



**Gender-Based and  
Sexual Misconduct Policy  
and  
Gender-Based and Sexual Misconduct  
Reporting, Investigation, Decision,  
Sanctions, and  
Appeal Policy Procedures**

# **GENDER-BASED AND SEXUAL MISCONDUCT POLICY**

Adapted from model policy provided by  
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## **INTRODUCTION**

Members of the Carroll Community College community, guests and visitors have the right to be free from all forms of gender and sex-based discrimination, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking.

All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The College believes in a zero tolerance policy for gender-based misconduct. When an allegation of misconduct is brought to an appropriate administrator's attention, and a respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

## **OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT**

The expectations of our community regarding sexual misconduct can be summarized as follows: In order 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 can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't.

Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence, without actions demonstrating permission, cannot be assumed to show consent.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand

the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, “No” always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “no.”

## **OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required may result in disciplinary action for an employee.

Any incidents of potential gender-based or sexual misconduct may be reported by students; faculty and staff are required to report. Incidents are to be reported to the Title IX Coordinator following the Gender-Based and Sexual Misconduct Reporting, Investigation, Decision, Sanctions, and Appeal Policy Procedures - found on pages 21-24 of this document.

## **SEXUAL VIOLENCE -- RISK REDUCTION TIPS**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- 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.
- 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.

All members of the College Community may report incidents of potential gender-based or sexual misconduct and are referred to the Gender-Based and Sexual Misconduct Reporting, Investigation, Decision, Sanctions, and Appeal Policy Procedures - found on pages 20-23 of this document.

### **SEXUAL ENGAGEMENT -- RISK REDUCTION TIPS**

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- 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.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- 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.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.

- 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.

In College investigations, legal terms like “guilt, “innocence” and “burdens of proof” are not applicable, but the College never assumes a student, faculty, or staff member is in violation of College policy. College investigations are conducted to take into account the totality of all evidence available from all relevant sources. When a complaint of sexual misconduct is made the College will use a preponderance-of-the evidence (i.e., more likely than not) standard in any Title IX proceedings, including any fact finding and investigation.

The College reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect students’, faculty, and staff rights and personal safety. Such measures include, but are not limited to, interim suspension from campus pending an investigation, and reporting the matter to the local police with alleged victim’s consent. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the College reserves the right to impose different sanctions, ranging from verbal warning to expulsion or termination of employment, depending on the severity of the offense. The College will consider the concerns and rights of both the complainant and the person accused of sexual misconduct.

### **Bystander Intervention**

Important to the prevention and intervention of sexual misconduct at Carroll Community College is the response of individuals who are bystander observers or witnesses to the sexual misconduct. Individuals who observe or witness any misconduct, while not directly involved, have the choice to act by intervening directly, e.g., asking if the person perceived to be in trouble is okay or initiating action (verbal or nonverbal) to attempt to stop the offender, dialing 911 to contact law enforcement, dialing 8123 on campus to reach Campus Police, and/or contacting other persons of authority at the College. Help protect your friends and colleagues by intervening as appropriate for the situation. If you observe or witness sexual or other misconduct, please say something. If you believe that it is not safe for you to directly intervene in a situation, at a minimum, immediately dial 911, 8123 on campus, or contact the appropriate College authorities. All Carroll Community College students and employees are expected to be aware of and abide by the College security procedures and practices in this document and the College encourages students and employees to be responsible for their own safety and the safety of others.

Bystander Intervention, according to federal regulations, means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence,

overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

**SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:**

1. Sexual Harassment
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Non-Consensual Sexual Intercourse (or attempts to commit same)
4. Sexual Exploitation

**1. Sexual Harassment**

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in College programs
- submission to or rejection of such conduct by an individual is used as a basis for decisions affecting such individual
- such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive environment

**Examples of Harassment:**

Not all workplace or educational conduct that may be described as "harassment" affects the terms, conditions or privileges of employment or education. For example, a mere utterance of an ethnic, gender-based or racial epithet which creates offensive feelings in an employee or student would not normally affect the terms and conditions of their employment or education.

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus.
- Explicit sexual pictures are displayed in an instructor's office, on the exterior of an office door or on a computer monitor in a public space.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- An instructor engages students in discussions in class about their past sexual experiences, yet the conversation is not in any way germane to the subject

matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.

- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it.

### **Three Types of Sexual Harassment—Legal Constructs**

- A. Hostile Environment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive that it alters the conditions of employment or limits, interferes with or denies educational benefits or opportunities, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.

The determination of whether an environment is “hostile” must be based on all of the circumstances present in the situation. Some of these circumstances could include:

1. The frequency of the conduct;
2. The nature and severity of the conduct;
3. Whether the conduct was physically threatening;
4. Whether the conduct was humiliating;
5. The effect of the conduct on the alleged victim's mental or emotional state;
6. Whether the conduct was directed at more than one person;
7. Whether the conduct arose in the context of other discriminatory conduct;
8. Whether the conduct unreasonably interfered with the alleged victim's educational or work performance;

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

- B. Quid pro quo sexual harassment exists when there are:

1. unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and

2. submission to or rejection of such conduct results in adverse educational or employment action

C. Retaliatory harassment is any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct.

## 2. Non-Consensual Sexual Contact

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a man or a woman upon a man or a woman,
- that is without consent and/or by force. 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.

## 3. Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse is:

- any sexual penetration,
- however slight,
- with any object,
- by a man or woman upon a man or a woman,
- that is without consent and/or by force. 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.

## 4. Sexual Exploitation

Occurs when an individual takes non-consensual or abusive sexual advantage of another person for the initiator's own favor or benefit, or for the benefit or favor of a third party, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another student, faculty, or staff member;

- Non-consensual video or audio-taping of sexual activity;
  - Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
  - Engaging in voyeurism;
  - Knowingly transmitting an Sexual Transmitted Infection (STI) or Human Immunodeficiency Virus (HIV) to another student, faculty, or staff member;
  - Exposing one's genitals in non-consensual circumstances; inducing another to expose her/his genitals;
  - Sexually-based stalking and/or bullying may also be forms of sexual exploitation
- ADDITIONAL APPLICABLE DEFINITIONS:

- Consent: Consent is clear, knowing and voluntary. 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 clear permission regarding willingness to engage in (and the conditions of) sexual activity.
  - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
  - Previous relationships or prior consent cannot imply consent to future sexual acts.
- Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you. Okay, don't hit me, I'll do what you want."):
  - Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you 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.
  - There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non- consensual sexual activity is not by definition forced.
  - There is a rebuttable presumption that a person under age 18 cannot give effective consent. If a person under age 18 is involved in any matter where consent is an issue, capacity to give effective consent will be determined in accordance with Maryland law.
  - Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically

incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.

- Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
- This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including, but not limited, to Rohypnol, Ketamine, Gamma-hydroxybutyric Acid (GHB), Burundanga, etc. is prohibited, and administering one of these drugs to another student, faculty or staff member is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>
- Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy.

## **OTHER AREAS COVERED UNDER THIS POLICY AND PROCEDURES**

### **Dating Violence**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and the existence of such a relationship shall be determined based on the reporting person’s statement, with consideration of length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship. Dating Violence does not include acts covered under domestic violence

### **Domestic Violence**

- Federal Definition: A felony or misdemeanor crime of violence committed-
  - By a current or former spouse or intimate partner of the victim
  - By a person with whom the victim shares a child in common
  - By a person who is cohabitating with or has cohabitated with the victim as a spouse or a partner
  - By a person similarly situated to a spouse of the victim under the domestic violence laws of the jurisdiction in which the crime of violence occurred, or
  - By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

- Maryland Law: One of the following occurs between family or household members:
  - Assault
  - Fear of imminent harm
  - Rape or sexual offense or Attempts
  - Stalking
  - False Imprisonment
  - Economic Abuse
  - Psychological Abuse

## **Stalking**

Engaging in a course of conduct, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means – follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. Emotional Stress does not require medical or other professional treatment. Stalking includes unwanted, intrusive, or frightening communications by phone, mail, texting, social media and email.

## **SANCTION STATEMENT**

- Any student, faculty, or staff member found responsible for violating the policy on Non-Consensual or Forced Sexual Contact will likely receive a sanction ranging from probation to expulsion or termination of employment, depending on the severity of the incident, and taking into account any previous campus conduct code violations or employment violations.\*
- Any student, faculty, or staff member found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive a recommended sanction ranging from verbal warning to expulsion or termination of employment, depending on the severity of the incident, and taking into account any previous campus conduct code or employment violations.\*

\* The College investigators, Title IX Coordinator, and College Appeal officers reserve the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. None of the College investigators, Title IX Coordinator, or College Appeal officers will deviate from the range of recommended sanctions unless compelling justification exists to do so.

## **OTHER MISCONDUCT OFFENSES (WILL FALL UNDER TITLE IX WHEN SEX OR GENDER-BASED)**

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;

2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
5. Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment).
6. Violence between those in an intimate relationship to each other;
7. Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family of members of the community.

### **Examples of Sexual Misconduct Situations**

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to let him drive her home after the party. On the way to her house, Bill parks on the campus parking lot after hours so that they can continue talking. From 11:00 pm until 3:00 am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude." Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have agreed to let him drive her home after the party? If she really didn't want it, she could have said no. Bill is responsible for violating the College Non-Consensual or Forced Sexual Contact policy. It is likely that College investigators and Title IX Coordinator would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not effective when forced. Sex without effective consent is sexual misconduct.
2. Jiang is a sophomore at the College. Beth is a freshman. Beth invites some of her friends, including Jiang, over to her house one evening to watch a movie. Beth's parents are away on vacation. Jiang and Beth are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five,

and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, students should attempt to be as clear as possible as to whether or not sexual contact is desired, but students must be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.

3. Kevin and Robert, two faculty members, are attending a weekend College sponsored conference in New York City. The first night they attend a social event held for the group at their hotel where alcohol is being served. Kevin is not sure how much Robert has been drinking, but he is pretty sure it's a lot. After the event, he walks Robert to his room, and Robert comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and Robert says yes. Clothes go flying, and they end up in Robert's bed. Suddenly, Robert runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. Robert gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that Robert seems pretty groggy and passive, and he thinks Robert may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into Robert the next day, he thanks him for the wild night. Robert remembers nothing, and decides to make a complaint to the Title IX Coordinator when he returns to campus. This is a violation of the Non-Consensual Sexual Intercourse Policy. Kevin should have known that Robert was incapable of making a rational, reasonable decision about sex. Even if Robert seemed to consent, Kevin was well aware that Robert had consumed a large amount of alcohol, and Kevin thought Robert was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of Robert in his condition. This is not the level of respectful conduct expected of employees.

All members of the College Community must report incidents of potential gender-based or sexual misconduct and are referred to the Gender-Based and Sexual Misconduct Reporting, Investigation, Decision, Sanctions, and Appeal Policy Procedures beginning on pages 20-23 of this document.

## **CONFIDENTIALITY, PRIVACY AND REPORTING POLICY**

Institutions must clearly articulate who are "responsible employees" under Title IX for purposes of initiating notice and/or investigation, and those who have more discretion

on how they act in response to notice of gender-based discrimination. Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality, depending on their roles at the College and upon College policy.

When consulting campus resources, all parties should be aware of confidentiality, privacy, and mandatory reporting in order to make informed choices. On campus, some resources can offer you confidentiality, sharing options and advice without any obligation to tell anyone unless you want them to. Other resources are expressly there for you to report crimes and policy violations and they will take action when you report your victimization to them. Most resources on campus fall in the middle of these two extremes. Neither the College nor the law requires them to divulge private information that is shared with them except in certain circumstances, some of which are described below. A victim may seek assistance from these College officials without starting a formal process that is beyond the victim's control, or violates her/his privacy.

### **To Report Confidentially**

If one desires that details of the incident be kept confidential, they should speak with designated on-campus personnel (Please refer to next section: Reporting to those who can maintain the privacy of what you share), campus health service providers through the College's Student Assistance Program, or off-campus rape crisis resources who can maintain confidentiality. In addition, you may speak on and off-campus with members of the clergy and chaplains, who will also keep reports made to them confidential.

### **Reporting to those who can maintain the privacy of what you share**

You can seek advice from certain College staff members who are not required to tell anyone else your private, personally identifiable information unless there is cause for fear for your safety, or the safety of others. The College has designated the following on-campus personnel as confidential reporting resources for students, faculty, and staff:

- Dena Ruby, Human Resources (for staff)  
Email: [druby@carrollcc.edu](mailto:druby@carrollcc.edu) Phone: 410-386-8033
- Kimberly McShane, Admissions Counselor  
E-mail: [kmcshane@carrollcc.edu](mailto:kmcshane@carrollcc.edu) Phone: 410-386-8406
- Don Hoepfer, Associate Professor, Philosophy  
E-Mail: [dhoepfer@carrollcc.edu](mailto:dhoepfer@carrollcc.edu) Phone: 410-386-8227
- Jody Nusholtz, Professor, English  
E-mail: [jnushtoltz@carrollcc.edu](mailto:jnushtoltz@carrollcc.edu) Phone: 410-386-8221
- Hugh Warner, Academic Advisor  
E-mail: [hwarner@carrollcc.edu](mailto:hwarner@carrollcc.edu) Phone: 410-386-8421
- Kathy Mayan, Director of Lifelong Learning  
E-mail: [kmayan@carrollcc.edu](mailto:kmayan@carrollcc.edu) Phone: 410-386-8110
- Ms. Beth Lee, Coordinator of Special Events and Student Support Services  
E-mail: [blee@carrollcc.edu](mailto:blee@carrollcc.edu) Phone: 410 386-8096

These are individuals who the College has not specifically designated as “responsible employees” for purposes of putting the institution on notice and for whom mandatory reporting is required, other than in the stated limited circumstances. If you are unsure of someone’s duties and ability to maintain your privacy, ask them before you talk to them. They will be able to tell you, and help you make decisions about who can help you best.

Some of these resources will be instructed to share incident reports with their supervisors, but they will not share any personally identifiable information about your report unless you give permission, except in the rare event that the incident reveals a need to protect you or other members of the community. If your personally identifiable information is shared, it will only be shared as necessary with as few people as possible, and all efforts will be made to protect your privacy.

### **Complaints Against Persons Outside Carroll Community College**

Complaints against students from other institutions or other campus visitors should be reported to CCC’s Campus Police, who will investigate the complaint and take appropriate action (410-386-8123)

Complaints against employees of entities that do business with CCC should be reported to the Chief of Campus Police (410-386-8249), who will investigate the complaint and take appropriate action.

### **Amnesty for Students who Report Sexual Misconduct**

In an effort for Carroll Community College to encourage reporting of alleged sexual misconduct, relationship violence, and stalking violations, neither complainants nor witnesses will face referrals for action under the College’s Standards of Student Conduct if they personally engaged in the unlawful or prohibited use of alcohol or drugs during the incident when the alleged violation occurred. Amnesty is a limited opportunity given to survivors and witnesses who in good faith come forward and report allegations of sexual misconduct. The College does not want the fear of receiving disciplinary charges and/or a disciplinary sanction to prevent a student from reporting an incident of sexual misconduct. Amnesty does not extend to a person who violates this Sexual Misconduct Policy, or to any other person whose participation is not in good faith. Please note that amnesty applies only to the personal use of alcohol or drugs and does not extend to other potential violations of the Standards of Student Conduct that may have been committed, even if the student may have been under the influence of alcohol or drugs at the time the alleged violations were committed.

### ***Protection of Complainants/Accused Against Retaliation***

Threats, intimidation, and retaliation against the accused or a complainant/witness for bringing a sexual misconduct complaint are violations of this policy and thus may be grounds for disciplinary action.

The college will take steps to protect students and employees from reprisal by the involved parties. Such protection will need to be appropriate to the individual's circumstances. This may include the opportunity to change an academic/work schedule of the complainant or accused, drop a course, transfer to another section, complete the course independently, have a pass/fail option, have a third party grade the work, have another person assigned to write recommendations or references on behalf of the student/employee, or have another person assigned as an advisor to the students.

## **NON-CONFIDENTIAL REPORTING OPTIONS**

You are encouraged to speak to officials of the institution to make formal reports of incidents of sexual misconduct. All faculty and staff at the College, except for those designated as confidential on-campus personnel, are considered responsible employees, who have a responsibility to report sexual misconduct incidents as quickly as possible to the Title IX Coordinator. Notice to them is official notice to the institution. You have the right and can expect to have incidents of sexual misconduct to be taken seriously by the institution when formally reported, and to have those incidents investigated and properly resolved through administrative procedures.

### **Federal Statistical Reporting Obligations**

Certain campus officials have a duty to report sexual assault, domestic violence, dating violence and stalking 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: student/conduct affairs, campus law enforcement, local police, student life 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.

### **Federal Timely Warning Reporting Obligations**

Victims of sexual misconduct 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 bodily harm or danger to members of the campus community. The College will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are exactly the same as detailed at the end of the above paragraph.

## **COMMONLY ASKED QUESTIONS AND ANSWERS**

Here are some of the most commonly asked questions regarding College's sexual misconduct policy and procedures.

*Does information about a complaint remain private?*

The privacy of all parties to a complaint of sexual misconduct must be respected, except insofar as it interferes with the College's obligation to fully investigate allegations of sexual misconduct. Where privacy 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 accused individual may lead to conduct action by the College.

In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also 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 of the College, appropriate vice president (s), Chief of Campus Police). If there is a report of an act of alleged sexual misconduct to a Title IX Coordinator or Chief of Campus Police and there is evidence that a felony has occurred, local police will be notified. This does not mean charges will be automatically filed or that a victim must speak with the police, but the institution is legally required to notify law enforcement authorities. The institution 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.

*Will my parents be told?*

No, not unless you tell them. Whether you are the complainant or the accused individual, the College's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. College officials will directly inform parents when requested to do so by a student, in a life-threatening situation, or if an accused individual has signed the permission form to release information to parents which allows such communication.

*Will the accused individual know my identity?*

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the accused individual has the right to know the identity of the complainant/alleged victim. If there is an investigation requiring both parties, the College may provide

options for questioning without confrontation, including closed-circuit testimony, FaceTime, Skype, using a room divider, or using separate rooms.

*Do I have to name the perpetrator?*

Yes, if you want formal disciplinary action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint (but you should consult the complete confidentiality policy above to better understand the College's legal obligations depending on what information you share with different College officials). Victims should be aware that not identifying the perpetrator may limit the institution's ability to respond comprehensively.

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

DO NOT contact the alleged victim. You may immediately want to contact someone who can act as your advisor; anyone may serve as your advisor. You may also contact the Title IX Coordinator (410-386-8524), or Integrity and Judicial Affairs Advocate (410-386-8417), who can explain the College's procedures for addressing sexual misconduct complaints. You may also want to seek other community assistance.

*What about legal advice?*

Victims of criminal sexual assault need not retain a private attorney to pursue prosecution because representation will be handled by the District Attorney's [Prosecutor's] office. You may want to retain an attorney if you are the accused individual or are considering filing a civil action. The accused individual may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus investigation. Both the accused and the victim may also use an attorney as their advisor during the campus' grievance processes.

Other accommodations available to you might include:

- Assistance with or rescheduling an academic assignment (paper, exams, etc.);
- Taking an incomplete in a class;
- Assistance with transferring class sections;
- Temporary withdrawal;
- Assistance with alternative course completion options;
- Other accommodations for safety as necessary (such as a Campus Police escort)

*What options do I have as the victim of a sexual assault?*

Crimes may be reported to any CCC employee, coach, mentor, faculty member, or other employee considered by the college to be a Responsible Reporter. Each

employee will assist the victim by calling the Campus Police or Sheriff's Office if requested by the victim, and will assist the victim as needed or requested. Other services and rights are elaborated in the Sexual Assault portion of this document.

In the event of a sexual crime, the victim may choose to contact CCC's Campus Police for assistance and a referral to the Carroll County Sheriff's Office (CCSO); contact the Campus Police for assistance with notification to the CCSO; receive assistance in going to a S.A.F.E. hospital for medical assistance and/or a forensic exam; and choosing to either contact, or not contact, the CCSO upon arrival at the hospital. If the CCSO is not contacted at the hospital, evidence will be retained for 90 days pending a possible decision to request an investigation by the CCSO.

*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 120 hours, 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 Carroll Hospital Center Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; the Emergency Room will refer you). A College staff member from Campus Police or from Student Affairs can also accompany you to the Hospital and law enforcement or Campus Police can provide transportation. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligate her or him to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: 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. Do not disturb the crime scene — leave all sheets, towels, etc. that may bear evidence for the police to collect.

*Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has 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. Please refer to the Amnesty for Students who Report Sexual Misconduct section on page 15 of this policy.

*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 accused individual'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 prove his/her complaint. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the accused without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by an accused individual.

*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.

*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 institution's sexual misconduct policy, you should contact the Title IX Coordinator, or Integrity and Judicial Affairs Advocate. The institution provides non-legal advisors, known as Confidential Resources (listed on page 14), who can help you to define and clarify the event(s), and advise you of your options.

#### **On Campus Resources:**

- **Campus Police – Carroll Community College; Phone: 8123 campus phone/410-386-8123 other phone**
- **Title IX Coordinator, phone/410-386-8524  
Email: TitleIX@carrollcc.edu; office: A102**
- **Title IX Deputy Coordinator, Director of Human Resources,  
410-386-8032. office: A138**

## Off Campus Resources

- **Carroll County Domestic Violence Hotline – 443-865-8031**
- **Rape Crisis Intervention Service** – Website: [www.rapecrisiscc.org](http://www.rapecrisiscc.org)  
**Hotline: 410-857-7322**      **Phone: 410-857-0900 V/TTY**  
**Address: 224 N. Center street #102, Westminster, MD 21157**
- **Maryland Coalition Against Sexual Assault (MCASA)** – Website: [mcasa.org](http://mcasa.org)
- **Carroll County Sheriff Office** – 100 North Court Street, Westminster, Maryland  
**Emergency: 911**      **Phone: 410-386-2900**  
**Maryland State Police** – Barrack G – 1100 Baltimore Boulevard, Westminster, Maryland  
**Phone: 410-386-3000**
- **Carroll Hospital Center**, 200 Memorial Avenue, Westminster, MD 21157  
**Phone: 410-386-3000; TTY: 410-386-7186**

### **Sexual Assault Forensic Examiner (S.A.F.E.) Program**

**Website:** [www. Carrollhospitalcenter.org/adult-safe-program](http://www.Carrollhospitalcenter.org/adult-safe-program)

**Phone: 410-876-6655**

# **Gender-Based and Sexual Misconduct Reporting, Investigation, Decision, Sanctions, and Appeal Policy Procedures**

Members of the Carroll Community College community, guests, and visitors have the right to be free from all forms of gender and sex-based discrimination, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking.

All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The College believes in a zero tolerance policy for gender and sex-based misconduct. When an allegation of misconduct is brought to a Title IX Coordinator's attention, and a respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated.

## **REPORTING AND INVESTIGATION**

All College faculty and staff are required to report gender-based and sexual misconduct to the Title IX Coordinator. (410)-386-8524

- Before discussing an incident with a potential victim all other faculty or staff member must inform the person of staff responsibility to report the incident to the Title IX Coordinator. The faculty or staff member may refer the potential victim to the designated confidential reporting resources indicated above. The faculty or staff member must inform the person of the opportunity to make a report of the incident to the College Campus Police and to law enforcement if they would like to do so. The Title IX Coordinator and the Campus Police may assist the individual in making a report to the College and to law enforcement.
- The Title IX Coordinator, after having an incident reported to them, will determine whether an investigation is warranted and, depending on the nature of the incident, the necessity of informing Campus Police and local law enforcement.
- If warranted, the Title IX Coordinator will designate a team of two trained Title IX College investigators to work in tandem as neutral parties and available to both complainant and respondent to investigate the case, initiate initial interim sanctions, and inform all parties in writing regarding the investigation and interim sanctions.
- Upon receiving a report of sexual misconduct, the college will provide the victim, or victim's advocate, with a written explanation of the resources and interim measures available on campus and/or through the local community and shall ask victims, or their advocates, what measures are sought. The college shall determine which measures are appropriate for a particular victim on a case-by-

case basis. If the victim or advocate identifies an interim measure that is not already provided by the college, the college will consider whether the request can be granted. In those instances, where interim measures affect both a victim and the alleged perpetrator(s), the college will minimize the burden on the victim wherever appropriate. Any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the college to provide the accommodations or protective measures, are kept confidential.

- Interim interventions and sanctions may include the following:
  1. Campus Police can offer personal escorts at any time, assign electronic panic alarms to be used on campus, reserve a parking space near classroom buildings, coordinate with local law enforcement for safety checks off campus, provide internal emergency phone contact numbers, and demonstrate proper use of Blue Light Emergency Call Boxes.
  2. The Title IX Coordinator may immediately offer alternate course sections for the complainant and/or accused, suspend the accused temporarily, issue a no-contact order to both the complainant and/or accused, issue a no-trespassing order to the accused until the case is resolved.
- The assigned investigators will conduct the investigation of the case. The Title IX Coordinator will inform all parties in writing of the progress of the investigation.
- Following their investigation, the investigators will report to the Title IX Coordinator the findings of the investigation and render a decision regarding whether the respondent is responsible or not of gender-based or sexual misconduct. To reach a finding of responsible, the evidentiary standard of a preponderance of the evidence will be used.
- The Title IX Coordinator, in consultation with the investigators, will determine whether gender-based or sexual misconduct has occurred. The Title IX Coordinator will inform all parties in writing of the decision and sanctions.
- The complainant or respondent may accept the decision and sanctions of the Title IX Coordinator or appeal the decision or sanctions in writing to the appropriate College Administrator. See page 24, Appeal of Title IX Coordinator's Decision and Sanctions.
- In order to achieve a balanced and fair process for resolving complaints of sexual misconduct, the following considerations will be afforded to both parties:
  - During the investigation, the parties will not cross question each other. Questions will be submitted to the Title IX Coordinator or Investigator(s) for screening.

- No questions or evidence will be permitted about sexual history except for that between the parties.
- All proceedings will be concluded within 60 days after the initial notice of the complaint, except in the event of extenuating circumstances.
- All parties will be afforded the same opportunity to present witnesses and evidence.
- Adjudication of a complaint by the college will not be delayed because of concurrent criminal or civil investigation or action.
- Interim measures, such as course schedule adjustments, academic and/or mental health support, escort services, etc., will be provided to the complainant as necessary.
- The parties are permitted to have advisers of their choice at any stage of the proceeding, including legal representation.
- A “preponderance of evidence” will be the evidentiary standard used to determine a finding of responsible regarding a complaint of sexual misconduct.
- Both parties will be notified, in writing, about the outcome of both the complaint and any appeal.
- An appeal of the findings will be available to both the complainant and respondent.

### **APPEAL OF TITLE IX COORDINATOR’S DECISION AND SANCTIONS**

- An appeal must be made in writing within 14 days of receipt of the Title IX Coordinator’s decision to the proper College Administrator. The reporting party and the complainant are each entitled to one appeal. For the different populations the appropriate appeal administrator will be, for:
  - College Personnel – the Executive Vice President for Administration
  - Students – the Vice President for Academic and Student Affairs or the Vice President of Continuing Education, as appropriate
- The appropriate appeal administrator will review all case information, prior decisions, sanctions imposed, and make a final determination
- The decision and sanctions determined by the appropriate appeal authority will be final. All parties will be informed in writing of the appeal, recommended decision, and recommended sanctions.

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