

# CULVER-STOCKTON COLLEGE

## POLICY ON SEXUAL MISCONDUCT (TITLE IX)

### **I. STATEMENT OF POLICY AND NOTICE OF NONDISCRIMINATION**

Culver-Stockton College (the "College") is committed to providing an environment free of discrimination and administers its academic programs and extracurricular programs without regard to race, color, creed or religion, gender, marital status, national origin, military status, disability, age, or any other characteristic protected by law. Title IX requires all higher education institutions that receive federal financial assistance not to discriminate on the basis of sex in our educational programs. In keeping with that commitment, the College maintains a strict policy prohibiting unlawful harassment, sexual misconduct, dating violence, and stalking or otherwise. Any inquiries concerning Title IX can be addressed to the Title IX Coordinator or to the United States Department of Education Office for Civil Rights (OCR).

The College does not discriminate on the basis of sex or gender in any of its education or employment programs and activities. To that end, this policy prohibits specific forms of behavior that violate Title IX of the Education Amendments of 1972 ("Title IX"); Title VII of the Civil Rights Act of 1964 ("Title VII"); and all applicable Missouri laws. Such behavior also requires the College to fulfill certain obligations under the Violence Against Women Reauthorization Act of 2013 ("VAWA") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").

The College prohibits sexual assault, sexual exploitation, intimate partner violence, stalking, sexual harassment, complicity in the commission of any act prohibited by this policy, and retaliation against a person for the good faith reporting of any of these forms of conduct or participation in any investigation or proceeding under this policy (collectively, "Prohibited Conduct"). These forms of Prohibited Conduct are unlawful, undermine the character and purpose of the College, and will not be tolerated.

The College adopts this policy with a commitment to: (1) eliminating, preventing, and addressing the effects of Prohibited Conduct; (2) fostering the College's Community of Trust, in which Prohibited Conduct is not tolerated; (3) cultivating a climate where all individuals are well-informed and supported in reporting Prohibited Conduct; (4) providing a fair and impartial process for all parties; and (5) identifying the standards by which violations of this policy will be evaluated and disciplinary action may be imposed. Employees or students who violate this policy may face disciplinary action up to and including termination or expulsion. The College will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The College conducts ongoing prevention, awareness, and training programs for Employees and Students to facilitate the goals of this policy.

This policy applies to the entire college community, including but not limited to, faculty, staff, administration, students, vendors and visitors associated with the College. The College reserves the right to make revisions to this policy at any time and students should check the website or MyCulver for the most recent version of the policy.

### **II. TITLE IX COORDINATOR**

#### **A. Role of the Title IX Coordinator**

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the College's Title IX Coordinator has primary responsibility for coordinating the College's efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all the operations of this College, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.

Sexual misconduct against students, including sexual harassment, sexual assault, rape, and sexual exploitation, can be a form of sex discrimination under Title IX. The Title IX Coordinator oversees the College's response to reports and complaints that involve possible sex discrimination to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the College can address issues that affect the wider school community.

A student should contact the Title IX Coordinator or Deputy Title IX Coordinator(s) in order to:

- seek information or training about students' rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including sexual misconduct,
- file a complaint or make a report of sex discrimination, including sexual misconduct,
- notify the College of an incident or policy or procedure that may raise potential Title IX concerns,
- get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct, and
- ask questions about the College's policies and procedures related to sex discrimination, including sexual misconduct.

The College's Title IX compliance team includes:

- Dr. Alissa Burger is the College's Title IX Coordinator and can be reached by telephone at (573) 288-6350, or by email at [aburger@culver.edu](mailto:aburger@culver.edu).
- Caitlin Erickson is the College's Deputy Title IX Coordinator and can be reached by telephone at (573) 288-6453, or by email at [cerickson@culver.edu](mailto:cerickson@culver.edu).
- Brianne Seales, Executive Director of Human Resources, is the College's Deputy Title IX Coordinator and can be reached by telephone at (573) 288-6493, or by email at [bseales@culver.edu](mailto:bseales@culver.edu).
- The Dean of Student Life may be reached by telephone at (573) 288-6334.
- Campus Safety may be reached by telephone at (573) 288-6300, or by email at [campussafety@culver.edu](mailto:campussafety@culver.edu). Campus Safety's office is located in the Gladys Crown Student Center in room 201.

In the event that the incident, policy, or procedure about which the student seeks to file a report or complaint creates the appearance of a conflict of interest with one of the members of the Title IX compliance team, students may contact any other member of the team.

Inquiries or complaints that involve potential violations of Title IX may also be referred to the U.S. Department of Education's Office for Civil Rights, which can be reached at: <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html> or the Educational Opportunities Section of the Civil Rights Division of the U.S. Department of Justice (DOJ): <http://www.justice.gov/crt/complaint/#three>.

#### B. Functions and Responsibilities of the Title IX Coordinator

The Title IX Coordinator's functions and responsibilities include the following:

##### **(1) Training for Students, Faculty, and Staff**

The Title IX Coordinator collaborates with other institutional offices to ensure there is ongoing training, consultation, and technical assistance on Title IX for all students, faculty, and staff, including:

- regular training for faculty and staff outlining their rights and obligations under Title IX, including the appropriate response to reports of sexual misconduct, the obligation to report sexual misconduct to appropriate College officials, and the extent to which counselors and advocates may keep a report confidential, and
- regular training for students outlining their rights under Title IX; with regard to sexual misconduct, this training will include what constitutes sexual misconduct and when it

creates a hostile environment, the definition of consent, reporting options (including reports to responsible employees, campus and local law enforcement, and confidential reporting to counselors or advocates), the grievance procedures used to process complaints, applicable disciplinary code provisions relating to sexual misconduct and the consequences of violating those provisions, the role of alcohol and drugs in sexual misconduct, the effects of trauma, strategies and skills for bystander intervention, the offices or individuals with whom students can speak confidentially, the offices or individuals who can provide support services, the employees who must report incidents to the Title IX coordinator, and Title IX's protections against retaliation.

## (2) Investigations

The College is responsible for conducting adequate, reliable, and impartial investigations of reports and complaints of sexual misconduct. The Title IX Coordinator ensures federal compliance with this response, including:

- determining whether the report or complaint alleges conduct that may, upon investigation, constitute prohibited sexual misconduct,
- appointing an investigative team upon such determination,
- making certain that individual reports and complaints are handled properly and in a prompt and timely manner,
- informing all parties regarding the grievance process,
- confirming that all parties have been notified of grievance decisions and of the right to, and procedures for, appeal, if applicable,
- maintaining information and documentation related to the investigation in a secure manner, and
- monitoring compliance with timeframes specified in the grievance procedures.

The Title IX Coordinator evaluates requests for confidentiality by those who report or complain about sexual misconduct in the context of the College's responsibility to provide a safe and nondiscriminatory environment for all students. The College's Confidentiality Policy is set forth below.

## (3) Remedies, Including Interim Measures

Upon learning of a report or complaint of sexual misconduct, the Title IX Coordinator ensures the institution promptly takes steps to ensure the complainant's equal access to the College's programs and activities and protect the complainant as necessary. Such steps include taking interim measures before the final outcome of any investigation, providing remedial measures after the final outcome of investigation, and making the complainant aware of all available resources, including but not limited to: housing assistance, academic support, counseling, disability services, and health and mental health services.

Upon a finding of prohibited sexual misconduct, the Title IX Coordinator determines, in conjunction with other relevant offices, whether campus-wide remedies should be adopted in response, including review and revision of the College's sexual misconduct policies, increased monitoring, supervision or security at locations where sexual misconduct is reported to occur, and increased education and prevention efforts, including to targeted populations. If the Conduct Panel finds that an individual engaged in prohibited sexual misconduct, the Title IX Coordinator reviews proposed sanctions before they are imposed to ensure that they, along with the College's interim and long-term measures taken in response to the sexual misconduct, are reasonably calculated to stop the sexual misconduct and prevent its recurrence.

## (4) Monitoring and Advising

In order to address sexual misconduct on campus and ensure ongoing compliance with Title IX, the Title IX Coordinator:

- reviews regularly all reports and complaints raising potential Title IX issues throughout the College to ensure that the College responded consistent with its Title IX obligations, even if the report or complaint was initially filed or raised with another individual,
- reviews regularly all reports and complaints raising potential Title IX issues throughout the college to identify and address any patterns,
- reviews regularly the College's policies and procedures to ensure that they comply with the requirements of Title IX,
- ensures the maintenance of files related to grievances, reports, complaints, and other records of potential sex discrimination, including sexual misconduct, in a secure manner,
- assesses regularly the College's compliance with, and the effectiveness of, policies and procedures related to sex discrimination, including sexual misconduct, and recommends modifications where appropriate,
- coordinates regularly with the Director of Campus Safety who serves as the College's Clery Act Compliance Officer with respect to overlapping obligations related to sexual misconduct against students, including prevention, education, and training,
- consults regularly campus stakeholders to promote campus-wide awareness and discussion of Title IX-related issues, and develop and implement any modifications of policies and procedures to prevent and eliminate sex discrimination, including sexual misconduct, and
- ensures that appropriate policies and procedures are in place for working with local law enforcement and coordinating with local victim advocacy organizations and service providers, including rape crisis centers.

### III. PROHIBITED CONDUCT UNDER THIS POLICY

Conduct under this policy is prohibited regardless of the sex or sexual orientation of the Complainant or Respondent. Prohibited Conduct includes the following specifically defined forms of behavior: Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual Harassment, Complicity, and Retaliation.

#### 1. DEFINITIONS

##### A. Sexual Harassment

"Sexual harassment" includes any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect: Any instance of quid pro quo harassment by a school's employee; any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; any instance of sexual assault, dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

##### B. Unwelcome Conduct

Conduct is considered "unwelcome" if the student did not request or invite it and considered the conduct to be undesirable or offensive.

Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex.

Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that a student may have welcomed some conduct does not necessarily mean that a student welcomed other conduct. Also, the fact that a student requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

### C. Hostile Environment

A "hostile environment" exists when *sex-based harassment* is sufficiently serious to deny or limit the student's ability to participate in or benefit from the College's programs or activities.

A hostile environment can be created by anyone involved in a College's program or activity (e.g., administrators, faculty members, students, and campus visitors).

In determining whether *sexual harassment* has created a hostile environment, the College considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was *unwelcome* to the student who was harassed. But the College will also need to find that a reasonable person in the student's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To make the ultimate determination of whether a hostile environment exists for a student or students, the College considers a variety of factors related to the severity, persistence, or pervasiveness of the *sexual harassment*, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more student's education.

The more severe the *sexual harassment*, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of *sexual assault* may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the *sexual harassment* is not particularly severe.

#### *First Amendment Considerations*

This policy does not impair the exercise of rights protected under the First Amendment. The College's sexual misconduct policy prohibits only *sexual harassment* that creates a hostile environment. In this and other ways, the College applies and enforces this policy in a manner that respects the First Amendment rights of students, faculty, and others.

### D. Sexual Assault

"Sexual assault" is actual or attempted sexual contact with another person without that person's *consent*. Sexual assault includes, but is not limited to:

- Intentional touching of another person's intimate parts without that person's *consent*; or
- Other intentional sexual contact with another person without that person's *consent*; or
- Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's *consent*; or
- *Rape*, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.

### E. Consent

"Consent" must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes

impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

The College offers the following guidance on Affirmative Consent and assessing incapacitation:

A person who wants to engage in a specific sexual activity is responsible for obtaining Affirmative Consent for that activity. Lack of protest does not constitute Affirmative Consent. Lack of resistance does not constitute Affirmative Consent. Silence and/or passivity also do not constitute Affirmative Consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this Policy. It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

Affirmative Consent to one form of sexual activity does not, by itself, constitute Affirmative Consent to another form of sexual activity. For example, one should not presume that Affirmative Consent to oral-genital contact constitutes Affirmative Consent to vaginal or anal penetration. Affirmative Consent to sexual activity on a prior occasion does not, by itself, constitute Affirmative Consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of Affirmative Consent.

Affirmative Consent may be withdrawn at any time. Once Affirmative Consent is withdrawn, the sexual activity must cease immediately. In evaluating Affirmative Consent in cases of alleged incapacitation in which drugs or alcohol are involved, the following questions should be considered: (1) *Did the person initiating sexual activity know that the other party was incapacitated? and if not,* (2) *Should a sober, reasonable person in the same situation have known that the other party was incapacitated?* If the answer to either of these questions is "YES," Affirmative Consent was absent and the conduct is likely a violation of this policy.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

One should be cautious before engaging in Sexual Contact or Sexual Intercourse when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs may create ambiguity for either party as to whether Affirmative Consent has been sought or given. If one has doubt about either party's level of intoxication, the safe thing to do is to forego all sexual activity.

*Being impaired by alcohol or other drugs is no defense to any violation of this policy.*

#### F. Sexual Exploitation

“Sexual exploitation” occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person’s *consent*. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness without that person’s *consent*;
- Distributing images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not *consent* to such disclosure and objects to such disclosure; and,
- Viewing another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s *consent*, and for the purpose of arousing or gratifying sexual desire.

#### G. Intimate Partner Violence

Intimate Partner Violence includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate Partner Violence includes “dating violence” and “domestic violence” and may include any form of Prohibited Conduct under this policy, including Sexual Assault, Stalking, and Physical Assault.

Physical Assault is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical Assault will be addressed under this policy if it involves Sexual Harassment, Intimate Partner Violence, or is part of a course of conduct under the Stalking definition.

#### H. Stalking

Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.

Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes “cyber-stalking,” a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

#### I. Retaliation

The College strictly prohibits any material adverse action against any individual for reporting, providing information, exercising one’s rights or responsibilities under this policy, or otherwise being involved in the process of responding to, investigating, or addressing allegations of sexual misconduct. No retaliatory action shall be taken against any person who shall make a good-faith report of alleged harassment, whether the report is shown to have been valid or not. The college will take strong responsive action if retaliation occurs. Anyone who is aware of possible retaliation or has other concerns regarding the response to a complaint of sexual misconduct should report such concerns to the Title IX Coordinator or to a Deputy Title IX Coordinator, who shall investigate the matter and make findings so the College can take appropriate actions to address such conduct in a fair and impartial manner.

#### IV. REPORTING

Any student or who believes he or she has been harassed, assaulted, stalked or experienced sexual violence in anyway by an employee, student, vendor, visitor or any agent of the college should promptly report the fact incident or incidents and the names of the individuals involved to campus safety, the dean of student life, the director of human resources or to local law enforcement. The Dean of Student Life may be reached at (573) 288-6334 and the Director of Human Resources may be reached at (573) 288-6493. Campus Safety may be reached at (573) 288-6300. You may also contact the Title IX Coordinator at (573) 288-6453, or by email at [cerickson@culver.edu](mailto:cerickson@culver.edu). In the event of an emergency local law enforcement should be contacted by dialing 911 in addition to contacting Campus Safety. All full-time employees are considered mandated reporters ("Responsible Employees") (except the Licensed Counselor and Chaplain) and are required to report all forms of sexual harassment or sexual misconduct.

If you have been the victim of sexual misconduct, your first priority should be to get to a place of safety.

- You should then obtain the necessary medical treatment.
- You have the right to decide whether or not to make a statement to law enforcement but it is strongly recommended that you contact Campus Safety at (573) 288-6300 to help guide you through the process. Campus Safety's office is located in the Gladys Crown Student Center in room 201. You can also reach them through email at [campussafety@culver.edu](mailto:campussafety@culver.edu).

There are several options to consider when filing a report. Again, someone can help you through this process to make the best decision for the victim.

##### A. Reporting and Confidentially Disclosing Sexual Violence: Know the Options

The College encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the College can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality.

Some are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." Disclosures to these employees will not trigger a College investigation into an incident against the victim's wishes. Some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees (called "responsible employees") constitutes a report to the College – and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of sexual violence. The College encourages victims to talk to someone identified in one or more of these groups.

##### B. The Options

###### 1. Privileged and Confidential Communications (Professional and Pastoral Counselors)

Professional, licensed counselors and pastoral counselors (Chaplain) who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a victim's permission.

###### 2. Reporting to "Responsible Employees."

A "responsible employee" is a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.



When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the College will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College's response to the report. A responsible employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim's request for confidentiality.

Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the College to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

### **3. Requesting Confidentiality From the College: How the College Will Weigh the Request and Respond.**

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the College honors the request for confidentiality, a victim must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the College may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

The College has designated the following individual(s) to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence: Dr. Alissa Burger, Deputy Title IX Coordinator; Pat Atwell, Deputy Title IX Coordinator; or Amy Baker, Deputy Title IX Coordinator.

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Deputy Coordinators will consider a range of factors, including the following:

The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:

- whether there have been other sexual violence complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence); and
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality.

Confidentiality will be observed to the extent possible while still allowing a thorough investigation. Students should understand that most employees are obligated to report any sexual misconduct, harassment, and/or hazing incident to campus safety. However, the request of the complainant to remain confidential will be considered during the investigation. The Chaplain and Professional Licensed Counselor are the only employees that are protected by law to hold confidence. It should be noted that the College may do an investigation without the person's consent if action is severe, predatory, pervasive, or persistent. In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, the College will attempt to honor that request but, in some cases, the Title IX Coordinator or Deputy Title IX Coordinator may determine that the College needs to proceed with an investigation based on concern for the safety or well-being of the broader College community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). The College reserves the right to take appropriate action in such circumstances, including in cases when the individual reporting the misconduct is reluctant to proceed.

If the College determines that it cannot maintain a victim's confidentiality, the College will inform the victim prior to starting an investigation or as soon as reasonably possible and will, to the extent possible, only share information with people responsible for handling the College's response.

The College will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated. The College will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to campus or law enforcement – and provide the victim with assistance if the victim wishes to do so.

- The College may not require a victim to participate in any investigation or disciplinary proceeding.

Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the College determines that it can respect a victim's request for confidentiality, the College will also take immediate action as necessary to protect and assist the victim.

### Miscellaneous

#### *Take Back the Night and other public awareness events*

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or other forums in which students disclose incidents of sexual violence, are not considered notice to the College of sexual violence for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students' Title IX rights at these events.

#### *Anonymous Reporting*

Although the College encourages victims to talk to someone, the College provides an online form for anonymous reporting (See Option 2 below). The system will notify the user (before he or she enters information) that entering personally identifying information may serve as notice to the College for the purpose of triggering an investigation.

#### *Amnesty*

The College encourages reporting of sexual misconduct and seeks to remove any barriers to an individual/group making a report. The College recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. An individual(s) who reports sexual misconduct that was directed at them or another person, either as a Complainant or a third party witness, will not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational interventions regarding alcohol or other drugs. These interventions do not include involuntary leaves for students from the College. Amnesty will not be extended for any violations of College policy other than alcohol/drug use. In addition, amnesty does not preclude or prevent action by police or other legal authorities.

### 4. Reporting Option Examples

#### **OPTION 1: REPORT INCIDENT, BUT CHOOSE NOT TO FILE A COMPLAINT OR CHARGES**

- A report is a written account of what happened. A complaint is a formal request for the College to investigate the assault and adjudicate as appropriate. You are encouraged to file a report of the incident, even if you are not certain you want to file a complaint.
- Telling your experience to any campus official does not obligate you to report it to the law enforcement, nor does reporting it to law enforcement obligate you to file an official report to the College—these are separate processes.
- As mentioned earlier, the College may file a complaint even if you do not want to file a formal complaint if the College believes there is a threat to the safety of the college environment.

- There are no time limits for filing a complaint.

#### OPTION 2: FILE A COMPLAINT WITH THE COLLEGE

- Campus Safety, C-SC's Title IX Coordinator, or the Dean of Students can take your complaint. There is also a silent witness form online at <https://culver.edu/campus-life/campus-safety/silent-witness-form/>.
- You have formal and informal avenues you can pursue, or you can decide not to pursue the case at any time.
- Investigations are conducted by members of campus safety that have been trained in Title IX investigations.

#### OPTION 3: PURSUE CRIMINAL CHARGES

- If you want to file an official report of the incident with law enforcement, you can initiate a report by contacting the Canton Police Department or Lewis County Sheriff's Office.
- Members of the Division of Student Life or Campus Safety can also assist you in contacting law enforcement.
- Your report does not obligate you to follow through with legal action or action through the College.

#### OPTION 4: PURSUE BOTH COLLEGE AND CRIMINAL CHARGES

- Processes outlined in options 2 and 3 occur simultaneously.

#### Reporting to Law Enforcement

The College encourages individuals to report incidents of sexual misconduct to local law enforcement officials. Timely reporting to law enforcement is an important factor in the successful investigation and prosecution of crimes, including sexual violence crimes, and may lead to the arrest of an offender or aid in the investigation of other incidents.

An individual who has experienced sexual misconduct has the right to choose whether to file a police report. Filing a police report can result in the investigation of whether sexual violence or related crimes occurred and the prosecution of those crimes against a perpetrator. In the event of an emergency local law enforcement may be contacted by dialing 911. Local law enforcement may also be contacted as follows:

Canton, Missouri Police Department  
108 North 5<sup>th</sup> Street  
Canton, MO 63435  
Phone: (573) 288-4412 (Non-Emergency)

Lewis County, Missouri Sheriff  
107 South Washington Street  
Monticello, MO 63457  
Phone: (573) 767-5287 (Non-Emergency)

#### Resolution

As outlined in the Code of Conduct, the College is committed to the prompt resolution of any alleged violation of this policy. The appropriate administrator will conduct an investigation as is necessary to determine the validity of the complaint. All such claims will be promptly investigated and corrective action taken, if warranted, to ensure that further harassment or sexual misconduct does not occur and the victim is protected through the best efforts of the College. It should be noted that the College's ability to investigate in a particular situation may be affected by any number of factors, including whether the report is anonymous, the Reporting Party is willing to file a report or to consent to an Investigation, the Reporting Party's request for confidentiality, the location where the alleged conduct occurred, and the College's access to information relevant to the alleged or suspected violation of the Policy. The

College is nonetheless committed to investigating and resolving all alleged and suspected violations of the Policy to the fullest extent possible under the circumstances.

#### V. WHAT ASSISTANCE IS AVAILABLE?

Several options can be offered to a survivor of sexual assault, harassment, stalker, or a victim of intimate partner violence as appropriate to the circumstances, including:

- discussion about options regarding different levels of addressing the assault;
- assistance with filing charges through the College conduct system;
- issuance of a no-trespass or no-contact letter;
- referral to counseling, spiritual guidance, and other support services (the college offers free counseling to anyone that may request it or need it);
- if the person reports to the person allegedly causing the violation accommodations can be made to possibly change report lines until the situation is resolved;
- accommodations can be made academically or residentially; and
- assistance in notifying proper law enforcement authorities, if the student or employee so chooses.

Contact information for assistance is listed above in the reporting section.

#### VI. AFTER A REPORT IS FILED (INVESTIGATION AND CONDUCT PROCESS)

The College's investigative and resolution processes of reports of violations of this policy will be prompt, fair and impartial. The procedures set forth below are intended to afford a prompt response to reports of sexual misconduct, to maintain privacy and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.

After a report is filed there will be a Title IX investigation in which a trained investigator will determine whether there is "more likely than not" evidence that an alleged violation occurred. Please refer to the Code of Student Conduct on conduct authority. The timeframe of an investigation will depend upon the availability to interview witnesses, access information, and whether or not law enforcement is involved (based on the reporting party's request). The timely manner of an investigation is important and most investigations will be completed within one week, but other factors may delay the response. The trained investigator will conduct interviews of both parties and any witnesses. The reporting party and the responding party have the opportunity to have an advisor of their choice during any meeting or interview who may be, but is not required to be, an attorney. The College will keep both parties (the reporting party and the responding party) informed throughout the process. Prior to completion of the investigative report, the college will send each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format, and the parties will have 10 calendar days to submit a written response which the investigator will consider prior to completion of the investigative report.

Interim actions or supportive measures may be provided before a final decision is made if necessary in order to protect the parties and the broader campus community. Interim actions and supportive measures may be provided whether or not there is a complaint or resolution process commenced. The College will make accommodations and provide supportive measures for an individual who believes they have experienced sexual misconduct, or to others involved in the process including those adversely affected by allegations of sexual misconduct if requested and reasonably available. The College may take such steps even when an individual asks that the College keep a reported violation of this policy confidential and that it not investigate the matter, and regardless of whether an individual chooses to report to law enforcement.

Examples of interim or supportive measures include:

- Referral to counseling, medical or mental health services
- Establishing a no contact directive prohibiting the parties involved from communication with each other during the resolution process
- Education to the campus community
- Providing campus escorts

- Offering adjustments to academic deadlines or course schedules

Additionally, a student or employee may be temporarily suspended pending completion of an investigation, particularly when, in the judgment of the Title IX coordinator(s) or their designee(s), the safety or well-being of any member of the campus community may be jeopardized by the on-campus presence of the respondent.

To request an interim action or supportive measure, individuals who believe they have experienced sexual misconduct should contact the Title IX Coordinator or Dean of Student Life. If a respondent, witness or person accused of misconduct feels that they need interim measures, please contact the Title IX Coordinator.

The College will maintain as confidential any interim actions or supportive measures provided to an individual, to the extent possible (e.g. to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodations or protective measures).

Any concern about a violation of an interim action and/or supportive measure or need to change the level of protection should be reported to the Title IX Coordinator.

An informal resolution (i.e. mediation or couple counseling) will only be used if both parties voluntarily agree to do so. In cases of sexual harassment or sexual assault informal resolution will not be used and only the formal resolution process will be utilized. The reporting party can end the informal process at any time and begin the formal complaint process. Additional information on the informal resolution option is included below in Section VII.

If the Title IX investigator determines that “more likely than not” a violation occurred the responding party will have the option to accept the finding of the investigator or dispute the finding. If the responding party accepts the finding of the investigator then it will be sent to the Dean of Student Life for sanctioning. If the responding party disputes the finding it will be referred to the Conduct Panel, made up of three (3) faculty and/or staff members that have been trained to hear conduct issues. The Title IX Coordinator will sit on the panel as an ex officio member to regulate policy but will not have a final vote in the case. The Dean of Student Life or designee will act as hearing officer, but will not have a final vote in the case. The Conduct Panel meeting will occur no later than five (5) business days after the investigation concludes including receipt of written responses from both parties. The Conduct Panel will determine only if a policy violation has occurred. If they determine a policy violation has occurred it will be given to the Dean of Student Life to review and make a sanction. The range of sanctions is set forth in the Code of Student Conduct.

Hearing procedures are as follows:

- A live hearing will be held as a part of the formal adjudication process. The hearing may be conducted with all parties physically present or, at the request of either party, participants may appear virtually, with technology enabling them to see and hear each other;
- The responding party, the reporting party, and their advisors will have access to any information that will be presented at the conduct meeting;
- Both fact and expert witnesses may be presented by either party;
- Legally privileged information (such as medical records) may not be used without that party's voluntary, written consent;
- Each party's advisor is permitted to cross-examine the other party and any witnesses in the live hearing directly, orally, and in real time;
- Cross-examination may be conducted by the party's advisor and never by the party personally;
- If a party does not have an advisor to conduct cross-examination, the College will provide an advisor to the party free of charge;
- Only relevant cross-examination and other questions may be asked of a party or witness; the hearing officer will determine whether a question is relevant, and explain any decision to exclude

a question as not relevant, before a party or witness answers a cross-examination or other question;

- Questions and evidence regarding the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the alleged conduct, or concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent;
- An audio or audiovisual recording or transcript of any live hearing will be made available to all parties for review.

The reporting party and/or the responding party will have the option to appeal the decision and/or sanction as outlined in the Code of Student Conduct. All appeals are heard by the Appeals Committee. Please refer to the Appeals section in the Code of Student Conduct. The Appeals Committee is made up of faculty, staff, and students. The committee has been trained by the Title IX Coordinator and Dean of Student Life. Their decision will be conducted in an impartial manner and any committee member with a conflict of interest will not hear the case. The reporting party and/or responding party have three (3) days to submit a written appeal. Written notification will be provided to the reporting party and responding party regarding the final outcome. The Title IX Coordinator will be kept informed throughout the process and will review all findings to make sure they are compliant with policy.

The College will comply with law enforcement requests for cooperation and such cooperation may require the College to suspend the fact finding aspect of the Title IX investigation while the law enforcement agency is in the process of gathering evidence. The College will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process. The College has an obligation to make reasonable efforts to investigate and address instances of sexual misconduct when it knows or should have known about such instances, regardless of reporting party cooperation and involvement.

## VII. INFORMAL RESOLUTION

Informal resolution may be used any time prior to a final determination under a grievance process. In order for informal resolution to be utilized, there must be at least a report of sex discrimination or sex-based harassment. The college will determine if it is appropriate to offer an informal resolution and both parties must voluntarily consent after receiving notice with certain required elements.

The college may, but is not required, to offer informal resolution. The potential for future harm or risk to other students may prevent the college from seeking an informal resolution. Additional factors that may be considered in determining the viability of an informal resolution include:

- Severity and nature of the conduct
- Pattern of misconduct
- Likelihood dismissal would be a sanction under grievance procedure if misconduct found
- How long process has already lasted
- Publicity
- Potential effect on campus climate
- Wishes of the parties
- Ability of the parties to abide by a resolution
- Likelihood a resolution will result

If an informal resolution is to be pursued by the college, the following elements are required to be shared with both parties. The required elements are as follows:

- The allegations
- The requirements of the informal resolution process
- Each party may withdraw prior to a resolution and return the case to grievance procedures
- Agreement to a resolution would preclude grievance procedures for the same allegations
- Potential terms, including that a resolution is binding only on the parties

- What information will be maintained and how it may (or may not) be used if grievance procedures are resumed

The college may elect to make information shared during the informal resolution confidential in the event resolutions files and grievance procedures resume. The college may prohibit informal resolution coordinator from serving as a witness in grievance procedure. In addition, the college must ensure that the parameters of the resolution are disclosed to both parties in the notice.

The informal resolution facilitator will be appointed by the college and it can not be the decision-maker or investigator. The informal resolution facilitator must be free of conflicts and bias and appropriately trained on duties and policy provisions. It is the responsibility of the informal resolution facilitator to ensure that all essential terms are documented and to assign consequences for parties that fail to comply with the informal resolution.

#### VIII. RETALIATION

No retaliatory action shall be taken against any person who shall make a good-faith report of alleged harassment, whether the report is shown to have been valid or not. The College will take strong responsive action if retaliation occurs. Anyone who is aware of possible retaliation or has other concerns regarding the response to a complaint of sexual misconduct should report such concerns to the Title IX Coordinator or to a Deputy Title IX Coordinator, who shall investigate the matter and make findings so the College can take appropriate actions to address such conduct in a fair and impartial manner.

Complainants (or reporting party) will be kept informed of the final decision in the disciplinary process and have the right to appeal a decision made by a judicial authority at any time in the process. As stated earlier in the Code of Student Conduct the complainant will have three (3) business days to write an appeal.

#### IX. COMPLAINTS INVOLVING CULVER-STOCKTON COLLEGE EMPLOYEES

Complaints that involve an employee of Culver-Stockton College will be referred to the Human Resources Office. The Executive Director of Human Resources will lead the investigation and will consult with the Title IX Coordinator as needed.