appeal committee members must be current staff or faculty of the college and cannot have been persons providing any information for the investigation or involved in the incident under investigation. None of the appeal committee members may be attorneys.

The appeal committee will have available the record of the investigation, any materials used on the investigation and the decision taken by the Coordinator. After the appeal committee has met, reviewed and discussed the information the appeal committee will make a decision, by vote if necessary. The majority rules. The appeal committee must come to a decision within seven (7) calendar days of the appeal to the Title IX Coordinator. The appeal committee may choose from the following decisions for the Title IX Coordinator to implement: To affirm the decision and actions taken by the Investigator and to direct implementation of the committee's decision. o To return the case to the Investigator with instructions for further investigation or reconsideration of particular issues. o To assign the case for further investigation by a different Investigator if there is a conflict of interest with the original Investigator. • After the appeal process is exhausted and the Title IX Coordinator directs implementation of the decision, the decision is final.

Sanctioning Statement: Not all forms of sexual misconduct are equally serious offenses, and the College reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense. The College will

consider the concerns and rights of both the complainant and the respondent of sexual misconduct.

Students: Any student found responsible for violating the policy on Non-consensual Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations. Any student found responsible for violating the policy on Non-consensual Sexual Intercourse will likely receive a sanction of suspension or expulsion. Any student found responsible for violating the policy on Sexual Exploitation or Sexual Harassment (and related violations) will likely receive a sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations. Any student found responsible for violating policies on Intimate Partner Violence, or stalking will likely receive a sanction of suspension or expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

Employees: Any employee found responsible for violating the policy on Non-consensual Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from unpaid suspension to termination, depending on the severity of the incident, and taking into account any previous campus conduct code violations. Any employee found responsible for violating the policy on Non-consensual Sexual Intercourse will likely receive a sanction of unpaid suspension or termination. Any employee found responsible for violating the policy on Sexual Exploitation or Sexual Harassment (and related violations) will likely receive a sanction ranging from written warning to termination, depending on the severity of the incident, and taking into account any previous campus conduct code violations. Any employee found responsible for violating policies on Intimate Partner Violence, or stalking will likely receive a sanction of unpaid suspension or termination, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

Additional Procedures or Considerations for Sexual Misconduct: A person who believes he or she may have been the victim of sexual misconduct should understand that under some circumstances designated officers of the College to whom such incidents are reported, may be required by state or federal law or College policy to pursue a complaint by the process described above, even if the person making the allegation does not wish to do so.

At any time during the mediation or investigation of complaints brought pursuant to this policy, a complainant may request that the College provide relief from intimidating work, classroom, or living situations which relate specifically to the alleged policy violation.

While any member of the College community who believes he or she has been the victim of sexual misconduct is strongly encouraged to use the procedures established by the College to make a complaint about such misconduct, such a person may also

elect to make a complaint outside the College by initiating civil and/or criminal charges against the accused party or parties.

A complainant has the right to contact the U.S. Department of Education's Office for Civil Rights (OCR),

Confidentiality: A complainant may report or make a complaint pursuant to this policy, yet request confidentiality. If the complainant requests confidentiality or asks that the report not be pursued, the College will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue the investigation – as long as doing so does not prevent the College from responding effectively to the complaint and preventing harassment of other third parties.

Upon a request for confidentiality, the College shall inform the complainant: • If the College cannot ensure confidentiality; That a confidentiality request may limit the College's ability to respond to the report; That the College prohibits retaliation and that such retaliation is subject to disciplinary action under this policy.

Notwithstanding the foregoing, should the report concern an instance of sexual violence involving a minor (under the age of 17), then in that event, the College shall investigate the report without regard to the request for confidentiality and shall inform local, state and/or federal law enforcement officials of such incident as required by law.

Retaliation: It is a serious violation of this policy for any person to retaliate against, interfere with, coerce or take any other adverse action against a student, faculty, staff, or other third party that: Seeks advice concerning a violation of this policy; Makes a report of a violation of this policy; Assists or supports another individual that makes a report of a violation of this policy; Participates as a witness or in the investigation of a report made pursuant to this policy.

Such conduct is in violation of this policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated and adjudicated accordingly.

Malicious, False Accusations It is a violation of this policy to make a report of a violation of this policy that is known to be false. Such conduct is a serious violation of this policy and will be investigated and adjudicated accordingly.